proposed by Mr. FRIST (for himself, Mr. GRASSLEY, and Mr. BAUCUS) to the bill H.R. 4297, supra.

SA 2712. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2713. Mrs. FEINSTEIN (for herself, Mr. KOHL, Mr. DORGAN, Mr. BINGAMAN, Mr. SCHUMER, Mrs. BOXER, and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2714. Mr. DURBIN (for himself, Mrs. MURRAY, Mr. LIEBERMAN, Mr. LAUTENBERG, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2715. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2716. Mrs. CLINTON (for herself, Ms. MIKULSKI, Mr. HARKIN, Mr. LAUTENBERG, Mr. REED, Mr. SALAZAR, Mr. OBAMA, Mrs. BOXER, Ms. STABENOW, Mr. SCHUMER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. CARPER, Mr. JOHNSON, Mr. LEAHY, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

SA 2717. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2718. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2719. Mr. HARKIN (for himself, Mr. KENNEDY, Mr. KOHL, and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2720. Mr. BURNS (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2721. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2722. Mr. DORGAN (for himself, Ms. MIKULSKI, Ms. STABENOW, Mr. DURBIN, Mr. LEVIN, Mr. FEINGOLD, Mr. KOHL, Mr. LEAHY, Mr. HARKIN, Mr. KENNEDY, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2723. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2724. Mrs. CLINTON (for herself, Ms. MIKULSKI, Mr. HARKIN, Mr. LAUTENBERG, Mr. REED, Mr. SALAZAR, Mr. OBAMA, Mrs. BOXER, Ms. STABENOW, Mr. SCHUMER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. CARPER, Mr. JOHNSON, Mr. LEAHY, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2710 proposed by Mr. FRIST (for himself, Mr. GRASSLEY, and Mr. BAUCUS) to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2725. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2726. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2727. Mr. FRIST (for Mr. TALENT) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

SA 2728. Mr. BAUCUS (for Mr. BYRD (for himself, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. KERRY, Mr. DURBIN, Mr. OBAMA, Mr. MCCONNELL, and Mr. BUNNING)) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

SA 2729. Mr. CONRAD (for himself and Mr. BINGAMAN) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

SA 2730. Mr. NELSON, of Florida (for himself, Mr. BINGAMAN, Mrs. CLINTON, Mr. LIEBERMAN, Mr. SCHUMER, and Mr. SALAZAR) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

SA 2731. Mr. GRASSLEY proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

SA 2732. Mr. GRASSLEY proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

SA 2733. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2734. Mr. MENENDEZ (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2735. Mr. DODD (for himself, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mrs. BOXER, Ms. MIKULSKI, Mr. AKAKA, Mr. REED, and Mr. SALAZAR) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

SA 2736. Mr. GRASSLEY proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

SA 2737. Mr. REED (for himself, Ms. STABENOW, Mr. LAUTENBERG, Mrs. CLINTON, Mr. KERRY, and Mr. SALAZAR) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

## TEXT OF AMENDMENTS

**SA 2703.** Mr. TALENT submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. _____. PERMANENT EXTENSION OF EGTRRA PROVISIONS RELATING TO CHILD TAX CREDIT.**

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset provisions) shall not apply to the amendments made by section 201 of such Act.

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**SA 2704.** Mrs. BOXER (for herself, Mr. KERRY, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by her to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. DISCLOSURE OF WHITE HOUSE CONTACTS WITH JACK ABRAMOFF.**

(a) FINDINGS.—The Senate finds the following:

(1) Public confidence in Government has been undermined by widespread reports of public corruption involving Jack Abramoff, including indictments and plea agreements that cite alleged wrongdoing by senior public officials.

(2) Public perception of a culture of corruption undermines the people's faith in their Government representatives and our system of Government.

(3) Due to the serious nature of Jack Abramoff's crimes and continuing allegations of corruption involving him, public confidence in the Government can be restored only if there is full disclosure of his contacts with the President, White House staff, and senior executive branch officials.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the White House should immediately and publicly disclose each visit and meeting between Jack Abramoff and the President, White House staff, or senior executive branch officials, which should include the date, list of attendees, purpose of the visit or meeting, any documentation associated with the visit or meeting, including any photographs, and any action taken or withheld by the Government as a result of the contact.

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**SA 2705.** Mr. MENENDEZ (for himself, Mr. SCHUMER, Mr. KERRY, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. LAUTENBERG, and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place, insert the following:

**SEC. ___. SENSE OF THE SENATE REGARDING PROTECTING MIDDLE-CLASS FAMILIES FROM THE ALTERNATIVE MINIMUM TAX.**

(a) FINDINGS.—The Senate finds that—

(1) the alternative minimum tax was originally enacted in 1969 as a supplemental tax on wealthy tax evaders, but has evolved into a tax on millions of middle-class working families, particularly families in which both parents work, and families with 2 or more children;

(2) by the end of the decade, the alternative minimum tax will ensnare more than 30,000,000 taxpayers, the majority of which will have adjusted gross incomes below $100,000, and the National Taxpayer Advocate has thus identified it as the most serious problem facing individual taxpayers;

(3) the alternative minimum tax is often portrayed as a tax that is most problematic for residents of States such as New York, California, Massachusetts, and New Jersey, but the truth is that many other States have a significant percentage of taxpayers affected by the alternative minimum tax, including Oregon, Maryland, Virginia, Minnesota, Ohio, Maine, Georgia, North Carolina, and Pennsylvania, so the problem is of national importance;

(4) a family with 2 children will become subject to the alternative minimum tax at about $67,500 of income in 2006, and a family with 5 children will start owing the alternative minimum tax at about $54,000 of income, if Congress fails to act;

(5) the year 2006 is the ''tipping point'' for the alternative minimum tax, as the number of taxpayers affected nationally will explode from 3,600,000 to 19,000,000 if Congress fails to act;

(6) in 2004, only 6.2 percent of families earning $100,000 to $200,000 a year were subject to the alternative minimum tax, and that number will explode to nearly 50 percent if Congress fails to act;

(7) if alternative minimum tax relief is extended through 2006, about two-thirds of the benefits will be realized by families earning under $200,000, with more than half of the total benefits going to families with incomes between $100,000 and $200,000;

(8) starting in 2008, the average married couple with 2 children earning $75,000 or more will find that more than half of the tax cuts they have been expecting from the various laws passed since 2001 will be ''taken back'' via the alternative minimum tax; and

(9) the temporary relief from the alternative minimum tax (provided in 2001 and extended twice in 2003 and 2004) expired at the end of 2005, but the tax reductions on dividends and capital gains do not expire until the end of 2008, making immediate action on those provisions a less urgent matter.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that protecting middle-class families from the alternative minimum tax should be a higher priority for Congress in 2006 than extending a tax cut that does not expire until the end of 2008.

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**SA 2706.** Mr. MENENDEZ (for himself, Mr. KERRY, Mr. SCHUMER, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. WYDEN, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 28, after line 11, insert the following:

**TITLE IV—MINIMUM TAX RELIEF AND REPEAL OF EXTENSION OF CAPITAL GAINS AND DIVIDENDS**

**SEC. 401. REPEAL OF EXTENSION OF TAX TREATMENT FOR CAPITAL GAINS AND DIVIDENDS.**

The amendment made by section 203 of this Act is repealed.

**SEC. 402. EXTENSION AND INCREASE IN MINIMUM TAX RELIEF TO INDIVIDUALS.**

(a) IN GENERAL.—Section 55(d)(1) is amended—

(1) by striking ''$58,000'' and all that follows through ''2005'' in subparagraph (A) and inserting ''$62,550 in the case of taxable years beginning in 2006'', and

(2) by striking ''$40,250'' and all that follows through ''2005'' in subparagraph (B) and inserting ''$42,500 in the case of taxable years beginning in 2006''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**TITLE V—REVENUE OFFSET PROVISIONS**

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

**SEC. 501. 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. 502. MODIFICATION OF EFFECTIVE DATE OF EXCEPTION FROM SUSPENSION RULES FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.**

(a) EFFECTIVE DATE MODIFICATION.—

(1) IN GENERAL.—Paragraph (2) of section 903(d) of the American Jobs Creation Act of 2004 is amended to read as follows:

''(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—

''(A) IN GENERAL.—The amendments made by subsection (c) shall apply with respect to interest accruing after October 3, 2004.

''(B) SPECIAL RULE FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the amendments made by subsection (c) shall also apply with respect to interest accruing on or before October 3, 2004.

''(ii) PARTICIPANTS IN SETTLEMENT INITIATIVES.—Clause (i) shall not apply to any transaction if, as of January 23, 2006—

''(I) the taxpayer is participating in a settlement initiative described in Internal Revenue Service Announcement 2005–80 with respect to such transaction, or

''(II) the taxpayer has entered into a settlement agreement pursuant to such an initiative.

''(iii) TERMINATION OF EXCEPTION.—Clause (ii)(I) shall not apply to any taxpayer if, after January 23, 2006, the taxpayer withdraws from, or terminates, participation in the initiative or the Secretary of the Treasury or the Secretary's delegate determines that a settlement agreement will not be reached pursuant to the initiative within a reasonable period of time.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates.

(b) TREATMENT OF AMENDED RETURNS AND OTHER SIMILAR NOTICES OF ADDITIONAL TAX OWED.—

(1) IN GENERAL.—Section 6404(g)(1) (relating to suspension) is amended by adding at the end the following new sentence: ''If, after the return for a taxable year is filed, the taxpayer provides to the Secretary one or more signed written documents showing that the taxpayer owes an additional amount of tax for the taxable year, clause (i) shall be applied by substituting the date the last of the documents was provided for the date on which the return is filed.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to documents provided on or after the date of the enactment of this Act.

**SEC. 503. 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. 504. 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 be 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 considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) CONFORMING AMENDMENT.—Section 6700(a) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the activities described in paragraphs (1) and (2) of section 6700(a) of the Internal Revenue Code of 1986 and after the date of the enactment of this Act.

**SEC. 505. 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 '', or tax liability reflected in,'' after ''the preparation or presentation of'' 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 be 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 considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and 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 the activities described in section 6701(a) of the Internal Revenue Code of 1986 after the date of the enactment of this Act.

**Subtitle B—Economic Substance Doctrine**

**SEC. 511. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.**

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) 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. 512. 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(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(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) and (3) 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) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

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

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting ''and noneconomic substance transaction understatements'' after ''reportable transaction understatements'' both places it appears,

(B) in paragraph (2)(A), by inserting ''and a noneconomic substance transaction understatement'' after ''reportable transaction understatement'',

(C) in paragraph (2)(B), by inserting ''6662B or'' before ''6663'',

(D) in paragraph (2)(C)(i), by inserting ''or section 6662B'' before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting ''and section 6662B'' after ''This section'',

(F) in paragraph (3), by inserting ''or noneconomic substance transaction understatement'' after ''reportable transaction understatement'', and

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

''(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).''.

(3) Subsection (e) of section 6707A is amended—

(A) by striking ''or'' at the end of subparagraph (B), and

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

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

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

(c) 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.''.

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

**SEC. 513. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.**

(a) IN GENERAL.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking ''attributable'' and all that follows and inserting the following: ''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)).'', and

(2) by inserting ''AND NONECONOMIC SUBSTANCE TRANSACTIONS'' in the heading thereof after ''TRANSACTIONS''.

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

## Subtitle C—Improvements in Efficiency and Safeguards in Internal Revenue Service Collection

**SEC. 521. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.**

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

''(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date which is 180 days after the date of the enactment of this Act.

**SEC. 522. TERMINATION OF INSTALLMENT AGREEMENTS.**

(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

''(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

''(D) to file a return of tax imposed under this title by its due date (including extensions), or''.

(b) CONFORMING AMENDMENT.—The heading for section 6159(b)(4) is amended by striking ''FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION'' and inserting ''FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

**SEC. 523. PARTIAL PAYMENTS REQUIRED WITH SUBMISSION OF OFFERS-IN-COMPROMISE.**

(a) IN GENERAL.—Section 7122 (relating to compromises), as amended by this Act, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) RULES FOR SUBMISSION OF OFFERS-IN-COMPROMISE.—

''(1) PARTIAL PAYMENT REQUIRED WITH SUBMISSION.—

''(A) LUMP-SUM OFFERS.—

''(i) IN GENERAL.—The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of amount of such offer.

''(ii) LUMP-SUM OFFER-IN-COMPROMISE.—For purposes of this section, the term 'lump-sum offer-in-compromise' means any offer of payments made in 5 or fewer installments.

''(B) PERIODIC PAYMENT OFFERS.—The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment and each proposed installment due during the period such offer is being evaluated for acceptance and has not been rejected by the Secretary. Any failure to make a payment required under the preceding sentence shall be deemed a withdrawal of the offer-in-compromise.

''(2) RULES OF APPLICATION.—

''(A) USE OF PAYMENT.—The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

''(B) NO USER FEE IMPOSED.—Any user fee which would otherwise be imposed under this section shall not be imposed on any offer-in-compromise accompanied by a payment required under this subsection.

''(C) WAIVER AUTHORITY.—The Secretary may issue regulations waiving any payment required under paragraph (1) in a manner consistent with the practices established in accordance with the requirements under subsection (d)(3).''.

(b) ADDITIONAL RULES RELATING TO TREATMENT OF OFFERS.—

(1) UNPROCESSABLE OFFER IF PAYMENT REQUIREMENTS ARE NOT MET.—Paragraph (3) of section 7122(d) (relating to standards for evaluation of offers), as redesignated by subsection (a), is amended by striking ''; and'' at the end of subparagraph (A) and inserting a comma, by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any offer-in-compromise which does not meet the requirements of subsection (c) shall be returned to the taxpayer as unprocessable.''.

(2) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Section 7122, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(g) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer (12 months for offers-in-compromise submitted after the date which is 5 years after the date of the enactment of this subsection). For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken in to account in determining the expiration of the 24-month period (or 12-month period, if applicable).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted on and after the date which is 60 days after the date of the enactment of this Act.

**Subtitle D—Penalties and Fines**

**SEC. 531. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.**

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking ''Any person who—'' and inserting ''(a) in general.—Any person who—'', and

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

''(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.''.

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''5 years'' and inserting ''10 years''.

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking ''Any person'' and inserting the following:

''(a) IN GENERAL.—Any person'', and

(ii) by striking ''$25,000'' and inserting ''$50,000'',

(B) in the third sentence, by striking ''section'' and inserting ''subsection'', and

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

''(b) AGGRAVATED FAILURE TO FILE.—

''(1) IN GENERAL.—In the case of any failure described in paragraph (2), the first sentence of subsection (a) shall be applied by substituting—

''(A) 'felony' for 'misdemeanor',

''(B) '$500,000 ($1,000,000' for '$25,000 ($100,000', and

''(C) '10 years' for '1 year'.

''(2) FAILURE DESCRIBED.—A failure described in this paragraph is a failure to make a return described in subsection (a) for a period of 3 or more consecutive taxable years.''.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''3 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions, and failures to act, occurring after the date of the enactment of this Act.

**SEC. 532. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.**

(a) DETERMINATION OF PENALTY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) APPLICABLE TAXPAYER.—For purposes of this subsection—

(A) IN GENERAL.—The term ''applicable taxpayer'' means a taxpayer which—

(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of offshore payment mechanisms (including credit, debit, or charge cards) issued by banks or other entities in foreign jurisdictions, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has neither signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003–11 nor voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.

(B) AUTHORITY TO WAIVE.—The Secretary of the Treasury or the Secretary's delegate may waive the application of paragraph (1) to any taxpayer if the Secretary or the Secretary's delegate determines that the use of such offshore payment mechanisms is incidental to the transaction and, in addition, in the case of a trade or business, such use is conducted in the ordinary course of the type of trade or business of the taxpayer.

(C) ISSUES RAISED.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

(i) communicates to the taxpayer knowledge about the specific item, or

(ii) has made a request to the taxpayer for information and the taxpayer could not make a complete response to that request without giving the examiner knowledge of the specific item.

(b) APPLICABLE PENALTY.—For purposes of this section, the term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if, as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

**SEC. 533. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.**

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

Identification pursuant to subparagraph (B) alone shall not satisfy the requirement under subparagraph (A). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.''.

(b) REPORTING OF DEDUCTIBLE AMOUNTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6050T the following new section:

**''SEC. 6050U. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.**

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050T the following new item:

''Sec. 6050U. Information with respect to certain fines, penalties, and other amounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

**SEC. 534. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.**

(a) DISALLOWANCE OF DEDUCTION.—

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

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

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

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

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

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

**''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.**

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

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

''(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

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

''Sec. 91. Punitive damages compensated by insurance or otherwise''.

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

**SEC. 535. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.**

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking ''$750'' and inserting ''$2,000'', and

(2) by striking ''$15'' and inserting ''$40''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

**Subtitle E—Provisions To Discourage Expatriation**

**SEC. 541. TAX TREATMENT OF INVERTED ENTITIES.**

(a) IN GENERAL.—Section 7874 is amended—

(1) by striking ''March 4, 2003'' in subsection (a)(2)(B)(i) and in the matter following subsection (a)(2)(B)(iii) and inserting ''March 20, 2002'',

(2) by striking ''at least 60 percent'' in subsection (a)(2)(B)(ii) and inserting ''more than 50 percent'',

(3) by striking ''80 percent'' in subsection (b) and inserting ''at least 80 percent'',

(4) by striking ''60 percent'' in subsection (b) and inserting ''more than 50 percent'',

(5) by adding at the end of subsection (a)(2) the following new sentence: ''Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (B) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.'', and

(6) by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) SPECIAL RULES APPLICABLE TO EXPATRIATED ENTITIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an expatriated entity—

''(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

''(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an expatriated entity, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after March 20, 2002.

**SEC. 542. REVISION OF TAX RULES ON EXPATRIATION OF INDIVIDUALS.**

(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 2005, 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 2004' 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:

''(49) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation) is inadmissible.''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(21) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(3) EFFECTIVE DATES.—The amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(h) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after 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:

''(C) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4) Section 6039G(a) is amended by inserting ''or 877A'' after ''section 877(b)''.

(5) The second sentence of section 6039G(d) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''section 877(a))''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after 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 on or 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 F—Miscellaneous Provisions

#### SEC. 551. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.

(a) IN GENERAL.—Section 1275(d) (relating to regulation authority) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'', and

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

''(2) TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT.—

''(A) IN GENERAL.—In the case of a debt instrument which—

''(i) is convertible into stock of the issuing corporation, into stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1)), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

''(ii) provides for contingent payments,

any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed-rate debt instrument shall be applied as if the regulations require that such comparable yield be determined by reference to a noncontingent fixed-rate debt instrument which is convertible into stock.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.''.

(b) CROSS REFERENCE.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

''For the treatment of contingent payment convertible debt, see section 1275(d)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued on or after the date of the enactment of this Act.

#### SEC. 552. GRANT OF TREASURY REGULATORY AUTHORITY TO ADDRESS FOREIGN TAX CREDIT TRANSACTIONS INVOLVING INAPPROPRIATE SEPARATION OF FOREIGN TAXES FROM RELATED FOREIGN INCOME.

(a) IN GENERAL.—Section 901 (relating to taxes of foreign countries and of possessions of United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) REGULATIONS.—The Secretary may prescribe regulations disallowing a credit under subsection (a) for all or a portion of any foreign tax, or allocating a foreign tax among 2 or more persons, in cases where the foreign tax is imposed on any person in respect of income of another person or in other cases involving the inappropriate separation of the foreign tax from the related foreign income.''.

(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. 553. REPEAL OF SPECIAL PROPERTY EXCEPTION TO LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.**

(a) IN GENERAL.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by striking paragraphs (1) and (2), by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

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

''(3) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2005, with respect to leases entered into on or before March 12, 2004.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

**SEC. 554. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE CORPORATIONS.**

(a) IN GENERAL.—Section 163(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) TREATMENT OF CORPORATE PARTNERS.—Except to the extent provided by regulations, in applying this subsection to a corporation which owns (directly or indirectly) an interest in a partnership—

''(A) such corporation's distributive share of interest income paid or accrued to such partnership shall be treated as interest income paid or accrued to such corporation,

''(B) such corporation's distributive share of interest paid or accrued by such partnership shall be treated as interest paid or accrued by such corporation, and

''(C) such corporation's share of the liabilities of such partnership shall be treated as liabilities of such corporation.''.

(b) ADDITIONAL REGULATORY AUTHORITY.—Section 163(j)(9) (relating to regulations), as redesignated by subsection (a), is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) regulations providing for the reallocation of shares of partnership indebtedness, or distributive shares of the partnership's interest income or interest expense, as may be appropriate to carry out the purposes of this subsection.''.

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

**SEC. 555. LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES.**

(a) IN GENERAL.—Paragraph (2) of section 274(e) (relating to expenses treated as compensation) is amended to read as follows:

''(2) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities, to the extent that the expenses do not exceed the amount of the expenses which are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to an employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).''.

(b) PERSONS NOT EMPLOYEES.—Paragraph (9) of section 274(e) is amended by striking ''to the extent that the expenses are includible in the gross income'' and inserting ''to the extent that the expenses do not exceed the amount of the expenses which are includible in the gross income''.

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

**SEC. 556. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.**

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

(b) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—Section 1(g)(4) (relating to net unearned income) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—For purposes of this subsection, in the case of any child who is a beneficiary of a qualified disability trust (as defined in section 642(b)(2)(C)(ii)), any amount included in the income of such child under sections 652 and 662 during a taxable year shall be considered earned income of such child for such taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 557. LOAN AND REDEMPTION REQUIREMENTS ON POOLED FINANCING REQUIREMENTS.**

(a) STRENGTHENED REASONABLE EXPECTATION REQUIREMENT.—Subparagraph (A) of section 149(f)(2) (relating to reasonable expectation requirement) is amended to read as follows:

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to an issue if the issuer reasonably expects that—

''(i) as of the close of the 1-year period beginning on the date of issuance of the issue, at least 50 percent of the net proceeds of the issue (as of the close of such period) will have been used directly or indirectly to make or finance loans to ultimate borrowers, and

''(ii) as of the close of the 3-year period beginning on such date of issuance, at least 95 percent of the net proceeds of the issue (as of the close of such period) will have been so used.''.

(b) WRITTEN LOAN COMMITMENT AND REDEMPTION REQUIREMENTS.—Section 149(f) (relating to treatment of certain pooled financing bonds) is amended by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively, and by inserting after paragraph (3) the following new paragraphs:

''(4) WRITTEN LOAN COMMITMENT REQUIREMENT.—

''(A) IN GENERAL.—The requirement of this paragraph is met with respect to an issue if the issuer receives prior to issuance written loan commitments identifying the ultimate potential borrowers of at least 50 percent of the net proceeds of such issue.

''(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any issuer which is a State (or an integral part of a State) issuing pooled financing bonds to make or finance loans to subordinate governmental units of such State or to State-created entities providing financing for water-infrastructure projects through the federally-sponsored State revolving fund program.

''(5) REDEMPTION REQUIREMENT.—The requirement of this paragraph is met if to the extent that less than the percentage of the proceeds of an issue required to be used under clause (i) or (ii) of paragraph (2)(A) is used by the close of the period identified in such clause, the issuer uses an amount of proceeds equal to the excess of—

''(A) the amount required to be used under such clause, over

''(B) the amount actually used by the close of such period,

''to redeem outstanding bonds within 90 days after the end of such period.''.

(c) ELIMINATION OF DISREGARD OF POOLED BONDS IN DETERMINING ELIGIBILITY FOR SMALL ISSUER EXCEPTION TO ARBITRAGE REBATE.—Section 148(f)(4)(D)(ii) (relating to aggregation of issuers) is amended by striking subclause (II) and by redesignating subclauses (III) and (IV) as subclauses (II) and (III), respectively.

(d) CONFORMING AMENDMENTS.—

(1) Section 149(f)(1) is amended by striking ''paragraphs (2) and (3)'' and inserting ''paragraphs (2), (3), (4), and (5)''.

(2) Section 149(f)(7)(B), as redesignated by subsection (b), is amended by striking ''paragraph (4)(A)'' and inserting ''paragraph (6)(A)''.

(3) Section 54(l)(2) is amended by striking ''section 149(f)(4)(A)'' and inserting ''section 149(f)(6)(A)''.

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

**SEC. 558. REPORTING OF INTEREST ON TAX-EXEMPT BONDS.**

(a) IN GENERAL.—Section 6049(b)(2) (relating to exceptions) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) CONFORMING AMENDMENT.—Section 6049(b)(2)(C), as redesignated by subsection (a), is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest earned after December 31, 2005.

**SEC. 559. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.**

(a) TAXABLE YEARS ENDING BEFORE 2006.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 29(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 29(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005.—Section 29(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar year 2005 and the amount in effect under subsection (a) for sales in such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(b) TAXABLE YEARS ENDING AFTER 2005.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 45K(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 45K(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005, 2006, AND 2007.—Section 45K(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar years 2005, 2006, and

2007 and the amount in effect under subsection (a) for sales in each such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(3) TREATMENT OF COKE AND COKE GAS.—

(A) NONAPPLICATION OF PHASEOUT.—Section 45K(g)(2) is amended by adding at the end the following new subparagraph:

''(D) NONAPPLICATION OF PHASEOUT.—Subsection (b)(1) shall not apply.''.

(B) APPLICATION OF INFLATION ADJUSTMENT.—Section 45K(g)(2)(B) is amended by inserting ''and the last sentence of subsection (b)(2) shall not apply.''.

(C) CLARIFICATION OF QUALIFYING FACILITY.—Section 45K(g)(1) is amended by inserting ''(other than from petroleum based products)'' after ''coke or coke gas''.

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

**SEC. 560. MODIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR.**

(a) IN GENERAL.—The table contained in section 6654(d)(1)(C) is amended by striking ''2002 or thereafter'' and inserting ''2002, 2003, 2004, or 2005'' and by adding at the end the following new items:

| | |
|---|---|
| ''2006 | 120 |
| 2007 or thereafter | 110''. |

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 2005.

**SEC. 561. REVALUATION OF LIFO INVENTORIES OF LARGE INTEGRATED OIL COMPANIES.**

(a) GENERAL RULE.—Notwithstanding any other provision of law, if a taxpayer is an applicable integrated oil company for its last taxable year ending in calendar year 2005, the taxpayer shall—

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

(2) decrease its cost of goods sold for such taxable year by the aggregate amount of the increases under paragraph (1).

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

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

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

(A) $18.75, and

(B) the number of barrels of crude oil (or in the case of natural gas or other petroleum products, the number of barrel-of-oil equivalents) represented by the layer.

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

(c) APPLICATION OF REQUIREMENT.—

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

(2) UNDERPAYMENTS OF ESTIMATED TAX.—o addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1986 (relating to failure by corporation to pay estimated tax) with respect to any underpayment of an installment required to be paid with respect to the taxable year described in subsection (a) to the extent such underpayment was created or increased by this section.

(d) APPLICABLE INTEGRATED OIL COMPANY.—For purposes of this section, the term ''applicable integrated oil company'' means an integrated oil company (as defined in section 291(b)(4) of the Internal Revenue Code of 1986) which has an average daily worldwide production of crude oil of at least 500,000 barels for the taxable year and which had gross receipts in excess of $1,000,000,000 for its last taxable year ending during calendar year 2005. For purposes of this subsection all persons treated as a single employer under subsections (a) and (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as 1 person and, in the case of a short taxable year, the rule under section 448(c)(3)(B) shall apply.

**SEC. 562. ELIMINATION OF AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR MAJOR INTEGRATED OIL COMPANIES.**

(a) IN GENERAL.—Section 167(h) is amended by adding at the end the following new paragraph:

''(5) NONAPPLICATION TO MAJOR INTEGRATED OIL COMPANIES.—This subsection shall not apply with respect to any expenses paid or incurred for any taxable year by any integrated oil company (as defined in section 291(b)(4)) which has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 1329(a) of the Energy Policy Act of 2005.

**SEC. 563. VALUATION OF EMPLOYEE PERSONAL USE OF NONCOMMERCIAL AIRCRAFT.**

(a) IN GENERAL.—For purposes of Federal income tax inclusion, the value of any employee personal use of noncommercial aircraft shall equal the excess (if any) of—

(1) greater of—

(A) the fair market value of such use, or

(B) the actual cost of such use (including all fixed and variable costs), over

(2) any amount paid by or on behalf of such employee for such use.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to use after the date of the enactment of this Act.

**SEC. 564. APPLICATION OF FIRPTA TO REGULATED INVESTMENT COMPANIES.**

(a) IN GENERAL.—Subclause (II) of section 897(h)(4)(A)(i) (defining qualified investment entity) is amended by inserting ''which is a United States real property holding corporation or which would be a United States real property holding corporation if the exceptions provided in subsections (c)(3) and (h)(2) did not apply to interests in any real estate investment trust or regulated investment company'' after ''regulated investment company''.

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

**SEC. 565. TREATMENT OF DISTRIBUTIONS ATTRIBUTABLE TO FIRPTA GAINS.**

(a) QUALIFIED INVESTMENT ENTITY.—

(1) IN GENERAL.—Section 897(h)(1) is amended—

(A) by striking ''a nonresident alien individual or a foreign corporation'' in the first sentence and inserting ''a nonresident alien individual, a foreign corporation, or other qualified investment entity'',

(B) by striking ''such nonresident alien individual or foreign corporation'' in the first sentence and inserting ''such nonresident alien individual, foreign corporation, or other qualified investment entity'', and

(C) by striking the second sentence and inserting the following new sentence: ''Notwithstanding the preceding sentence, any distribution by a qualified investment entity to a nonresident alien, a foreign corporation, or other qualified investment entity with respect to any class of stock which is regularly traded on an established securities market located in the United States shall not be treated as gain recognized from the sale or exchange of a United States real property interest if the shareholder did not own more than 5 percent of such class of stock at any time during the 1 year period ending on the date of such distribution.''.

(2) APPLICATION AFTER 2007.—Clause (ii) of section 897(h)(4)(A) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, an entity described in clause (i)(II) shall be treated as a qualified investment entity for purposes of applying paragraph (1) in any case in which a real estate investment trust makes a distribution to an entity described in clause (i)(II).''.

(b) TREATMENT OF CERTAIN DISTRIBUTIONS AS DIVIDENDS.—

(1) IN GENERAL.—Section 852(b)(3) (relating to capital gains) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN DISTRIBUTIONS.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount of such distribution which would be included in computing long-term capital gains for the shareholder under subparagraph (B) or (D) (without regard to this subparagraph)—

''(i) shall not be included in computing such shareholder's long-term capital gains, and

''(ii) shall be included in such shareholder's gross income as a dividend from the regulated investment company.''.

(2) CONFORMING AMENDMENT.—Section 871(k)(2) (relating to short-term capital gain dividends) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN DISTRIBUTIONS.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount which would be treated as a short-term capital gain dividend to the shareholder (without regard to this subparagraph)—

''(i) shall not be treated as a short-term capital gain dividend, and

''(ii) shall be included in such shareholder's gross income as a dividend from the regulated investment company.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of qualified investment entities beginning after the date of the enactment of this Act.

(2) DIVIDENDS.—The amendments made by subsection (b) shall apply to dividends with respect to taxable years of regulated investment companies beginning after December 31, 2004.

**SEC. 566. PREVENTION OF AVOIDANCE OF TAX ON INVESTMENTS OF FOREIGN PERSONS IN UNITED STATES REAL PROPERTY THROUGH WASH SALE TRANSACTIONS.**

(a) IN GENERAL.—Section 897(h) of the Internal Revenue Code of 1986 (relating to special rules in certain investment entities) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) TREATMENT OF CERTAIN WASH SALE TRANSACTIONS.—

''(A) IN GENERAL.—If an interest in a domestically controlled qualified investment entity is disposed of in an applicable wash sale transaction, the taxpayer shall, for purposes of this section, be treated as having gain from the sale or exchange of a United States real property interest in an amount equal to the portion of the distribution described in subparagraph (B) with respect to

such interest which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1).

''(B) APPLICABLE WASH SALES TRANSACTION.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable wash sales transaction' means any transaction (or series of transactions) under which a nonresident alien individual or foreign corporation—

''(I) disposes of an interest in a domestically controlled qualified investment entity during the 30-day period preceding a distribution which is to be made with respect to the interest and any portion of which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1), and

''(II) acquires an identical interest in such entity during the 60-day period beginning with the 1st day of the 30-day period described in subclause (I).

For purposes of subclause (II), a nonresident alien individual or foreign corporation shall be treated as having acquired any interest acquired by a person related (within the meaning of section 465(b)(3)(C)) to the individual or corporation.

''(ii) EXCEPTION WHERE DISTRIBUTION ACTUALLY RECEIVED.—A transaction shall not be treated as an applicable wash sales transaction if the nonresident alien individual or foreign corporation receives the distribution described in clause (i)(I) with respect to either the interest which was disposed of, or acquired, in the transaction.

''(iii) EXCEPTION FOR CERTAIN PUBLICLY TRADED STOCK.—A transaction shall not be treated as an applicable wash sales transaction if it involves the disposition of any class of stock in a qualified investment entity which is regularly traded on an established securities market within the United States but only if the nonresident alien individual or foreign corporation did not own more than 5 percent of such class of stock at any time during the 1-year period ending on the date of the distribution described in clause (i)(I).''.

(b) NO WITHHOLDING REQUIRED.—Section 1445(b) of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following new paragraph:

''(8) APPLICABLE WASH SALES TRANSACTIONS.—No person shall be required to deduct and withhold any amount under subsection (a) with respect to a disposition which is treated as a disposition of a United States real property interest solely by reason of section 897(h)(4).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after December 31, 2005, in taxable years ending after such date.

**SEC. 567. MODIFICATIONS TO RULES RELATING TO TAXATION OF DISTRIBUTIONS OF STOCK AND SECURITIES OF A CONTROLLED CORPORATION.**

(a) MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355.—

(1) IN GENERAL.—Section 355(b) (defining active conduct of a trade or business) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES RELATING TO ACTIVE BUSINESS REQUIREMENT.—

''(A) IN GENERAL.—For purposes of determining whether a corporation meets the requirement of paragraph (2)(A), all members of such corporation's separate affiliated group shall be treated as 1 corporation. For purposes of the preceding sentence, the term 'separate affiliated group' means, with respect to any corporation, the affiliated group which would be determined under section 1504(a) if such corporation were the common parent and section 1504(b) did not apply.

''(B) CONTROL.—For purposes of paragraph (2)(D), all distributee corporations which are members of the same affiliated group (as defined in section 1504(a) without regard to section 1504(b)) shall be treated as 1 distributee corporation.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 355(b)(2) is amended to read as follows:

''(A) it is engaged in the active conduct of a trade or business,''.

(B) Section 355(b)(2) of such Code is amended by striking the last sentence.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply—

(i) to distributions after the date of the enactment of this Act, and before January 1, 2010, and

(ii) for purposes of determining the continued qualification under section 355(b)(2)(A) of the Internal Revenue Code of 1986 (as amended by paragraph (2)(A)) of distributions made before such date, as a result of an acquisition, disposition, or other restructuring after such date and before January 1, 2010.

(B) TRANSITION RULE.—The amendments made by this subsection shall not apply to any distribution pursuant to a transaction which is—

(i) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(C) ELECTIONS.—

(i) OUT OF TRANSITION RELIEF.—Subparagraph (B) shall not apply if the distributing corporation elects not to have such subparagraph apply to distributions of such corporation. Any such election, once made, shall be irrevocable.

(ii) APPLICATION TO PRIOR DISTRIBUTIONS.—Subparagraph (A)(ii) shall not apply to a distributing or controlled corporation if the corporation elects not to have such subparagraph apply to such corporation. Any such election, once made, shall be irrevocable.

(b) SECTION 355 NOT TO APPLY TO DISTRIBUTIONS IF THE DISTRIBUTING OR CONTROLLED CORPORATION IS A DISQUALIFIED INVESTMENT CORPORATION.—

(1) IN GENERAL.—Section 355 (relating to distributions of stock and securities of a controlled corporation) is amended by adding at the end the following new subsection:

''(g) SECTION NOT TO APPLY TO DISTRIBUTIONS INVOLVING DISQUALIFIED INVESTMENT CORPORATIONS.—

''(1) IN GENERAL.—This section (and so much of section 356 as relates to this section) shall not apply to any distribution which is part of a transaction if—

''(A) either the distributing corporation or controlled corporation is, immediately after the transaction, a disqualified investment corporation, and

''(B) any person holds, immediately after the transaction, a 50-percent or greater interest in any disqualified investment corporation, but only if such person did not hold such an interest in such corporation immediately before the transaction.

''(2) DISQUALIFIED INVESTMENT CORPORATION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'disqualified investment corporation' means any distributing or controlled corporation if the fair market value of the investment assets of the corporation is 75 percent or more of the fair market value of all assets of the corporation.

''(B) INVESTMENT ASSETS.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'investment assets' means—

''(I) cash,

''(II) any stock or securities in a corporation,

''(III) any interest in a partnership,

''(IV) any debt instrument or other evidence of indebtedness,

''(V) any option, forward or futures contract, notional principal contract, or derivative,

''(VI) foreign currency, or

''(VII) any similar asset.

''(ii) EXCEPTION FOR ASSETS USED IN ACTIVE CONDUCT OF CERTAIN FINANCIAL TRADES OR BUSINESSES.—Such term shall not include any asset which is held for use in the active and regular conduct of—

''(I) a lending or finance business (within the meaning of section 954(h)(4)),

''(II) a banking business through a bank (as defined in section 581), a domestic building and loan association (within the meaning of section 7701(a)(19)), or any similar institution specified by the Secretary, or

''(III) an insurance business if the conduct of the business is licensed, authorized, or regulated by an applicable insurance regulatory body.

This clause shall only apply with respect to any business if substantially all of the income of the business is derived from persons who are not related (within the meaning of section 267(b) or 707(b)(1)) to the person conducting the business.

''(iii) EXCEPTION FOR SECURITIES MARKED TO MARKET.—Such term shall not include any security (as defined in section 475(c)(2)) which is held by a dealer in securities and to which section 475(a) applies.

''(iv) STOCK OR SECURITIES IN A 25-PERCENT CONTROLLED ENTITY.—

''(I) IN GENERAL.—Such term shall not include any stock and securities in, or any asset described in subclause (IV) or (V) of clause (i) issued by, a corporation which is a 25-percent controlled entity with respect to the distributing or controlled corporation.

''(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any 25-percent controlled entity.

''(III) 25-PERCENT CONTROLLED ENTITY.—For purposes of this clause, the term '25-percent controlled entity' means, with respect to any distributing or controlled corporation, any corporation with respect to which the distributing or controlled corporation owns directly or indirectly stock meeting the requirements of section 1504(a)(2), except that such section shall be applied by substituting '25 percent' for '80 percent' and without regard to stock described in section 1504(a)(4).

''(v) INTERESTS IN CERTAIN PARTNERSHIPS.—

''(I) IN GENERAL.—Such term shall not include any interest in a partnership, or any debt instrument or other evidence of indebtedness, issued by the partnership, if 1 or more of the trades or businesses of the partnership are (or, without regard to the 5-year requirement under subsection (b)(2)(B), would be) taken into account by the distributing or controlled corporation, as the case may be, in determining whether the requirements of subsection (b) are met with respect to the distribution.

''(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any partnership described in subclause (I).

''(3) 50-PERCENT OR GREATER INTEREST.—For purposes of this subsection—

''(A) IN GENERAL.—The term '50-percent or greater interest' has the meaning given such term by subsection (d)(4).

''(B) ATTRIBUTION RULES.—The rules of section 318 shall apply for purposes of determining ownership of stock for purposes of this paragraph.

''(4) TRANSACTION.—For purposes of this subsection, the term 'transaction' includes a series of transactions.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out, or prevent the avoidance of, the purposes of this subsection, including regulations—

''(A) to carry out, or prevent the avoidance of, the purposes of this subsection in cases involving—

''(i) the use of related persons, intermediaries, pass-thru entities, options, or other arrangements, and

''(ii) the treatment of assets unrelated to the trade or business of a corporation as investment assets if, prior to the distribution, investment assets were used to acquire such unrelated assets,

''(B) which in appropriate cases exclude from the application of this subsection a distribution which does not have the character of a redemption which would be treated as a sale or exchange under section 302, and

''(C) which modify the application of the attribution rules applied for purposes of this subsection.''.

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to distributions after the date of the enactment of this Act.

(B) TRANSITION RULE.—The amendments made by this subsection shall not apply to any distribution pursuant to a transaction which is—

(i) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

**SEC. 568. AMORTIZATION OF EXPENSES INCURRED IN CREATING OR ACQUIRING MUSIC OR MUSIC COPYRIGHTS.**

(a) IN GENERAL.—Section 263A (relating to capitalization and inclusion in inventory costs of certain expenses) is amended by redesignating subsection (i) as subsection (j) and by adding after subsection (h) the following new subsection:

''(i) SPECIAL RULES FOR CERTAIN MUSICAL WORKS AND COPYRIGHTS.—

''(1) IN GENERAL.—If—

''(A) any expense is paid or incurred by the taxpayer in creating or acquiring any musical composition (including any accompanying words) or any copyright with respect to a musical composition, and

''(B) such expense is required to be capitalized under this section,

then, notwithstanding section 167(g), the amount capitalized shall be amortized ratably over the 5-year period beginning with the month in which the composition or copyright was acquired (or, in the case of expenses paid or incurred in connection with the creation of a musical composition, the 5-taxable-year period beginning with the taxable year in which the expenses were paid or incurred).

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any expense—

''(A) which is a qualified creative expense under subsection (h),

''(B) to which a simplified procedure established under subsection (j)(2) applies,

''(C) which is an amortizable section 197 intangible (as defined in section 197(c)), or

''(D) which, without regard to this section, would not be allowable as a deduction.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after December 31, 2005, in taxable years ending after such date.

**SEC. 569. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.**

(a) IN GENERAL.—Subpart H of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new section:

**''SEC. 54A. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.**

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a rural renaissance bond on a credit allowance date of such bond, which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a rural renaissance bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any rural renaissance bond is the product of—

''(A) the credit rate determined by the Secretary under paragraph (3) for the day on which such bond was sold, multiplied by

''(B) the outstanding face amount of the bond.

''(3) DETERMINATION.—For purposes of paragraph (2), with respect to any rural renaissance bond, the Secretary shall determine daily or caused to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary's designee estimates will permit the issuance of rural renaissance bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer.

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term also includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under this part (other than subpart C thereof, relating to refundable credits).

''(d) RURAL RENAISSANCE BOND.—For purposes of this section—

''(1) IN GENERAL.—The term 'rural renaissance bond' means any bond issued as part of an issue if—

''(A) the bond is issued by a qualified issuer,

''(B) 95 percent or more of the proceeds from the sale of such issue are to be used for capital expenditures incurred for 1 or more qualified projects,

''(C) the qualified issuer designates such bond for purposes of this section and the bond is in registered form, and

''(D) the issue meets the requirements of subsections (e) and (h).

''(2) QUALIFIED PROJECT; SPECIAL USE RULES.—

''(A) IN GENERAL.—The term 'qualified project' means 1 or more projects described in subparagraph (B) located in a rural area.

''(B) PROJECTS DESCRIBED.—A project described in this subparagraph is—

''(i) a water or waste treatment project,

''(ii) an affordable housing project,

''(iii) a community facility project, including hospitals, fire and police stations, and nursing and assisted-living facilities,

''(iv) a value-added agriculture or renewable energy facility project for agricultural producers or farmer-owned entities, including any project to promote the production, processing, or retail sale of ethanol (including fuel at least 85 percent of the volume of which consists of ethanol), biodiesel, animal waste, biomass, raw commodities, or wind as a fuel,

''(v) a distance learning or telemedicine project,

''(vi) a rural utility infrastructure project, including any electric or telephone system,

''(vii) a project to expand broadband technology,

''(viii) a rural teleworks project, and

''(ix) any project described in any preceding clause carried out by the Delta Regional Authority.

''(C) SPECIAL RULES.—For purposes of this paragraph—

''(i) any project described in subparagraph (B)(iv) for a farmer-owned entity may be considered a qualified project if such entity is located in a rural area, or in the case of a farmer-owned entity the headquarters of which are located in a nonrural area, if the project is located in a rural area, and

''(ii) any project for a farmer-owned entity which is a facility described in subparagraph (B)(iv) for agricultural producers may be considered a qualified project regardless of whether the facility is located in a rural or nonrural area.

''(3) SPECIAL USE RULES.—

''(A) REFINANCING RULES.—For purposes of paragraph (1)(B), a qualified project may be refinanced with proceeds of a rural renaissance bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred after the date of the enactment of this section.

''(B) REIMBURSEMENT.—For purposes of paragraph (1)(B), a rural renaissance bond may be issued to reimburse a borrower for amounts paid after the date of the enactment of this section with respect to a qualified project, but only if—

''(i) prior to the payment of the original expenditure, the borrower declared its intent to reimburse such expenditure with the proceeds of a rural renaissance bond,

''(ii) not later than 60 days after payment of the original expenditure, the qualified issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

''(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

''(C) TREATMENT OF CHANGES IN USE.—For purposes of paragraph (1)(B), the proceeds of an issue shall not be treated as used for a qualified project to the extent that a borrower takes any action within its control which causes such proceeds not to be used

for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a rural renaissance bond.

''(e) MATURITY LIMITATIONS.—

''(1) DURATION OF TERM.—A bond shall not be treated as a rural renaissance bond if the maturity of such bond exceeds the maximum term determined by the Secretary under paragraph (2) with respect to such bond.

''(2) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined without regard to the requirements of subsection (f)(3) and using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

''(3) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a rural renaissance bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each calendar year that the issue is outstanding.

''(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) NATIONAL LIMITATION.—There is a rural renaissance bond limitation of $200,000,000.

''(2) ALLOCATION BY SECRETARY.—The Secretary shall allocate the amount described in paragraph (1) among qualified projects in such manner as the Secretary determines appropriate.

''(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(h) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the qualified issuer reasonably expects—

''(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified projects within the 5-year period beginning on the date of issuance of the rural renaissance bond,

''(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the rural renaissance bond or, in the case of a rural renaissance bond, the proceeds of which are to be loaned to 2 or more borrowers, such binding commitment will be incurred within the 6-month period beginning on the date of the loan of such proceeds to a borrower, and

''(C) such projects will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the qualified issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related projects will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the qualified issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(i) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a rural renaissance bond unless, with respect to the issue of which the bond is a part, the qualified issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

''(j) QUALIFIED ISSUER.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified issuer' means any not-for-profit cooperative lender which has as of the date of the enactment of this section received a guarantee under section 306 of the Rural Electrification Act and which meets the requirement of paragraph (2).

''(2) USER FEE REQUIREMENT.—The requirement of this paragraph is met if the issuer of any rural renaissance bond makes grants for qualified projects as defined under subsection (d)(2) on a semi-annual basis every year that such bond is outstanding in an annual amount equal to one-half of the rate on United States Treasury Bills of the same maturity multiplied by the outstanding principle balance of rural renaissance bonds issued by such issuer.

''(k) SPECIAL RULES RELATING TO POOL BONDS.—No portion of a pooled financing bond may be allocable to loan unless the borrower has entered into a written loan commitment for such portion prior to the issue date of such issue.

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

''(1) BOND.—The term 'bond' includes any obligation.

''(2) POOLED FINANCING BOND.—The term 'pooled financing bond' shall have the meaning given such term by section 149(f)(4)(A).

''(3) RURAL AREA.—The term 'rural area' means any area other than—

''(A) a city or town which has a population of greater than 50,000 inhabitants, or

''(B) the urbanized area contiguous and adjacent to such a city or town.

''(4) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—

''(A) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(B) NO BASIS ADJUSTMENT.—In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(i) shall apply.

''(5) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any rural renaissance bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(6) REPORTING.—Issuers of rural renaissance bonds shall submit reports similar to the reports required under section 149(e).''.

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(9) REPORTING OF CREDIT ON RURAL RENAISSANCE BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(c) CONFORMING AMENDMENT.—The table of sections for subpart H of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54A. Credit to holders of rural renaissance bonds.''.

(d) ISSUANCE OF REGULATIONS.—The Secretary of Treasury shall issue regulations required under section 54A of the Internal Revenue Code of 1986 (as added by this section) not later than 120 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act and before January 1, 2010.

**SEC. 570. MODIFICATION OF TREATMENT OF LOANS TO QUALIFIED CONTINUING CARE FACILITIES.**

(a) IN GENERAL.—Subsection (g) of section 7872 is amended to read as follows:

''(g) EXCEPTION FOR LOANS TO QUALIFIED CONTINUING CARE FACILITIES.—

''(1) IN GENERAL.—This section shall not apply for any calendar year to any below-market loan owed by a facility which on the last day of such year is a continuing care facility, if such loan was made pursuant to a continuing care contract and if the lender (or the lender's spouse) attains age 62 before the close of such year.

''(2) CONTINUING CARE CONTRACT.—For purposes of this section, the term 'continuing care contract' means a written contract between an individual and a qualified continuing care facility under which—

''(A) the individual or individual's spouse may use a qualified continuing care facility for their life or lives,

''(B) the individual or individual's spouse will be provided with housing in an independent living unit (which has additional available facilities outside such unit for the provision of meals and other personal care), an assisted living facility or a nursing facility, as is available in the continuing care facility, as appropriate for the health of such individual or individual's spouse, and

''(C) the individual or individual's spouse will be provided assisted living or nursing care as the health of such individual or individual's spouse requires, and as is available in the continuing care facility.

''(3) QUALIFIED CONTINUING CARE FACILITY.—

''(A) IN GENERAL.—For purposes of this section, the term 'qualified continuing care facility' means 1 or more facilities—

''(i) which are designed to provide services under continuing care contracts,

''(ii) that include an independent living unit, plus an assisted living or nursing facility, or both, and

''(iii) substantially all of the independent living unit residents of which are covered by continuing care contracts.

''(B) NURSING HOMES EXCLUDED.—The term 'qualified continuing care facility' shall not include any facility which is of a type which is traditionally considered a nursing home.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to loans made after December 31, 2005.

**SEC. 571. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO LARGE INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.**

(a) IN GENERAL.—Section 901 (relating to credit for taxes of foreign countries and of possessions of the United States), as amended by this Act, is amended by redesignating subsections (m) and (n) as subsections (n) and (o), respectively, and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULES RELATING TO LARGE INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer which is a large integrated oil company to a foreign country or possession of the United States for any period shall not be considered a tax—

''(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

''(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

''(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

''(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

''(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

''(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

''(i) persons who are not dual capacity taxpayers, and

''(ii) persons who are citizens or residents of the foreign country or possession.

''(4) LARGE INTEGRATED OIL COMPANY.—For purposes of this subsection, the term 'large integrated oil company' means, with respect to any taxable year, an integrated oil company (as defined in section 291(b)(4)) which—

''(A) had gross receipts in excess of $1,000,000,000 for such taxable year, and

''(B) has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

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

**SEC. 572. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY CERTAIN EMPLOYEES OF THE INTELLIGENCE COMMUNITY.**

(a) IN GENERAL.—Subparagraph (A) of section 121(d)(9) (relating to exclusion of gain from sale of principal residence) is amended by striking ''duty'' and all that follows and inserting ''duty—

''(i) as a member of the uniformed services,

''(ii) as a member of the Foreign Service of the United States, or

''(iii) as an employee of the intelligence community.''.

(b) EMPLOYEE OF INTELLIGENCE COMMUNITY DEFINED.—Subparagraph (C) of section 121(d)(9) is amended by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

''(iv) EMPLOYEE OF INTELLIGENCE COMMUNITY.—The term 'employee of the intelligence community' means an employee (as defined by section 2105 of title 5, United States Code) of—

''(I) the Office of the Director of National Intelligence,

''(II) the Central Intelligence Agency,

''(III) the National Security Agency,

''(IV) the Defense Intelligence Agency,

''(V) the National Geospatial-Intelligence Agency,

''(VI) the National Reconnaissance Office,

''(VII) any other office within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs,

''(VIII) any of the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of Treasury, the Department of Energy, and the Coast Guard,

''(IX) the Bureau of Intelligence and Research of the Department of State, or

''(X) any of the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information.''.

(c) SPECIAL RULE.—Subparagraph (C) of section 121(d)(9), as amended by subsection (b), is amended by adding at the end the following new clause:

''(vi) SPECIAL RULE RELATING TO INTELLIGENCE COMMUNITY.—An employee of the intelligence community shall not be treated as serving on qualified extended duty unless—

''(I) for purposes of such duty such employee has moved from 1 duty station to another, and

''(II) at least 1 of such duty stations is located outside of the Washington, District of Columbia, and Baltimore metropolitan statistical areas (as defined by the Secretary of Commerce).''.

(d) CONFORMING AMENDMENT.—The heading for section 121(d)(9) is amended to read as follows: ''UNIFORMED SERVICES, FOREIGN SERVICE, AND INTELLIGENCE COMMUNITY''.

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

**SEC. 573. DISABILITY PREFERENCE PROGRAM FOR TAX COLLECTION CONTRACTS.**

(a) IN GENERAL.—The Secretary of the Treasury shall not enter into any qualified tax collection contract after April 1, 2006, until the Secretary implements a disability preference program that meets the requirements of subsection (b).

(b) DISABILITY PREFERENCE PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—A disability preference program meets the requirements of this subsection if such program requires that not less than 10 percent of the accounts of each dollar value category are awarded to persons described in paragraph (2).

(2) PERSON DESCRIBED.—For purposes of paragraph (1), a person is described in this paragraph if—

(A) as of the date any qualified tax collection contract is awarded—

(i) such person employs not less than 50 severely disabled individuals within the United States; or

(ii) not less than 30 percent of the employees of such person within the United States are severely disabled individuals;

(B) such person agrees as a condition of the qualified tax collection contract that not more than 90 days after the date such contract is awarded, not less than 35 percent of the employees of such person employed in connection with providing services under such contract shall—

(i) be hired after the date such contract is awarded; and

(ii) be severely disabled individuals; and

(C) such person is otherwise qualified to perform the services required.

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

(1) QUALIFIED TAX COLLECTION CONTRACT.—The term ''qualified tax collection contract'' shall have the meaning given such term under section 6306(b) of the Internal Revenue Code of 1986.

(2) DOLLAR VALUE CATEGORY.—The term ''dollar value category'' means the dollar ranges of accounts for collection as determined and assigned by the Secretary under section 6306(b)(1)(B) of the Internal Revenue Code of 1986 with respect to a qualified tax collection contract.

(3) SEVERELY DISABLED INDIVIDUAL.—The term ''severely disabled individual'' means—

(A) a veteran of the United States armed forces with a disability of 50 percent or greater—

(i) determined by the Secretary of Veterans Affairs to be service-connected; or

(ii) deemed by law to be service-connected; or

(B) any individual who is a disabled beneficiary (as defined in section 1148(k)(2) of the Social Security Act (42 U.S.C. 1320b–19(k)(2))) or who would be considered to be such a disabled beneficiary but for having income or resources in excess of the income or resources eligibility limits established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), respectively.

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**SA 2707.** Mr. FRIST (for Mr. GRASSLEY (FOR HIMSELF AND MR. BAUCUS)) proposed an amendment to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

Strike all after the enacting clause and insert the following:

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

(a) SHORT TITLE.—This Act may be cited as the ''Tax Relief Act of 2005''.

(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 for this Act is as follows:

## TITLE I—TAX BENEFITS FOR AREAS AFFECTED BY HURRICANES KATRINA, RITA, AND WILMA

### Subtitle A—Gulf Opportunity Zone Benefits

**SEC. 101. GULF OPPORTUNITY ZONE BENEFITS.**

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following new subchapter:

**"Subchapter Z—Hurricane Relief Benefits**



**"SEC. 1400N. DEFINITIONS.**

''For purposes of this subchapter—

''(1) GULF OPPORTUNITY ZONE.—The term 'Gulf Opportunity Zone' or 'GO Zone' means that portion of the Hurricane Katrina disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

''(2) HURRICANE KATRINA DISASTER AREA.—The term 'Hurricane Katrina disaster area' means an area with respect to which a major disaster has been declared by the President before September 14, 2005, under section 401 of such Act by reason of Hurricane Katrina.

''(3) RITA GO ZONE.—The term 'Rita GO Zone' means that portion of the Hurricane Rita disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act by reason of Hurricane Rita.

''(4) HURRICANE RITA DISASTER AREA.—The term 'Hurricane Rita disaster area' means an area with respect to which a major disaster has been declared by the President before October 6, 2005, under section 401 of such Act by reason of Hurricane Rita.

''(5) WILMA GO ZONE.—The term 'Wilma GO Zone' means that portion of the Hurricane Wilma disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act by reason of Hurricane Wilma.

''(6) HURRICANE WILMA DISASTER AREA.—The term 'Hurricane Wilma disaster area' means an area with respect to which a major disaster has been declared by the President before October 25, 2005, under section 401 of such Act by reason of Hurricane Wilma.

**"SEC. 1400O. TAX BENEFITS FOR GULF OPPORTUNITY ZONE.**

''(a) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER AUGUST 27, 2005.—

''(1) ADDITIONAL ALLOWANCE.—In the case of any qualified Gulf Opportunity Zone property—

''(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of such property, and

''(B) the adjusted basis of the qualified Gulf Opportunity Zone property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

''(2) QUALIFIED GULF OPPORTUNITY ZONE PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified Gulf Opportunity Zone property' means property—

''(i)(I) which is described in section 168(k)(2)(A)(i), or

''(II) which is nonresidential real property or residential rental property,

''(ii) substantially all of the use of which is in the Gulf Opportunity Zone and is in the active conduct of a trade or business by the taxpayer in such Zone,

''(iii) the original use of which in the Gulf Opportunity Zone commences with the taxpayer after August 27, 2005,

''(iv) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after August 27, 2005, but only if no written binding contract for the acquisition was in effect before August 28, 2005, and

''(v) which is placed in service by the taxpayer on or before the termination date.

The term 'termination date' means December 31, 2007 (December 31, 2008, in the case of nonresidential real property and residential rental property).

''(B) EXCEPTIONS.—

''(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified Gulf Opportunity Zone property' shall not include any property described in section 168(k)(2)(D)(i).

''(ii) TAX-EXEMPT BOND-FINANCED PROPERTY.—Such term shall not include any property any portion of which is financed with the proceeds of any obligation the interest on which is exempt from tax under section 103.

''(iii) QUALIFIED REVITALIZATION BUILDINGS.—Such term shall not include any qualified revitalization building with respect to which the taxpayer has elected the application of paragraph (1) or (2) of section 1400I(a).

''(iv) ELECTION OUT.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(D)(iii) shall apply.

''(C) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(E) shall apply, except that—

''(i) clause (i) thereof shall be applied by substituting 'after August 27, 2005, and before the termination date (as defined in section 1400O(a)(2))' for 'after September 10, 2001, and before January 1, 2005',

''(ii) clauses (ii), (iii), and (iv) thereof shall be applied by substituting 'August 27, 2005' for 'September 10, 2001' each place it appears, and

''(iii) clause (iv) thereof shall be applied by substituting 'qualified Gulf Opportunity Zone property' for 'qualified property'.

''(D) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(G) shall apply.

''(3) RECAPTURE.—For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified Gulf Opportunity Zone property which ceases to be qualified Gulf Opportunity Zone property.

''(b) INCREASE IN EXPENSING UNDER SECTION 179.—

''(1) IN GENERAL.—For purposes of section 179—

''(A) the $100,000 amount in section 179(b)(1) for the taxable year shall be increased by the lesser of—

''(i) $100,000, or

''(ii) the cost of section 179 property (as defined in section 179(d)) which is qualified Gulf Opportunity Zone property placed in service during the taxable year, and

''(B) the $400,000 amount in section 179(b)(2) for the taxable year shall be increased by the lesser of—

''(i) $600,000, or

''(ii) the cost of section 179 property (as so defined) which is qualified Gulf Opportunity Zone property placed in service during the taxable year.

''(2) QUALIFIED GULF OPPORTUNITY ZONE PROPERTY.—For purposes of this subsection, the term 'qualified Gulf Opportunity Zone property' has the meaning given such term by subsection (a)(2).

''(3) COORDINATION WITH EMPOWERMENT ZONES AND RENEWAL COMMUNITIES.—For purposes of sections 1397A and 1400J, qualified Gulf Opportunity Zone property shall not be treated as qualified zone property or qualified renewal property for any taxable year, unless the taxpayer elects not to have this subsection apply to all such qualified Gulf Opportunity Zone property placed in service by the taxpayer during the taxable year.

''(4) RECAPTURE.—Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified Gulf Opportunity Zone property which ceases to be Gulf Opportunity Zone property.

''(c) TAX-EXEMPT BOND FINANCING.—

''(1) IN GENERAL.—For purposes of this title, any qualified Gulf Opportunity Zone Bond shall be treated as a qualified bond.

''(2) QUALIFIED GULF OPPORTUNITY ZONE BOND.—For purposes of this subsection, the term 'qualified Gulf Opportunity Zone Bond' means any bond issued as part of an issue if—

''(A) except as provided in paragraph (4), such bond meets the applicable requirements of part IV of subchapter B of this chapter,

''(B) such bond is issued by the State of Alabama, Louisiana, or Mississippi (or any political subdivision thereof),

''(C) the Governor of such State designates such bond for purposes of this section, and

''(D) such bond is issued after the date of the enactment of this section and before January 1, 2011.

''(3) LIMITATION ON AGGREGATE AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under this subsection shall not exceed the product of $2,500 multiplied by the portion of the State population which is in the Gulf Opportunity Zone (as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before August 28, 2005).

''(4) SPECIAL RULES.—In applying this title to any qualified Gulf Opportunity Zone Bond, the following modifications shall apply:

''(A) Section 143 (relating to mortgage revenue bonds: qualified mortgage bond and qualified veterans' mortgage bond) shall be applied—

''(i) by treating any residence in the Gulf Opportunity Zone as a targeted area residence,

''(ii) by applying subsection (f)(3) without regard to subparagraph (A) thereof, and

''(iii) by substituting '$150,000' for '$15,000' in subsection (k)(4) thereof.

''(B) Section 146 (relating to volume cap) shall not apply.

''(C) Section 57(a)(5) shall not apply.

''(5) SEPARATE ISSUE TREATMENT OF PORTIONS OF AN ISSUE.—This subsection shall not apply to the portion of an issue which (if issued as a separate issue) would be treated as a qualified bond or as a bond that is not a private activity bond (determined without regard to paragraph (1)), if the issuer elects to so treat such portion.

''(d) ADVANCE REFUNDINGS OF CERTAIN TAX-EXEMPT BONDS.—

''(1) IN GENERAL.—With respect to a bond described in paragraph (2) issued as part of an issue 90 percent (95 percent in the case of a bond described in paragraph (2)(B)) or more of the net proceeds (as defined in section 150(a)(3)) of which were used to finance facilities located within the Gulf Opportunity Zone (or property which is functionally related and subordinate to facilities located within the Gulf Opportunity Zone), one additional advanced refunding after the date of the enactment of this section and before January 1, 2007, shall be allowed under the applicable rules of section 149(d) if—

''(A) the chief executive officer of the issuer of the bond designates the advance refunding bond for purposes of this subsection, and

''(B) the requirements of paragraph (3) are met.

''(2) BONDS DESCRIBED.—A bond is described in this paragraph if such bond was outstanding on August 27, 2005, and is—

''(A) a State or local bond (as defined in section 103(c)(1)) other than a private activity bond (as defined in section 141(a)) issued by the State of Alabama, Louisiana, or Mississippi (or any political subdivision thereof), or

''(B) a qualified 501(c)(3) bond (as defined in section 145(a)) issued by or on behalf of any such State or political subdivision.

''(3) ADDITIONAL REQUIREMENTS.—The requirements of this paragraph are met with respect to any advance refunding of a bond described in paragraph (2) if—

''(A) no advance refundings of such bond would be allowed under any provision of law after August 27, 2005,

''(B) the advance refunding bond is the only other outstanding bond with respect to the refunded bond, and

''(C) the requirements of section 148 are met with respect to all bonds issued under this subsection.

''(e) LOW-INCOME HOUSING CREDIT.—

''(1) INCREASE IN STATE HOUSING CREDIT CEILING.—

''(A) IN GENERAL.—In the case of the State of Alabama, Louisiana, or Mississippi—

''(i) the amount otherwise determined under subclause (I) of section 42(h)(3)(C)(ii) for each calendar year beginning after 2005 and before 2010 shall be increased by an amount equal to 3 times the dollar amount otherwise specified for such calendar year under such subclause multiplied by the State population located in the Gulf Opportunity Zone (as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before August 28, 2005), and

''(ii) the unused State housing credit ceiling for such State for any calendar year under section 42(h)(3)(C)(i) shall be determined without regard to the amount of the increase determined under clause (i).

''(B) ELECTIVE CARRYFORWARD OF UNUSED INCREASED CEILING.—

''(i) IN GENERAL.—If the amount determined under section 42(h)(3)(C)(ii)(I), as increased under subparagraph (A)(i), for any calendar year for any State described in subparagraph (A) exceeds the aggregate housing credit dollar amount allocated during such calendar year by such State, such State may elect to treat as a carryforward to the following calendar year an amount equal to lesser of—

''(I) the amount of such excess, or

''(II) the amount by which the amount determined under section 42(h)(3)(C)(ii)(I) for such calendar year was increased under subparagraph (A)(i)).

''(ii) USE OF CARRYFORWARD.—If any State elects a carryforward under clause (i), any housing credit dollar amount allocated by such State during the calendar year following the calendar year in which the carryforward arose shall not be considered so allocated for purposes of section 42(h)(3)(C) and section 42(h)(3)(D) to the extent such housing credit dollar amount does not exceed the amount of the carryforward elected.

''(2) DIFFICULT DEVELOPMENT AREA.—

''(A) IN GENERAL.—For purposes of section 42—

''(i) in the case of property placed in service during 2006, 2007, or 2008, the Gulf Opportunity Zone—

''(I) shall be treated as a difficult development area designated under subclause (I) of section 42(d)(5)(C)(iii), and

''(II) shall not be taken into account for purposes of applying the limitation under subclause (II) of such section, and

''(ii) subsection (b)(2)(B) thereof shall be applied with respect to any such property placed in service in the Gulf Opportunity Zone by substituting '91 percent' and '39 percent' for '70 percent' and '30 percent', respectively.

''(B) APPLICATION.—Subparagraph (A) shall apply only to—

''(i) housing credit dollar amounts allocated during the period beginning on January 1, 2006, and ending on December 31, 2008, and

''(ii) buildings placed in service during such period to the extent that paragraph (1) of section 42(h) does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after December 31, 2005.

''(f) TREATMENT OF REPRESENTATIONS REGARDING INCOME ELIGIBILITY FOR PURPOSES OF QUALIFIED RESIDENTIAL RENTAL PROJECT REQUIREMENTS.—For purposes of determining if any residential rental project meets the requirements of section 142(d)(1) and if any certification with respect to such project meets the requirements under section 142(d)(7), the operator of the project may rely on the representations of any individual applying for tenancy in such project that such individual's income will not exceed the applicable income limits of section 142(d)(1) upon commencement of the individual's tenancy if such tenancy begins during the 6-month period beginning on and after the date such individual was displaced by reason of Hurricane Katrina.

''(g) APPLICATION OF NEW MARKETS TAX CREDIT TO INVESTMENTS IN COMMUNITY DEVELOPMENT ENTITIES SERVING GULF OPPORTUNITY ZONE.—For purposes of section 45D—

''(1) a qualified community development entity shall be eligible for an allocation under subsection (f)(2) thereof of the increase in the new markets tax credit limitation described in paragraph (2) only if a significant mission of such entity is the recovery and redevelopment of the Gulf Opportunity Zone,

''(2) the new markets tax credit limitation otherwise determined under subsection (f)(1) thereof shall be increased by an amount equal to—

''(A) $300,000,000 for 2005 and 2006, to be allocated among qualified community development entities to make qualified low-income community investments within the Gulf Opportunity Zone, and

''(B) $400,000,000 for 2007, to be so allocated, and

''(3) subsection (f)(3) thereof shall be applied separately with respect to the amount of the increase under paragraph (2).

''(h) TREATMENT OF NET OPERATING LOSSES ATTRIBUTABLE TO GULF OPPORTUNITY ZONE LOSSES.—

''(1) IN GENERAL.—If a portion of any net operating loss of the taxpayer for any taxable year is a qualified Gulf Opportunity Zone loss, the following rules shall apply:

''(A) EXTENSION OF CARRYBACK PERIOD.—Section 172(b)(1) shall be applied with respect to such portion—

''(i) by substituting '5 taxable years' for '2 taxable years' in subparagraph (A)(i), and

''(ii) by not taking such portion into account in determining any eligible loss of the taxpayer under subparagraph (F) for the taxable year.

''(B) SUSPENSION OF 90 PERCENT AMT LIMITATION.—Section 56(d)(1) shall be applied by increasing the amount determined under subparagraph (A)(ii)(I) thereof by the sum of the carrybacks and carryovers of any net operating loss attributable to such portion.

''(2) QUALIFIED GULF OPPORTUNITY ZONE LOSS.—For purposes of paragraph (1), the term 'qualified Gulf Opportunity Zone loss' means the lesser of—

''(A) the amount of the net operating loss for the taxable year, or

''(B) the aggregate amount of the following deductions for such taxable year:

''(i) Any deduction for any qualified Gulf Opportunity Zone casualty loss.

''(ii) Any deduction for moving expenses paid or incurred after August 27, 2005, and before January 1, 2008, and allowable under this chapter to any taxpayer in connection with the employment of any individual—

''(I) whose principal place of abode was located in the Gulf Opportunity Zone before August 28, 2005,

''(II) who was unable to remain in such abode as the result of Hurricane Katrina, and

''(III) whose principal place of employment with the taxpayer after such expense is located in the Gulf Opportunity Zone.

For purposes of this clause, the term 'moving expenses' has the meaning given such term by section 217(b), except that the taxpayer's former residence and new residence may be the same residence if the initial vacating of the residence was as the result of Hurricane Katrina.

''(iii) Any deduction for expenses paid or incurred after August 27, 2005, and before January 1, 2008, and allowable under this chapter to temporarily house any employee of the taxpayer whose principal place of employment is in the Gulf Opportunity Zone.

''(iv) Any deduction for depreciation (or amortization in lieu of depreciation) allowable under this chapter with respect to any qualified Gulf Opportunity Zone property (as defined in subsection (a)(2)) for the taxable year such property is placed in service.

''(v) Any deduction for repair expenses (including expenses for removal of debris) allowable under this chapter paid or incurred after August 27, 2005, and before January 1, 2008, with respect to any damage attributable to Hurricane Katrina and in connection with property which is located in the Gulf Opportunity Zone.

''(3) QUALIFIED GULF OPPORTUNITY ZONE CASUALTY LOSS.—

''(A) IN GENERAL.—For purposes of paragraph (2)(B)(i), the term 'qualified Gulf Opportunity Zone casualty loss' means any uncompensated section 1231 loss (as defined in section 1231(a)(3)(B)) of property located in the Gulf Opportunity Zone if—

''(i) such loss is allowed as a deduction under section 165 for the taxable year, and

''(ii) such loss is attributable to Hurricane Katrina.

''(B) REDUCTION FOR GAINS FROM INVOLUNTARY CONVERSION.—The amount of qualified Gulf Opportunity Zone casualty loss which would (but for this subparagraph) be taken into account under subparagraph (A) for any taxable year shall be reduced by the amount of any gain recognized by the taxpayer for such year from the involuntary conversion by reason of Hurricane Katrina of property located in the Gulf Opportunity Zone.

''(C) COORDINATION WITH GENERAL DISASTER LOSS RULES.—Subsection (j) and section 165(i) shall not apply to any qualified Gulf Opportunity Zone casualty loss to the extent such loss is taken into account under this subsection.

''(4) SPECIAL RULES.—For purposes of paragraph (1), rules similar to the rules of paragraphs (2) and (3) of section 172(i) shall apply with respect to such portion.

''(i) TREATMENT OF PUBLIC UTILITY PROPERTY DISASTER LOSSES.—

''(1) IN GENERAL.—Upon the election of the taxpayer, in the case of any eligible public utility property loss—

''(A) section 165(i) shall be applied by substituting 'the fifth taxable year immediately preceding' for 'the taxable year immediately preceding',

''(B) an application for a tentative carryback adjustment of the tax for any prior taxable year affected by the application of subparagraph (A) may be made under section 6411, and

''(C) section 6611 shall not apply to any overpayment attributable to such loss.

''(2) ELIGIBLE PUBLIC UTILITY PROPERTY LOSS.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'eligible public utility property loss' means any loss with respect to public utility property located in the Gulf Opportunity Zone and attributable to Hurricane Katrina.

''(B) PUBLIC UTILITY PROPERTY.—The term 'public utility property' has the meaning given such term by section 168(i)(10) without regard to the matter following subparagraph (D) thereof.

''(3) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the application of paragraph (1) is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this section by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

''(j) SPECIAL RULE FOR GULF OPPORTUNITY ZONE PUBLIC UTILITY CASUALTY LOSSES.—

''(1) IN GENERAL.—The amount described in section 172(f)(1)(A) for any taxable year shall be increased by the amount of the Gulf Opportunity Zone public utility casualty loss for such year.

''(2) GULF OPPORTUNITY ZONE PUBLIC UTILITY CASUALTY LOSS.—For purposes of this subsection, the term 'Gulf Opportunity Zone public utility casualty loss' means any casualty loss of public utility property (as defined in section 168(i)(10)) located in the Gulf Opportunity Zone if—

''(A) such loss is allowed as a deduction under section 165 for the taxable year,

''(B) such loss is attributable to Hurricane Katrina, and

''(C) the taxpayer elects the application of this subsection with respect to such loss.

''(3) REDUCTION FOR GAINS FROM INVOLUNTARY CONVERSION.—The amount of Gulf Opportunity Zone public utility casualty loss which would (but for this paragraph) be taken into account under paragraph (1) for any taxable year shall be reduced by the amount of any gain recognized by the taxpayer for such year from the involuntary conversion by reason of Hurricane Katrina of public utility property (as so defined) located in the Gulf Opportunity Zone.

''(4) COORDINATION WITH GENERAL DISASTER LOSS RULES.—Subsection (h) and section 165(i) shall not apply to any Gulf Opportunity Zone public utility casualty loss to the extent such loss is taken into account under paragraph (1).

''(5) ELECTION.—Any election under paragraph (2)(C) shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.

''(k) SPECIAL RULES FOR SMALL TIMBER PRODUCERS.—

''(1) INCREASED EXPENSING FOR QUALIFIED TIMBER PROPERTY.—In the case of qualified timber property any portion of which is located in the Gulf Opportunity Zone, in that portion of the Rita GO Zone which is not part of the Gulf Opportunity Zone, or in the Wilma GO Zone, the limitation under subparagraph (B) of section 194(b)(1) shall be increased by the lesser of—

''(A) the limitation which would (but for this subsection) apply under such subparagraph, or

''(B) the amount of reforestation expenditures (as defined in section 194(c)(3)) paid or incurred by the taxpayer with respect to such qualified timber property during the specified portion of the taxable year.

''(2) 5 YEAR NOL CARRYBACK OF CERTAIN TIMBER LOSSES.—For purposes of determining farming loss under section 172(i), income and deductions which are allocable to the specified portion of the taxable year and which are attributable to qualified timber property any portion of which is located in the Gulf Opportunity Zone, in that portion of the Rita GO Zone which is not part of the Gulf Opportunity Zone, or in the Wilma GO Zone shall be treated as attributable to farming businesses.

''(3) RULES NOT APPLICABLE TO CERTAIN ENTITIES.—Paragraphs (1) and (2) shall not apply to any taxpayer which—

''(A) is a corporation the stock of which is publicly traded on an established securities market, or

''(B) is a real estate investment trust.

''(4) RULES NOT APPLICABLE TO LARGE TIMBER PRODUCERS.—Paragraphs (1) and (2) shall not apply with respect to any qualified timber property unless—

''(A) such property was held by the taxpayer—

''(i) on August 28, 2005, in the case of qualified timber property any portion of which is located in the Gulf Opportunity Zone,

''(ii) on September 23, 2005, in the case of qualified timber property (other than property described in subclause (I)) any portion of which is located in that portion of the Rita GO Zone which is not part of the Gulf Opportunity Zone, or

''(iii) on October 23, 2005, in the case of qualified timber property (other than property described in subclause (I) or (II)) any portion of which is located in the Wilma GO Zone, and

''(B) such taxpayer held not more than 500 acres of qualified timber property on such date.

''(5) DEFINITIONS.—For purposes of this subsection—

''(A) SPECIFIED PORTION.—The term 'specified portion' means—

''(i) in the case of qualified timber property located in the Gulf Opportunity Zone, that portion of the taxable year which is on or after August 28, 2005, and before January 1, 2007,

''(ii) in the case of qualified timber property located in the Rita GO Zone and no part of which is located in the Gulf Opportunity Zone, that portion of the taxable year which is on or after September 23, 2005, and before January 1, 2007, and

''(iii) in the case of qualified timber property located in the Wilma GO Zone, that portion of the taxable year which is on or after October 23, 2005, and before January 1, 2007.

''(B) QUALIFIED TIMBER PROPERTY.—The term 'qualified timber property' has the meaning given such term in section 194(c)(1).

''(l) EXPENSING FOR CERTAIN DEMOLITION AND CLEAN-UP COSTS.—

''(1) IN GENERAL.—A taxpayer may elect to treat 50 percent of any qualified Gulf Opportunity Zone clean-up cost as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which such cost is paid or incurred.

''(2) GULF OPPORTUNITY ZONE CLEAN-UP COST.—For purposes of this subsection, the term 'Gulf Opportunity Zone clean-up cost' means any amount paid or incurred during the period beginning on August 28, 2005, and ending on December 31, 2007, for the removal of debris from, or the demolition of structures on, real property which is located in the Gulf Opportunity Zone and which is—

''(A) held by the taxpayer for use in a trade or business or for the production of income, or

''(B) property described in section 1221(a)(1) in the hands of the taxpayer.

For purposes of the preceding sentence, amounts paid or incurred shall be taken into account only to the extent that such amount would (but for paragraph (1)) be chargeable to capital account.

''(m) EXTENSION OF EXPENSING FOR ENVIRONMENTAL REMEDIATION COSTS.—With respect to any qualified environmental remediation expenditure (as defined in section 198(b)) paid or incurred on or after August 28,

2005, in connection with a qualified contaminated site located in the Gulf Opportunity Zone, section 198 (relating to expensing of environmental remediation costs) shall be applied—

''(1) by substituting 'December 31, 2007' for 'December 31, 2006' in subsection (h) thereof, and

''(2) except as provided in section 198(d)(2), by treating petroleum products (as defined in section 4612(a)(3)) as a hazardous substance.

''(n) GULF OPPORTUNITY ZONE.—For purposes of this section, the term 'Gulf Opportunity Zone' means an area—

''(1) with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act as a result of Hurricane Katrina, and

''(2) which is determined by the President to warrant individual assistance, or individual and public assistance, from the Federal Government under such Act.''

(b) CLERICAL AMENDMENTS.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

''SUBCHAPTER Z—HURRICANE RELIEF BENEFITS.''.

**SEC. 102. EXPANSION OF HOPE SCHOLARSHIP AND LIFETIME LEARNING CREDIT FOR STUDENTS IN THE GULF OPPORTUNITY ZONE.**

In the case of an individual who attends an eligible educational institution (as defined in section 25A(f)(2) of the Internal Revenue Code of 1986) located in the Gulf Opportunity Zone (as defined in section 1400N(1) of such Code) for any taxable year beginning during 2005 or 2006—

(1) in applying section 25A of the Internal Revenue Code of 1986, the term ''qualified tuition and related expenses'' shall include any costs which are qualified higher education expenses (as defined in section 529(e)(3) of such Code),

(2) each of the dollar amounts in effect under of subparagraphs (A) and (B) of section 25A(b)(1) of such Code shall be twice the amount otherwise in effect before the application of this subsection, and

(3) section 25A(c)(1) of such Code shall be applied by substituting ''40 percent'' for ''20 percent''.

**SEC. 103. EXTENSION OF SPECIAL RULES FOR MORTGAGE REVENUE BONDS.**

Section 404(d) of the Katrina Emergency Tax Relief Act of 2005 is amended by striking ''December 31, 2007'' and inserting ''December 31, 2010''.

**SEC. 104. HOUSING RELIEF FOR INDIVIDUALS AFFECTED BY HURRICANE KATRINA.**

(a) EXCLUSION OF EMPLOYER PROVIDED HOUSING FOR INDIVIDUAL AFFECTED BY HURRICANE KATRINA.—

(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, gross income of a qualified employee shall not include the value of any lodging furnished to such employee, such employee's spouse, or any of such employee's dependents by or on behalf of a qualified employer for any month during the taxable year.

(2) LIMITATION.—The amount which may be excluded under subsection (a) for any month for which lodging is furnished during the taxable year shall not exceed $600.

(3) TREATMENT OF EXCLUSION.—For purposes of the Internal Revenue Code of 1986 (other than sections 3121(a)(19) and 3306(b)(14), an exclusion under subsection (a) shall be treated as an exclusion under section 119 of such Code.

(b) EMPLOYER CREDIT FOR HOUSING EMPLOYEES AFFECTED BY HURRICANE KATRINA.—

(1) IN GENERAL.—In the case of a qualified employer, there shall be allowed as a credit against the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any month during the taxable year an amount equal to 30 percent of any amount which is excludable from the gross income of a qualified employee of such employer under subsection (a).

(2) CERTAIN RULES TO APPLY.—For purposes of this section, rules similar to the rules of section 280C(a) of such Code shall apply.

(3) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—The credit allowed under this section shall be added to the current year business credit under section 38(b) of such Code and shall be treated as a credit allowed under subpart D of part IV of subchapter A of such Code.

(c) QUALIFIED EMPLOYEE.—For purposes of this section, the term ''qualified employee'' means, with respect to any month, an individual—

(1) who had a principal residence (as defined in section 121 of the Internal Revenue Code of 1986) in the GO Zone (as defined in section 1400N(1) of such Code) on August 28, 2005, and

(2) who performs not less than 80 percent of the employment services for a qualified employer in the Hurricane Katrina disaster area (as so defined).

(d) QUALIFIED EMPLOYER.—For purposes of this section, the term ''qualified employer'' means any employer with a trade or business located in the Hurricane Katrina disaster area (as so defined).

(e) APPLICATION OF SECTION.—This section shall apply to lodging provided—

(1) after the date of the enactment of this Act,

(2) before the date which is 6 months after the date of the enactment of this Act, and

(3) no credit with respect to such lodging shall be claimed before October 1, 2006.

**Subtitle B—Tax Benefits Related to Hurricanes Rita and Wilma**

**SEC. 111. EXTENSION OF CERTAIN EMERGENCY TAX RELIEF FOR HURRICANE KATRINA TO HURRICANES RITA AND WILMA.**

(a) IN GENERAL.—Subchapter Z of chapter 1, as added by this Act, is amended by adding at the end the following new sections:

**''SEC. 1400P. SPECIAL RULES FOR MORTGAGE REVENUE BONDS.**

''(a) IN GENERAL.—In the case of financing provided with respect to residences in the GO Zone, the Rita GO Zone, or the Wilma GO Zone, section 143 shall be applied—

''(1) by treating any residence in the GO Zone, the Rita GO Zone, or the Wilma GO Zone as a targeted area residence,

''(2) by applying subsection (f)(3) without regard to subparagraph (A) thereof, and

''(3) by substituting '$150,000' for '$15,000' in subsection (k)(4) thereof.

''(b) APPLICATION.—Subsection (a) shall not apply to financing provided after December 31, 2010.

**''SEC. 1400Q. SPECIAL RULES FOR USE OF RETIREMENT FUNDS.**

''(a) TAX-FAVORED WITHDRAWALS FROM RETIREMENT PLANS.—

''(1) IN GENERAL.—Section 72(t) shall not apply to any qualified hurricane distribution.

''(2) AGGREGATE DOLLAR LIMITATION.—

''(A) IN GENERAL.—For purposes of this subsection, the aggregate amount of distributions received by an individual which may be treated as qualified hurricane distributions for any taxable year shall not exceed the excess (if any) of—

''(i) $100,000, over

''(ii) the aggregate amounts treated as qualified hurricane distributions received by such individual for all prior taxable years.

''(B) TREATMENT OF PLAN DISTRIBUTIONS.—If a distribution to an individual would (without regard to subparagraph (A)) be a qualified hurricane distribution, a plan shall not be treated as violating any requirement of this title merely because the plan treats such distribution as a qualified hurricane distribution, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds $100,000.

''(C) CONTROLLED GROUP.—For purposes of subparagraph (B), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

''(3) AMOUNT DISTRIBUTED MAY BE REPAID.—

''(A) IN GENERAL.—Any individual who receives a qualified hurricane distribution may, at any time during the 3-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate amount not to exceed the amount of such distribution to an eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), as the case may be.

''(B) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS OTHER THAN IRAS.—For purposes of this title, if a contribution is made pursuant to subparagraph (A) with respect to a qualified hurricane distribution from an eligible retirement plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received the qualified hurricane distribution in an eligible rollover distribution (as defined in section 402(c)(4)) and as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

''(C) TREATMENT OF REPAYMENTS FOR DISTRIBUTIONS FROM IRAS.—For purposes of this title, if a contribution is made pursuant to subparagraph (A) with respect to a qualified hurricane distribution from an individual retirement plan (as defined by section 7701(a)(37)), then, to the extent of the amount of the contribution, the qualified hurricane distribution shall be treated as a distribution described in section 408(d)(3) and as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

''(4) DEFINITIONS.—For purposes of this subsection—

''(A) QUALIFIED HURRICANE DISTRIBUTION.—Except as provided in paragraph (2), the term 'qualified hurricane distribution' means—

''(i) any distribution from an eligible retirement plan made on or after August 25, 2005, and before January 1, 2007, to an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina,

''(ii) any distribution (which is not described in clause (i)) from an eligible retirement plan made on or after September 23, 2005, and before January 1, 2007, to an individual whose principal place of abode on September 23, 2005, is located in the Hurricane Rita disaster area and who has sustained an economic loss by reason of Hurricane Rita, and

''(iii) any distribution (which is not described in clause (i) or (ii)) from an eligible retirement plan made on or after October 23, 2005, and before January 1, 2007, to an individual whose principal place of abode on October 23, 2005, is located in the Hurricane Wilma disaster area and who has sustained

an economic loss by reason of Hurricane Wilma.

''(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' shall have the meaning given such term by section 402(c)(8)(B).

''(5) INCOME INCLUSION SPREAD OVER 3-YEAR PERIOD.—

''(A) IN GENERAL.—In the case of any qualified hurricane distribution, unless the taxpayer elects not to have this paragraph apply for any taxable year, any amount required to be included in gross income for such taxable year shall be so included ratably over the 3-taxable year period beginning with such taxable year.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), rules similar to the rules of subparagraph (E) of section 408A(d)(3) shall apply.

''(6) SPECIAL RULES.—

''(A) EXEMPTION OF DISTRIBUTIONS FROM TRUSTEE TO TRUSTEE TRANSFER AND WITHHOLDING RULES.—For purposes of sections 401(a)(31), 402(f), and 3405, qualified hurricane distributions shall not be treated as eligible rollover distributions.

''(B) QUALIFIED HURRICANE DISTRIBUTIONS TREATED AS MEETING PLAN DISTRIBUTION REQUIREMENTS.—For purposes this title, a qualified hurricane distribution shall be treated as meeting the requirements of sections 401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11), and 457(d)(1)(A).

''(b) RECONTRIBUTIONS OF WITHDRAWALS FOR HOME PURCHASES.—

''(1) RECONTRIBUTIONS.—

''(A) IN GENERAL.—Any individual who received a qualified distribution may, during the applicable period, make one or more contributions in an aggregate amount not to exceed the amount of such qualified distribution to an eligible retirement plan (as defined in section 402(c)(8)(B)) of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3), as the case may be.

''(B) TREATMENT OF REPAYMENTS.—Rules similar to the rules of subparagraphs (B) and (C) of subsection (a)(3) shall apply for purposes of this subsection.

''(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified distribution' means any qualified Katrina distribution, any qualified Rita distribution, and any qualified Wilma distribution.

''(B) QUALIFIED KATRINA DISTRIBUTION.—The term 'qualified Katrina distribution' means any distribution—

''(i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F),

''(ii) received after February 28, 2005, and before August 29, 2005, and

''(iii) which was to be used to purchase or construct a principal residence in the Hurricane Katrina disaster area, but which was not so purchased or constructed on account of Hurricane Katrina.

''(C) QUALIFIED RITA DISTRIBUTION.—The term 'qualified Rita distribution' means any distribution (other than a qualified Katrina distribution)—

''(i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F),

''(ii) received after February 28, 2005, and before September 24, 2005, and

''(iii) which was to be used to purchase or construct a principal residence in the Hurricane Rita disaster area, but which was not so purchased or constructed on account of Hurricane Rita.

''(D) QUALIFIED WILMA DISTRIBUTION.—The term 'qualified Wilma distribution' means any distribution (other than a qualified Katrina distribution or a qualified Rita distribution)—

''(i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F),

''(ii) received after February 28, 2005, and before October 24, 2005, and

''(iii) which was to be used to purchase or construct a principal residence in the Hurricane Wilma disaster area, but which was not so purchased or constructed on account of Hurricane Wilma.

''(3) APPLICABLE PERIOD.—For purposes of this subsection, the term 'applicable period' means—

''(A) with respect to any qualified Katrina distribution, the period beginning on August 25, 2005, and ending on February 28, 2006,

''(B) with respect to any qualified Rita distribution, the period beginning on September 23, 2005, and ending on February 28, 2006, and

''(C) with respect to any qualified Wilma distribution, the period beginning on October 23, 2005, and ending on February 28, 2006.

''(c) LOANS FROM QUALIFIED PLANS.—

''(1) INCREASE IN LIMIT ON LOANS NOT TREATED AS DISTRIBUTIONS.—In the case of any loan from a qualified employer plan (as defined under section 72(p)(4)) to a qualified individual made during the applicable period—

''(A) clause (i) of section 72(p)(2)(A) shall be applied by substituting '$100,000' for '$50,000', and

''(B) clause (ii) of such section shall be applied by substituting 'the present value of the nonforfeitable accrued benefit of the employee under the plan' for 'one-half of the present value of the nonforfeitable accrued benefit of the employee under the plan'.

''(2) DELAY OF REPAYMENT.—In the case of a qualified individual with an outstanding loan on or after the qualified beginning date from a qualified employer plan (as defined in section 72(p)(4))—

''(A) if the due date pursuant to subparagraph (B) or (C) of section 72(p)(2) for any repayment with respect to such loan occurs during the period beginning on the qualified beginning date and ending on December 31, 2006, such due date shall be delayed for 1 year,

''(B) any subsequent repayments with respect to any such loan shall be appropriately adjusted to reflect the delay in the due date under paragraph (1) and any interest accruing during such delay, and

''(C) in determining the 5-year period and the term of a loan under subparagraph (B) or (C) of section 72(p)(2), the period described in subparagraph (A) shall be disregarded.

''(3) QUALIFIED INDIVIDUAL.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified individual' means any qualified Hurricane Katrina individual, any qualified Hurricane Rita individual, and any qualified Hurricane Wilma individual.

''(B) QUALIFIED HURRICANE KATRINA INDIVIDUAL.—The term 'qualified Hurricane Katrina individual' means an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina.

''(C) QUALIFIED HURRICANE RITA INDIVIDUAL.—The term 'qualified Hurricane Rita individual' means an individual (other than a qualified Hurricane Katrina individual) whose principal place of abode on September 23, 2005, is located in the Hurricane Rita disaster area and who has sustained an economic loss by reason of Hurricane Rita.

''(D) QUALIFIED HURRICANE WILMA INDIVIDUAL.—The term 'qualified Hurricane Wilma individual' means an individual (other than a qualified Hurricane Katrina individual or a qualified Hurricane Rita individual) whose principal place of abode on October 23, 2005, is located in the Hurricane Wilma disaster area and who has sustained an economic loss by reason of Hurricane Wilma.

''(4) APPLICABLE PERIOD; QUALIFIED BEGINNING DATE.—For purposes of this subsection—

''(A) HURRICANE KATRINA.—In the case of any qualified Hurricane Katrina individual—

''(i) the applicable period is the period beginning on September 24, 2005, and ending on December 31, 2006, and

''(ii) the qualified beginning date is August 25, 2005.

''(B) HURRICANE RITA.—In the case of any qualified Hurricane Rita individual—

''(i) the applicable period is the period beginning on the date of the enactment of this subsection and ending on December 31, 2006, and

''(ii) the qualified beginning date is September 23, 2005.

''(C) HURRICANE WILMA.—In the case of any qualified Hurricane Wilma individual—

''(i) the applicable period is the period beginning on the date of the enactment of this subsection and ending on December 31, 2006, and

''(ii) the qualified beginning date is October 23, 2005.

**''SEC. 1400R. EMPLOYMENT RELIEF.**

''(a) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE KATRINA.—

''(1) IN GENERAL.—For purposes of section 38, in the case of an eligible employer, the Hurricane Katrina employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed $6,000.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) ELIGIBLE EMPLOYER.—The term 'eligible employer' means any employer—

''(i) which conducted an active trade or business on August 28, 2005, in the Gulf Opportunity Zone, and

''(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after August 28, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Katrina.

''(B) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means with respect to an eligible employer an employee whose principal place of employment on August 28, 2005, with such eligible employer was in the Gulf Opportunity Zone.

''(C) QUALIFIED WAGES.—The term 'qualified wages' means wages (as defined in section 51(c)(1), but without regard to section 3306(b)(2)(B)) paid or incurred by an eligible employer with respect to an eligible employee on any day after August 28, 2005, and before January 1, 2006, which occurs during the period—

''(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Katrina, and

''(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal

place of employment, or performs services at such principal place of employment before significant operations have resumed.

''(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, rules similar to the rules of sections 51(i)(1), 52, and 280C(a) shall apply.

''(4) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under section 51 with respect to such employee for such period.

''(b) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE RITA.—

''(1) IN GENERAL.—For purposes of section 38, in the case of an eligible employer, the Hurricane Rita employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed $6,000.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) ELIGIBLE EMPLOYER.—The term 'eligible employer' means any employer—

''(i) which conducted an active trade or business on September 23, 2005, in the Rita GO Zone, and

''(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after September 23, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Rita.

''(B) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means with respect to an eligible employer an employee whose principal place of employment on September 23, 2005, with such eligible employer was in the Rita GO Zone.

''(C) QUALIFIED WAGES.—The term 'qualified wages' means wages (as defined in section 51(c)(1), but without regard to section 3306(b)(2)(B)) paid or incurred by an eligible employer with respect to an eligible employee on any day after September 23, 2005, and before January 1, 2006, which occurs during the period—

''(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Rita, and

''(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

''(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, rules similar to the rules of sections 51(i)(1), 52, and 280C(a) shall apply.

''(4) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under subsection (a) or section 51 with respect to such employee for such period.

''(c) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE WILMA.—

''(1) IN GENERAL.—For purposes of section 38, in the case of an eligible employer, the Hurricane Wilma employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed $6,000.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) ELIGIBLE EMPLOYER.—The term 'eligible employer' means any employer—

''(i) which conducted an active trade or business on October 23, 2005, in the Wilma GO Zone, and

''(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after October 23, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Wilma.

''(B) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means with respect to an eligible employer an employee whose principal place of employment on October 23, 2005, with such eligible employer was in the Wilma GO Zone.

''(C) QUALIFIED WAGES.—The term 'qualified wages' means wages (as defined in section 51(c)(1), but without regard to section 3306(b)(2)(B)) paid or incurred by an eligible employer with respect to an eligible employee on any day after October 23, 2005, and before January 1, 2006, which occurs during the period—

''(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Wilma, and

''(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

''(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, rules similar to the rules of sections 51(i)(1), 52, and 280C(a) shall apply.

''(4) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under subsection (a) or section 51 with respect to such employee for such period.

**''SEC. 1400S. ADDITIONAL TAX RELIEF PROVISIONS.**

''(a) TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—

''(1) IN GENERAL.—Except as otherwise provided in paragraph (2), section 170(b) shall not apply to qualified contributions and such contributions shall not be taken into account for purposes of applying subsections (b) and (d) of section 170 to other contributions.

''(2) TREATMENT OF EXCESS CONTRIBUTIONS.—For purposes of section 170—

''(A) INDIVIDUALS.—In the case of an individual—

''(i) LIMITATION.—Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer's contribution base (as defined in subparagraph (F) of section 170(b)(1)) over the amount of all other charitable contributions allowed under section 170(b)(1).

''(ii) CARRYOVER.—If the aggregate amount of qualified contributions made in the contribution year (within the meaning of section 170(d)(1)) exceeds the limitation of clause (i), such excess shall be added to the excess described in the portion of subparagraph (A) of such section which precedes clause (i) thereof for purposes of applying such section.

''(B) CORPORATIONS.—In the case of a corporation—

''(i) LIMITATION.—Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer's taxable income (as determined under paragraph (2) of section 170(b)) over the amount of all other charitable contributions allowed under such paragraph.

''(ii) CARRYOVER.—Rules similar to the rules of subparagraph (A)(ii) shall apply for purposes of this subparagraph.

''(3) EXCEPTION TO OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.—So much of any deduction allowed under section 170 as does not exceed the qualified contributions paid during the taxable year shall not be treated as an itemized deduction for purposes of section 68.

''(4) QUALIFIED CONTRIBUTIONS.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'qualified contribution' means any charitable contribution (as defined in section 170(c)) if—

''(i) such contribution is paid during the period beginning on August 28, 2005, and ending on December 31, 2005, in cash to an organization described in section 170(b)(1)(A) (other than an organization described in section 509(a)(3)),

''(ii) in the case of a contribution paid by a corporation, such contribution is for relief efforts related to Hurricane Katrina, Hurricane Rita, or Hurricane Wilma, and

''(iii) the taxpayer has elected the application of this subsection with respect to such contribution.

''(B) EXCEPTION.—Such term shall not include a contribution if the contribution is for establishment of a new, or maintenance in an existing, segregated fund or account with respect to which the donor (or any person appointed or designated by such donor) has, or reasonably expects to have, advisory privileges with respect to distributions or investments by reason of the donor's status as a donor.

''(C) APPLICATION OF ELECTION TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, the election under subparagraph (A)(iii) shall be made separately by each partner or shareholder.

''(b) SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.—Paragraphs (1) and (2)(A) of section 165(h) shall not apply to losses described in section 165(c)(3)—

''(1) which arise in the Hurricane Katrina disaster area on or after August 25, 2005, and which are attributable to Hurricane Katrina,

''(2) which arise in the Hurricane Rita disaster area on or after September 23, 2005, and which are attributable to Hurricane Rita, or

''(3) which arise in the Hurricane Wilma disaster area on or after October 23, 2005, and which are attributable to Hurricane Wilma.

In the case of any other losses, section 165(h)(2)(A) shall be applied without regard to the losses referred to in the preceding sentence.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 38 is amended by striking ''and'' at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting a comma, and by adding at the end the following new paragraphs:

''(27) the Hurricane Katrina employee retention credit determined under section 1400R(a),

''(28) the Hurricane Rita employee retention credit determined under section 1400R(b), and

''(29) the Hurricane Wilma employee retention credit determined under section 1400R(c).''.

(2) The table of sections for subchapter Z of chapter 1 is amended by adding at the end the following new items:

''Sec. 1400P. Special rules for mortgage revenue bonds.
''Sec. 1400Q. Special rules for use of retirement funds.
''Sec. 1400R. Employment relief.
''Sec. 1400S. Additional tax relief provisions.''.

(3) The following provisions of the Katrina Emergency Tax Relief Act of 2005 are hereby repealed:

(A) Title I.

(B) Sections 202, 301, and 402.

## TITLE II—EXTENSION OF EXPIRING PROVISIONS

### Subtitle A—Multi-Year Extensions

**SEC. 201. EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESS.**

Section 179 is amended by striking ''2008'' each place it appears and inserting ''2010''.

**SEC. 202. CREDIT FOR ELECTIVE DEFERRALS AND IRA CONTRIBUTIONS.**

Section 25B(h) is amended by striking ''2006'' and inserting ''2009''.

**SEC. 203. ABOVE-THE-LINE DEDUCTION FOR HIGHER EDUCATION.**

(a) IN GENERAL.—Section 222(e) is amended by striking ''2005''and inserting ''2009''.

(b) CONFORMING AMENDMENTS.—Section 222(b)(2)(B) is amended—

(1) by striking ''a taxable year beginning in 2004 or 2005'' and inserting ''any taxable year beginning after 2003'', and

(2) by striking **''2004 AND 2005''** and inserting **''AFTER 2003''.**

**SEC. 204. EXTENSION AND MODIFICATION OF NEW MARKETS TAX CREDIT.**

(a) EXTENSION.—Section 45D(f)(1)(D) is amended by striking ''and 2007'' and inserting '', 2007, and 2008''.

(b) REGULATIONS REGARDING NON-METROPOLITAN COUNTIES.—Section 45D(i) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end by the following new paragraph:

''(6) which ensure that non-metropolitan counties receive a proportional allocation of qualified equity investments.''.

### Subtitle B—One-Year Extensions

**SEC. 211. ELECTION TO DEDUCT STATE AND LOCAL GENERAL SALES TAXES.**

Section 164(b)(5)(I) is amended by striking ''2006'' and inserting ''2007''.

**SEC. 212. EXTENSION AND INCREASE IN MINIMUM TAX RELIEF TO INDIVIDUALS.**

(a) IN GENERAL.—Section 55(d)(1) is amended—

(1) by striking ''$58,000'' and all that follows through ''2005'' in subparagraph (A) and inserting ''$62,550 in the case of taxable years beginning in 2006'', and

(2) by striking ''$40,250'' and all that follows through ''2005'' in subparagraph (B) and inserting ''$42,500 in the case of taxable years beginning in 2006''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 213. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX LIABILITY.**

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

(1) by striking ''2005'' in the heading and inserting ''2006'', and

(2) by striking ''or 2005'' and inserting ''2005, or 2006''.

(b) CONFORMING PROVISIONS.—

(1) Section 30B(g) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR 2006.—For purposes of any taxable year beginning during 2006, the credit allowed under subsection (a) (after the application of paragraph (1)) shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under subpart A and this subpart (other than this section and section 30C).''.

(2) Section 30C(d) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR 2006.—For purposes of any taxable year beginning during 2006, the credit allowed under subsection (a) (after the application of paragraph (1)) shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under subpart A and this subpart (other than this section).''.

(3) Section 904(h) is amended by striking ''or 2005'' and inserting ''2005, or 2006''.

(4) 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 2006.

**SEC. 214. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.**

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h)(1)(B) is amended by striking ''2005'' and inserting ''2006''.

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking ''2005'' and inserting ''2006''.

(b) INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.—Subparagraph (A) of section 41(c)(4) (relating to election of alternative incremental credit) is amended—

(1) by striking ''2.65 percent'' and inserting ''3 percent'',

(2) by striking ''3.2 percent'' and inserting ''4 percent'', and

(3) by striking ''3.75 percent'' and inserting ''5 percent''.

(c) ALTERNATIVE SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH EXPENSES.—

(1) IN GENERAL.—Subsection (c) of section 41 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

''(5) ELECTION OF ALTERNATIVE SIMPLIFIED CREDIT.—

''(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

''(B) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE YEARS.—

''(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any 1 of the 3 taxable years preceding the taxable year for which the credit is being determined.

''(ii) CREDIT RATE.—The credit determined under this subparagraph shall be equal to 6 percent of the qualified research expenses for the taxable year.

''(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies.''.

(2) COORDINATION WITH ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

(A) IN GENERAL.—Section 41(c)(4)(B) (relating to election) is amended by adding at the end the following: ''An election under this paragraph may not be made for any taxable year to which an election under paragraph (5) applies.''.

(B) TRANSITION RULE.—In the case of an election under section 41(c)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes the date of the enactment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by subsection (a)) for such year.

(d) EXPANSION OF CREDIT TO EXPENSES OF GENERAL COLLABORATIVE RESEARCH CONSORTIA.—Section 41 is amended—

(1) by striking ''an energy research consortium'' in subsections (a)(3) and (b)(3)(C)(i) and inserting ''a research consortium'',

(2) by striking ''energy'' each place it appears in subsection (f)(6)(A),

(3) by inserting ''or 501(c)(6)'' after ''section 501(c)(3)'' in subsection (f)(6)(A)(i)(I), and

(4) by striking ''ENERGY RESEARCH'' in the heading for subsection (f)(6)(A) and inserting ''RESEARCH''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2005.

**SEC. 215. WORK OPPORTUNITY TAX CREDIT AND WELFARE-TO-WORK CREDIT.**

(a) IN GENERAL.—Section 51(c)(4)(B) is amended by striking ''2005'' and inserting ''2006''.

(b) ELIGIBILITY OF EX-FELONS DETERMINED WITHOUT REGARD TO FAMILY INCOME.—Paragraph (4) of section 51(d) is amended by adding ''and'' at the end of subparagraph (A), by striking '', and'' at the end of subparagraph (B) and inserting a period, and by striking all that follows subparagraph (B).

(c) INCREASE IN MAXIMUM AGE FOR ELIGIBILITY OF FOOD STAMP RECIPIENTS.—Clause (i) of section 51(d)(8)(A) is amended by striking ''25'' and inserting ''40''.

(d) INCREASE IN MAXIMUM AGE FOR DESIGNATED COMMUNITY RESIDENTS.—

(1) IN GENERAL.—Paragraph (5) of section 51(d) is amended to read as follows:

''(5) DESIGNATED COMMUNITY RESIDENTS.—

''(A) IN GENERAL.—The term 'designated community resident' means any individual who is certified by the designated local agency—

''(i) as having attained age 18 but not age 40 on the hiring date, and

''(ii) as having his principal place of abode within an empowerment zone, enterprise community, or renewal community.

''(B) INDIVIDUAL MUST CONTINUE TO RESIDE IN ZONE OR COMMUNITY.—In the case of a designated community resident, the term 'qualified wages' shall not include wages paid or incurred for services performed while the individual's principal place of abode is outside an empowerment zone, enterprise community, or renewal community.''

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 51(d)(1) is amended to read as follows:

''(D) a designated community resident,''.

(e) CONSOLIDATION OF WORK OPPORTUNITY CREDIT WITH WELFARE-TO-WORK CREDIT.—

(1) IN GENERAL.—Paragraph (1) of section 51(d) is amended by striking ''or'' at the end

of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', or'', and by adding at the end the following new subparagraph:

''(I) a long-term family assistance recipient.''

(2) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—Subsection (d) of section 51 is amended by redesignating paragraphs (10) through (12) as paragraphs (11) through (13), respectively, and by inserting after paragraph (9) the following new paragraph:

''(10) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—The term 'long-term family assistance recipient' means any individual who is certified by the designated local agency—

''(A) as being a member of a family receiving assistance under a IV–A program (as defined in paragraph (2)(B)) for at least the 18-month period ending on the hiring date,

''(B)(i) as being a member of a family receiving such assistance for 18 months beginning after August 5, 1997, and

''(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

''(C)(i) as being a member of a family which ceased to be eligible for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

''(ii) as having a hiring date which is not more than 2 years after the date of such cessation.''

(3) INCREASED CREDIT FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Section 51 is amended by inserting after subsection (d) the following new subsection:

''(e) CREDIT FOR SECOND-YEAR WAGES FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—

''(1) IN GENERAL.—With respect to the employment of a long-term family assistance recipient—

''(A) the amount of the work opportunity credit determined under this section for the taxable year shall include 50 percent of the qualified second-year wages for such year, and

''(B) in lieu of applying subsection (b)(3), the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to such a recipient shall not exceed $10,000 per year.

''(2) QUALIFIED SECOND-YEAR WAGES.—For purposes of this subsection, the term 'qualified second-year wages' means qualified wages—

''(A) which are paid to a long-term family assistance recipient, and

''(B) which are attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such recipient determined under subsection (b)(2).

''(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—If such recipient is an employee to whom subparagraph (A) or (B) of subsection (h)(1) applies, rules similar to the rules of such subparagraphs shall apply except that—

''(A) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000', and

''(B) such subparagraph (B) shall be applied by substituting '$833.33' for '$500'.''

(4) REPEAL OF SEPARATE WELFARE-TO-WORK CREDIT.—

(A) IN GENERAL.—Section 51A is hereby repealed.

(B) CLERICAL AMENDMENT.—The table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 51A.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2005.

**SEC. 216. QUALIFIED ZONE ACADEMY BONDS.**

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking ''and 2005'' and inserting ''2005, and 2006''.

(b) FORM OF PRIVATE BUSINESS CONTRIBUTIONS.—Section 1397E(d)(2)(B) is amended by striking ''any contribution'' and all that follows and inserting ''any cash or cash equivalent contribution''.

(c) SPECIAL RULES RELATING TO AMORTIZATION, EXPENDITURES, ARBITRAGE, AND REPORTING.—

(1) IN GENERAL.—Section 1397E is amended—

(A) in subsection (d)(1), by striking ''and'' at the end of subparagraph (C)(iii), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) the issue meets the requirements of subsections (f), (g), (h), and (i).'', and

(B) by redesignating subsections (f), (g), (h), and (i) as subsection (j), (k), (l), and (m), respectively, and by inserting after subsection (e) the following new subsections:

''(f) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—An issue shall be treated as meeting the requirements of this subsection if such issue provides for an equal amount of principal to be paid by the issuer during each calendar year that the issue is outstanding.

''(g) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the issuer reasonably expects—

''(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified purposes with respect to qualified zone academies within the 5-year period beginning on the date of issuance of the qualified zone academy bond,

''(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the qualified zone academy bond, and

''(C) such purposes will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related purposes will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(h) SPECIAL RULES RELATING TO ARBITRAGE.—An issue shall be treated as meeting the requirements of this subsection if the issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

''(i) REPORTING.—Issuers of qualified academy zone bonds shall submit reports similar to the reports required under section 149(e).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1397E(d)(3) is amended by inserting ''without regard to the requirements of subsection (f) and'' after ''Such present value shall be determined''.

(B) Section 54(l)(3)(B) is amended by striking ''section 1397E(i)'' and inserting ''section 1397E(l)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2005.

**SEC. 217. DEDUCTION FOR CORPORATE DONATIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT.**

Section 170(e)(6)(G) is amended by striking ''2005'' and inserting ''2006''.

**SEC. 218. ABOVE-THE-LINE DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.**

Subparagraph (D) of section 62(a)(2) is amended by striking ''or 2005'' and inserting ''2005, or 2006''.

**SEC. 219. EXPENSING OF BROWNFIELDS REMEDIATION COSTS.**

(a) EXTENSION.—Subsection (h) of section 198 is amended by striking ''2005'' and inserting ''2006''.

(b) EXPANSION.—

(1) IN GENERAL.—Section 198(d)(1) (defining hazardous substance) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any petroleum product (as defined in section 4612(a)(3)).''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to expenditures paid or incurred after December 31, 2005.

**SEC. 220. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.**

(a) DESIGNATION OF ZONE.—Subsection (f) of section 1400 is amended by striking ''2005'' both places it appears and inserting ''2006''.

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—Subsection (b) of section 1400A is amended by striking ''2005'' and inserting ''2006''.

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) IN GENERAL.—Subsection (b) of section 1400B is amended by striking ''2006'' each place it appears and inserting ''2007''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1400B(e)(2) is amended—

(i) by striking ''2010'' and inserting ''2011'', and

(ii) by striking ''2010'' in the heading and inserting ''2011''.

(B) Section 1400B(g)(2) is amended by striking ''2010'' and inserting ''2011''.

(C) Section 1400F(d) is amended by striking ''2010'' and inserting ''2011''.

(d) FIRST-TIME HOMEBUYER CREDIT.—Subsection (i) of section 1400C is amended by striking ''2006'' and inserting ''2007''.

**SEC. 221. INDIAN EMPLOYMENT TAX CREDIT.**

Section 45A(f) is amended by striking ''2005'' and inserting ''2006''.

**SEC. 222. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATION.**

Section 168(j)(8) is amended by striking ''2005'' and inserting ''2006''.

**SEC. 223. FIFTEEN-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT IMPROVEMENTS.**

Clauses (iv) and (v) of section 168(e)(3)(E) are each amended by striking ''2006'' and inserting ''2007''.

**SEC. 224. EXTENSION OF FULL CREDIT FOR QUALIFIED ELECTRIC VEHICLES.**

(a) IN GENERAL.—Section 30(b) (relating to limitations) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2005.

**Subtitle C—Application of EGTRRA Sunset**

**SEC. 231. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.**

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

**TITLE III—PROVISIONS RELATING TO CHARITABLE DONATIONS**

**Subtitle A—Charitable Giving Incentives**

**SEC. 301. CHARITABLE DEDUCTION FOR NON-ITEMIZERS.**

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) DEDUCTION FOR INDIVIDUALS NOT ITEMIZING DEDUCTIONS.—In the case of an individual who does not itemize deductions for any taxable year beginning after December 31, 2005, and before January 1, 2008, there shall be taken into account as a direct charitable deduction under section 63 an amount equal to the amount allowable under subsection (a) for the taxable year for cash contributions (determined without regard to any carryover).''.

(b) DIRECT CHARITABLE DEDUCTION.—

(1) IN GENERAL.—Subsection (b) of section 63 (defining taxable income) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) the direct charitable deduction.''.

(2) DEFINITION.—Section 63 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) DIRECT CHARITABLE DEDUCTION.—For purposes of this section, the term 'direct charitable deduction' means that portion of the amount allowable under section 170(a) which is taken as a direct charitable deduction for the taxable year under section 170(o).''.

(3) CONFORMING AMENDMENT.—Subsection (d) of section 63 is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) the direct charitable deduction.''.

(c) FLOOR ON CHARITABLE CONTRIBUTIONS BY INDIVIDUALS.—Section 170(a) is amended by adding at the end the following new paragraph:

''(4) DOLLAR FLOOR ON CHARITABLE CONTRIBUTIONS BY INDIVIDUALS.—In the case of an individual, the charitable contributions of the taxpayer for any taxable year shall be taken into account for purposes of determining the deduction under paragraph (1) only to the extent that the aggregate of such contributions exceeds $210 ($420 in the case of a joint return).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

**SEC. 302. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.**

(a) IN GENERAL.—Subsection (d) of section 408 (relating to individual retirement accounts) is amended by adding at the end the following new paragraph:

''(8) DISTRIBUTIONS FOR CHARITABLE PURPOSES.—

''(A) IN GENERAL.—No amount shall be includible in gross income by reason of a qualified charitable distribution.

''(B) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the term 'qualified charitable distribution' means any distribution from an individual retirement plan (other than a plan described in subsection (k) or (p) of section 408)—

''(i) which is made on or after the date that the individual for whose benefit the plan is maintained has attained age 70½, and

''(ii) which is made directly by the trustee—

''(I) to an organization described in section 170(c), or

''(II) to a split-interest entity.

A distribution shall be treated as a qualified charitable distribution only to the extent that the distribution would be includible in gross income without regard to subparagraph (A) and, in the case of a distribution to a split-interest entity, only if no person holds an income interest in the amounts in the split-interest entity attributable to such distribution other than one or more of the following: the individual for whose benefit such plan is maintained, the spouse of such individual, or any organization described in section 170(c).

''(C) CONTRIBUTIONS MUST BE OTHERWISE DEDUCTIBLE.—For purposes of this paragraph—

''(i) DIRECT CONTRIBUTIONS.—A distribution to an organization described in section 170(c) shall be treated as a qualified charitable distribution only if a deduction for the entire distribution would be allowable under section 170 (determined without regard to subsections (a)(4) and (b) thereof and this paragraph).

''(ii) SPLIT-INTEREST GIFTS.—A distribution to a split-interest entity shall be treated as a qualified charitable distribution only if a deduction for the entire value of the interest in the distribution for the use of an organization described in section 170(c) would be allowable under section 170 (determined without regard to subsections (a)(4) and (b) thereof and this paragraph).

''(D) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which a distribution is a qualified charitable distribution, the entire amount of the distribution shall be treated as includible in gross income without regard to subparagraph (A) to the extent that such amount does not exceed the aggregate amount which would have been so includible if all amounts distributed from all individual retirement plans were treated as 1 contract under paragraph (2)(A) for purposes of determining the inclusion of such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

''(E) SPECIAL RULES FOR SPLIT-INTEREST ENTITIES.—

''(i) CHARITABLE REMAINDER TRUSTS.—Notwithstanding section 664(b), distributions made from a trust described in subparagraph (G)(i) shall be treated as ordinary income in the hands of the beneficiary to whom is paid the annuity described in section 664(d)(1)(A) or the payment described in section 664(d)(2)(A).

''(ii) POOLED INCOME FUNDS.—No amount shall be includible in the gross income of a pooled income fund (as defined in subparagraph (G)(ii)) by reason of a qualified charitable distribution to such fund, and all distributions from the fund which are attributable to qualified charitable distributions shall be treated as ordinary income to the beneficiary.

''(iii) CHARITABLE GIFT ANNUITIES.—Qualified charitable distributions made for a charitable gift annuity shall not be treated as an investment in the contract.

''(F) DENIAL OF DEDUCTION.—Qualified charitable distributions shall not be taken into account in determining the deduction under section 170.

''(G) SPLIT-INTEREST ENTITY DEFINED.—For purposes of this paragraph, the term 'split-interest entity' means—

''(i) a charitable remainder annuity trust or a charitable remainder unitrust (as such terms are defined in section 664(d)) which must be funded exclusively by qualified charitable distributions,

''(ii) a pooled income fund (as defined in section 642(c)(5)), but only if the fund accounts separately for amounts attributable to qualified charitable distributions, and

''(iii) a charitable gift annuity (as defined in section 501(m)(5)).''.

(b) MODIFICATIONS RELATING TO INFORMATION RETURNS BY CERTAIN TRUSTS.—

(1) RETURNS.—Section 6034 (relating to returns by trusts described in section 4947(a)(2) or claiming charitable deductions under section 642(c)) is amended to read as follows:

**''SEC. 6034. RETURNS BY CERTAIN TRUSTS.**

''(a) SPLIT-INTEREST TRUSTS.—Every trust described in section 4947(a)(2) shall furnish such information with respect to the taxable year as the Secretary may by forms or regulations require.

''(b) TRUSTS CLAIMING CERTAIN CHARITABLE DEDUCTIONS.—

''(1) IN GENERAL.—Every trust not required to file a return under subsection (a) but claiming a deduction under section 642(c) for the taxable year shall furnish such information with respect to such taxable year as the Secretary may by forms or regulations prescribe, including—

''(A) the amount of the deduction taken under section 642(c) within such year,

''(B) the amount paid out within such year which represents amounts for which deductions under section 642(c) have been taken in prior years,

''(C) the amount for which such deductions have been taken in prior years but which has not been paid out at the beginning of such year,

''(D) the amount paid out of principal in the current and prior years for the purposes described in section 642(c),

''(E) the total income of the trust within such year and the expenses attributable thereto, and

''(F) a balance sheet showing the assets, liabilities, and net worth of the trust as of the beginning of such year.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to a trust for any taxable year if—

''(A) all the net income for such year, determined under the applicable principles of the law of trusts, is required to be distributed currently to the beneficiaries, or

''(B) the trust is described in section 4947(a)(1).''.

(2) INCREASE IN PENALTY RELATING TO FILING OF INFORMATION RETURN BY SPLIT-INTEREST TRUSTS.—Paragraph (2) of section 6652(c) (relating to returns by exempt organizations and by certain trusts) is amended by adding at the end the following new subparagraph:

''(C) SPLIT-INTEREST TRUSTS.—In the case of a trust which is required to file a return under section 6034(a), subparagraphs (A) and (B) of this paragraph shall not apply and paragraph (1) shall apply in the same manner as if such return were required under section 6033, except that—

''(i) the 5 percent limitation in the second sentence of paragraph (1)(A) shall not apply,

''(ii) in the case of any trust with gross income in excess of $250,000, the first sentence of paragraph (1)(A) shall be applied by substituting '$100' for '$20', and the second sentence thereof shall be applied by substituting '$50,000' for '$10,000', and

''(iii) the third sentence of paragraph (1)(A) shall be disregarded.

In addition to any penalty imposed on the trust pursuant to this subparagraph, if the

person required to file such return knowingly fails to file the return, such penalty shall also be imposed on such person who shall be personally liable for such penalty.''.

(3) CONFIDENTIALITY OF NONCHARITABLE BENEFICIARIES.—Subsection (b) of section 6104 (relating to inspection of annual information returns) is amended by adding at the end the following new sentence: ''In the case of a trust which is required to file a return under section 6034(a), this subsection shall not apply to information regarding beneficiaries which are not organizations described in section 170(c).''.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to distributions made in taxable years beginning after December 31, 2005, and before January 1, 2008.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to returns for taxable years beginning after December 31, 2005.

**SEC. 303. MODIFICATION OF CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.**

(a) IN GENERAL.—Subparagraph (C) of section 170(e)(3) (relating to special rule for certain contributions of inventory and other property), as added by section 305 of the Katrina Emergency Tax Relief Act of 2005, is amended to read as follows:

''(C) SPECIAL RULE FOR CONTRIBUTIONS OF FOOD INVENTORY.—

''(i) GENERAL RULE.—In the case of a charitable contribution of food from any trade or business of the taxpayer, this paragraph shall be applied—

''(I) without regard to whether the contribution is made by a C corporation, and

''(II) only to food that is apparently wholesome food.

''(ii) LIMITATION.—In the case of a taxpayer other than a C corporation, the aggregate amount of such contributions for any taxable year which may be taken into account under this section shall not exceed 10 percent of the taxpayer's aggregate net income for such taxable year from all trades or businesses from which such contributions were made for such year, computed without regard to this section.

''(iii) LIMITATION ON REDUCTION.—In the case of any such contribution, notwithstanding subparagraph (B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of the apparently wholesome food exceeds twice the basis of such food.

''(iv) DETERMINATION OF BASIS.—If a taxpayer—

''(I) does not account for inventories under section 471, and

''(II) is not required to capitalize indirect costs under section 263A,

the taxpayer may elect, solely for purposes of subparagraph (B), to treat the basis of any apparently wholesome food as being equal to 25 percent of the fair market value of such food.

''(v) DETERMINATION OF FAIR MARKET VALUE.—In the case of any such contribution of apparently wholesome food which, solely by reason of internal standards of the taxpayer or lack of market, cannot or will not be sold, the fair market value of such contribution shall be determined—

''(I) without regard to such internal standards or such lack of market and

''(II) by taking into account the price at which the same or substantially the same food items (as to both type and quality) are sold by the taxpayer at the time of the contribution (or, if not so sold at such time, in the recent past).

''(vi) APPARENTLY WHOLESOME FOOD.—For purposes of this subparagraph, the term 'apparently wholesome food' has the meaning given to such term by section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(2)), as in effect on the date of the enactment of this subparagraph.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2005, and before January 1, 2008.

**SEC. 304. BASIS ADJUSTMENT TO STOCK OF S CORPORATION CONTRIBUTING PROPERTY.**

(a) IN GENERAL.—Paragraph (2) of section 1367(a) (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new flush sentence:

''The decrease under subparagraph (B) by reason of a charitable contribution (as defined in section 170(c)) of property shall be the amount equal to the shareholder's pro rata share of the adjusted basis of such property.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2005, and before January 1, 2008.

**SEC. 305. MODIFICATION OF CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORY.**

(a) IN GENERAL.—Subparagraph (D) of section 170(e)(3) (relating to special rule for certain contributions of inventory and other property), as added by section 305 of the Katrina Emergency Tax Relief Act of 2005, is amended to read as follows:

''(D) SPECIAL RULE FOR CONTRIBUTIONS OF BOOK INVENTORY FOR EDUCATIONAL PURPOSES.—

''(i) CONTRIBUTIONS OF BOOK INVENTORY.—In determining whether a qualified book contribution is a qualified contribution, subparagraph (A) shall be applied without regard to whether—

''(I) the donee is an organization described in the matter preceding clause (i) of subparagraph (A), and

''(II) the property is to be used by the donee solely for the care of the ill, the needy, or infants.

''(ii) AMOUNT OF REDUCTION.—Notwithstanding subparagraph (B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of the contributed property (as determined by the taxpayer using a bona fide published market price for such book) exceeds twice the basis of such property.

''(iii) QUALIFIED BOOK CONTRIBUTION.—For purposes of this paragraph, the term 'qualified book contribution' means a charitable contribution of books, but only if the requirements of clauses (iv) and (v) are met.

''(iv) IDENTITY OF DONEE.—The requirement of this clause is met if the contribution is to an organization—

''(I) described in subclause (I) or (III) of paragraph (6)(B)(i), or

''(II) described in section 501(c)(3) and exempt from tax under section 501(a) (other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j)(3)), which is organized primarily to make books available to the general public at no cost or to operate a literacy program.

''(v) CERTIFICATION BY DONEE.—The requirement of this clause is met if, in addition to the certifications required by subparagraph (A) (as modified by this subparagraph), the donee certifies in writing that—

''(I) the books are suitable, in terms of currency, content, and quantity, for use in the donee's educational programs, and

''(II) the donee will use the books in its educational programs.

''(vi) BONA FIDE PUBLISHED MARKET PRICE.—For purposes of this subparagraph, the term 'bona fide published market price' means, with respect to any book, a price—

''(I) determined using the same printing and edition,

''(II) determined in the usual market in which such a book has been customarily sold by the taxpayer, and

''(III) for which the taxpayer can demonstrate to the satisfaction of the Secretary that the taxpayer customarily sold such books in arm's length transactions within 7 years preceding the contribution of such a book.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2005, and before January 1, 2008.

**SEC. 306. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS AND PUBLIC DISCLOSURE OF INFORMATION RELATING TO UNRELATED BUSINESS INCOME.**

(a) MODIFICATION OF SECTION 512(B)(13).—

(1) IN GENERAL.—Paragraph (13) of section 512(b) (relating to special rules for certain amounts received from controlled entities) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

''(E) PARAGRAPH TO APPLY ONLY TO EXCESS PAYMENTS.—

''(i) IN GENERAL.—Subparagraph (A) shall apply only to the portion of a specified payment received or accrued by the controlling organization that exceeds the amount which would have been paid or accrued if such payment met the requirements prescribed under section 482.

''(ii) ADDITION TO TAX FOR VALUATION MISSTATEMENTS.—The tax imposed by this chapter on the controlling organization shall be increased by an amount equal to 20 percent of the larger of—

''(I) such excess determined without regard to any amendment or supplement to a return of tax, or

''(II) such excess determined with regard to all such amendments and supplements.''.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by this subsection shall apply to payments received or accrued after December 31, 2000.

(B) PAYMENTS SUBJECT TO BINDING CONTRACT TRANSITION RULE.—If the amendments made by section 1041 of the Taxpayer Relief Act of 1997 did not apply to any amount received or accrued in the first 2 taxable years beginning on or after the date of the enactment of the Taxpayer Relief Act of 1997 under any contract described in subsection (b)(2) of such section, such amendments also shall not apply to amounts received or accrued under such contract before January 1, 2001.

(b) PUBLIC AVAILABILITY OF UNRELATED BUSINESS INCOME TAX RETURNS.—

(1) IN GENERAL.—Subparagraph (A) of section 6104(d)(1) is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following new clause:

''(ii) any annual return filed under section 6011 which relates to any tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations) by such organization,''.

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

(c) CERTIFICATION OF UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN ORGANIZATIONS.—

(1) IN GENERAL.—Section 6011, as amended by section 311 of this Act, is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) RETURNS OF CERTAIN ORGANIZATIONS RELATING TO UNRELATED BUSINESS TAXABLE INCOME.—

''(1) IN GENERAL.—Every applicable exempt organization shall include with the return under subsection (a) for the taxable year a statement by an independent auditor or an independent counsel which meets the requirements of paragraph (2).

''(2) STATEMENT.—A statement meets the requirement of this paragraph if the statement—

''(A) contains a certification that—

''(i) the information contained in the return—

''(I) has been reviewed by the auditor or counsel, and

''(II) to the best of the auditor's or counsel's knowledge, is accurate, and

''(ii) to the best of the auditor's or counsel's knowledge, the allocation of expenses between the unrelated trades and business of the organization and the activities related to the purpose or function constituting the basis of the organization's exemption under section 501 complies with the requirements set forth by the Secretary under section 512, and

''(B) indicates—

''(i) whether the auditor or counsel has provided a tax opinion to the organization regarding—

''(I) the classification of any trade or business of the organization as an unrelated trade or business, or

''(II) the treatment of any income as unrelated business taxable income, and

''(ii) a description of any material facts with respect to any such opinion.

''(3) APPLICABLE EXEMPT ORGANIZATION.—For purposes of this subsection, the term 'applicable exempt organization' means any organization which—

''(A) is described in section 501(c)(3),

''(B) has—

''(i) gross income and receipts of not less than $10,000,000 for the taxable year, or

''(ii) gross assets of not less than $10,000,000 on the last day of the taxable year, and

''(C) is subject to the tax imposed under section 511 for the taxable year.''.

(2) PENALTY.—

(A) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 316 of this Act, is amended by adding at the end the following new section:

**''SEC. 6720C. UNRELATED BUSINESS INCOME REQUIREMENTS.**

''(a) IN GENERAL.—Any applicable exempt organization (as defined in section 6011(h)(3)) which fails to file a statement required under section 6011(h) shall pay a penalty in an amount equal to ½ percent of the gross revenue amount of such organization for the taxable year to which such statement relates.

''(b) GROSS REVENUE AMOUNT.—For purposes of subsection (a), the term 'gross revenue amount' means, with respect to any taxable year, the gross income and receipts of the organization determined without regard to any contributions or grants received by the organization.

''(c) REASONABLE CAUSE.—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.''.

(B) CONFORMING AMENDMENT.—The table of sections of part I of subchapter B of chapter 68, as amended by section 316 of this Act, is amended by adding after the item relating to section 6720B the following new item:

''Sec. 6720C. Unrelated business income requirements.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to returns for taxable years beginning after the date of the enactment of this Act.

**SEC. 307. ENCOURAGEMENT OF CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.**

(a) IN GENERAL.—

(1) INDIVIDUALS.—Paragraph (1) of subsection 170(b) (relating to percentage limitations) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

''(E) CONTRIBUTIONS OF QUALIFIED CONSERVATION CONTRIBUTIONS.—

''(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1)) to an organization described in subparagraph (A) shall be allowed to the extent the aggregate of such contributions does not exceed the excess of 50 percent of the taxpayer's contribution base over the amount of all other charitable contributions allowable under this paragraph.

''(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(1)) as a charitable contribution to which clause (i) applies in each of the 15 succeeding years in order of time.

''(iii) COORDINATION WITH OTHER SUBPARAGRAPHS.—For purposes of applying this subsection and subsection (d)(1), contributions described in clause (i) shall not be treated as described in subparagraph (A), (B), (C), or (D).

''(iv) QUALIFIED FARMER OR RANCHER.—

''(I) IN GENERAL.—If the individual is a qualified farmer or rancher for the taxable year in which the contribution is made, clause (i) shall be applied by substituting '100 percent' for '50 percent'.

''(II) DEFINITION.—For purposes of subclause (I), the term 'qualified farmer or rancher' means a taxpayer whose gross income from the trade or business of farming (within the meaning of section 2032A(e)(5)) is greater than 50 percent of the taxpayer's gross income for the taxable year.''.

(2) CORPORATIONS.—Paragraph (2) of section 170(b) is amended to read as follows:

''(2) CORPORATIONS.—In the case of a corporation—

''(A) IN GENERAL.—The total deductions under subsection (a) for any taxable year (other than for contributions to which subparagraph (B) applies) shall not exceed 10 percent of the taxpayer's taxable income.

''(B) QUALIFIED CONSERVATION CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—

''(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1)) made—

''(I) by a corporation which, for the taxable year during which the contribution is made, is a qualified farmer or rancher (as defined in paragraph (1)(E)(iv)(II)) and the stock of which is not readily tradable on an established securities market at any time during such year, and

''(II) to an organization described in paragraph (1)(A),

shall be allowed to the extent the aggregate of such contributions does not exceed the excess of the taxpayer's taxable income over the amount of charitable contributions allowable under subparagraph (A).

''(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(2)) as a charitable contribution to which clause (i) applies in each of the 15 succeeding years in order of time.

''(C) TAXABLE INCOME.—For purposes of this paragraph, taxable income shall be computed without regard to—

''(i) this section,

''(ii) part VIII (except section 248),

''(iii) any net operating loss carrryback to the taxable year under section 172,

''(iv) section 199, and

''(v) any capital loss carryback to the taxable year under section 1212(a)(1).''.

(b) CONFORMING AMENDMENTS.—

(1) The second sentence of clause (i) of section 170(b)(1)(C) is amended by striking ''subparagraph (D)'' and inserting ''subparagraph (D) or (E)''.

(2) Clause (i) of section 170(b)(1)(D) is amended by striking ''subparagraph (A)'' and inserting ''subparagraphs (A) or (E)''.

(3) Paragraph (2) of section 170(d) is amended by striking ''subsection (b)(2)'' each place it appears and inserting ''subsection (b)(2)(A)''.

(4) Section 545(b)(2) is amended by striking ''and (D)'' and inserting ''(D), and (E)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2005, and before January 1, 2008.

**SEC. 308. ENHANCED DEDUCTION FOR CHARITABLE CONTRIBUTION OF LITERARY, MUSICAL, ARTISTIC, AND SCHOLARLY COMPOSITIONS.**

(a) IN GENERAL.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property), as amended by this section 33 of this Act, is amended by adding at the end the following new paragraph:

''(18) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL, ARTISTIC, OR SCHOLARLY COMPOSITIONS.—

''(A) IN GENERAL.—In the case of a qualified artistic charitable contribution—

''(i) the amount of such contribution taken into account under this section shall be the fair market value of the property contributed (determined at the time of such contribution), and

''(ii) no reduction in the amount of such contribution shall be made under paragraph (1).

''(B) QUALIFIED ARTISTIC CHARITABLE CONTRIBUTION.—For purposes of this paragraph, the term 'qualified artistic charitable contribution' means a charitable contribution of any literary, musical, artistic, or scholarly composition, or similar property, or the copyright thereon (or both), but only if—

''(i) such property was created by the personal efforts of the taxpayer making such contribution no less than 18 months prior to such contribution,

''(ii) the taxpayer—

''(I) has received a qualified appraisal of the fair market value of such property in accordance with the regulations under this section, and

''(II) attaches to the taxpayer's income tax return for the taxable year in which such contribution was made a copy of such appraisal,

''(iii) the donee is an organization described in subsection (b)(1)(A),

''(iv) the use of such property by the donee is related to the purpose or function constituting the basis for the donee's exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described under section 501(c)),

''(v) the taxpayer receives from the donee a written statement representing that the

donee's use of the property will be in accordance with the provisions of clause (iv), and

''(vi) the written appraisal referred to in clause (ii) includes evidence of the extent (if any) to which property created by the personal efforts of the taxpayer and of the same type as the donated property is or has been—

''(I) owned, maintained, and displayed by organizations described in subsection (b)(1)(A), and

''(II) sold to or exchanged by persons other than the taxpayer, donee, or any related person (as defined in section 465(b)(3)(C)).

''(C) MAXIMUM DOLLAR LIMITATION; NO CARRYOVER OF INCREASED DEDUCTION.—The increase in the deduction under this section by reason of this paragraph for any taxable year—

''(i) shall not exceed the artistic adjusted gross income of the taxpayer for such taxable year, and

''(ii) shall not be taken into account in determining the amount which may be carried from such taxable year under subsection (d).

''(D) ARTISTIC ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'artistic adjusted gross income' means that portion of the adjusted gross income of the taxpayer for the taxable year attributable to—

''(i) income from the sale or use of property created by the personal efforts of the taxpayer which is of the same type as the donated property, and

''(ii) income from teaching, lecturing, performing, or similar activity with respect to property described in clause (i).

''(E) PARAGRAPH NOT TO APPLY TO CERTAIN CONTRIBUTIONS.—Subparagraph (A) shall not apply to any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while the individual is an officer or employee of any person (including any government agency or instrumentality) unless such letter, memorandum, or similar property is entirely personal.

''(F) COPYRIGHT TREATED AS SEPARATE PROPERTY FOR PARTIAL INTEREST RULE.—In the case of a qualified artistic charitable contribution, the tangible literary, musical, artistic, or scholarly composition, or similar property and the copyright on such work shall be treated as separate properties for purposes of this paragraph and subsection (f)(3).

''(G) TERMINATION.—This paragraph shall not apply to contributions made after December 31, 2007.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2005.

**SEC. 309. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.**

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by inserting after section 139A the following new section:

**''SEC. 139B. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS.**

''(a) IN GENERAL.—Gross income of an individual does not include amounts received, from an organization described in section 170(c), as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization. The preceding sentence shall apply only to the extent that the expenses which are reimbursed would be deductible under this chapter if section 274(d) were applied—

''(1) by using the standard business mileage rate established under such section, and

''(2) as if the individual were an employee of an organization not described in section 170(c).

''(b) APPLICATION TO VOLUNTEER SERVICES ONLY.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

''(c) NO DOUBLE BENEFIT.—A taxpayer may not claim a deduction or credit under any other provision of this title with respect to the expenses under subsection (a).

''(d) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).

''(e) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2007.''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 139 the following new item:

''Sec. 139A. Mileage reimbursements to charitable volunteers.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 310. ALTERNATIVE PERCENTAGE LIMITATION FOR CORPORATE CHARITABLE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.**

(a) IN GENERAL.—Section 170(b) (related to percentage limitations) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR CORPORATE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.—

''(A) IN GENERAL.—In the case of a corporation which makes an eligible mathematics and science contribution—

''(i) the limitation under paragraph (2) shall apply separately with respect to all such contributions and all other charitable contributions, and

''(ii) paragraph (2) shall be applied with respect to all eligible mathematics and science contributions by substituting '15 percent' for '10 percent'.

''(B) ELIGIBLE MATHEMATICS AND SCIENCE CONTRIBUTION.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'eligible mathematics and science contribution' means a charitable contribution (other than a contribution of used equipment) to a qualified partnership for the purpose of an activity described in section 2202(c) of the Elementary and Secondary Education Act of 1965.

''(ii) QUALIFIED PARTNERSHIP.—The term 'qualified partnership' means an eligible partnership (within the meaning of section 2201(b)(1) of the Elementary and Secondary Education Act of 1965), but only to the extent that such partnership does not include a person other than a person described in paragraph (1)(A).

''(C) TERMINATION.—This paragraph shall not apply to any contributions made in taxable years beginning after December 31, 2006.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

## Subtitle B—Reforming Charitable Organizations

## PART I—GENERAL REFORMS

**SEC. 311. TAX INVOLVEMENT BY EXEMPT ORGANIZATIONS IN TAX SHELTER TRANSACTIONS.**

(a) IMPOSITION OF EXCISE TAX.—

(1) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations) is amended by adding at the end the following new subchapter:

**''Subchapter F—Tax Shelter Transactions**

''Sec. 4965. Excise tax on certain tax-exempt entities entering into prohibited tax shelter transactions

**''SEC. 4965. EXCISE TAX ON CERTAIN TAX-EXEMPT ENTITIES ENTERING INTO PROHIBITED TAX SHELTER TRANSACTIONS.**

''(a) PARTICIPATION IN AND APPROVAL OF PROHIBITED TRANSACTIONS.—

''(1) TAX-EXEMPT ENTITY.—

''(A) IN GENERAL.—If any tax-exempt entity (other than a tax-exempt entity described in paragraph (4), (5), (6), or (7) of subsection (c)) is a party to a prohibited tax shelter transaction at any time during the taxable year and knows or has reason to know such transaction is a prohibited tax shelter transaction, such entity shall pay a tax for such taxable year in the amount determined under subsection (b)(1)(A).

''(B) POST-TRANSACTION DETERMINATION.—If any tax-exempt entity (other than a tax-exempt entity described in paragraph (4), (5), (6), or (7) of subsection (c)) is a party to a subsequently listed transaction at any time during the taxable year, such entity shall pay a tax in the amount determined under subsection (b)(1)(B).

''(2) ENTITY MANAGER.—If any entity manager of a tax-exempt entity approves such entity as (or otherwise causes such entity to be) a party to a prohibited tax shelter transaction at any time during the taxable year and knows or has reason to know that the transaction is a prohibited tax shelter transaction, such manager shall pay a tax for such taxable year in the amount determined under subsection (b)(2).

''(3) REASONABLE CAUSE EXCEPTION.—No tax shall be imposed under paragraph (1)(A) or (2) if it is shown that the participation of the tax-exempt entity in the transaction was not willful and was due to reasonable cause.

''(b) AMOUNT OF TAX.—

''(1) ENTITY.—In the case of a tax-exempt entity—

''(A) IN GENERAL.—The amount of the tax imposed under subsection (a)(1)(A) on the entity with respect to a taxable year shall be the greater of—

''(i) 100 percent of the entity's net income (after taking into account any tax imposed by this subtitle with respect to the prohibited tax shelter transaction) for such taxable year which is attributable to the prohibited tax shelter transaction, or

''(ii) 75 percent of the proceeds received by the entity which are attributable to the prohibited tax shelter transaction.

''(B) POST-TRANSACTION DETERMINATION.—The amount of the tax imposed under subsection (a)(1)(B) on the entity with respect to any taxable year shall be an amount equal to the product of—

''(i) the highest rate of tax under section 11, and

''(ii) the greater of—

''(I) the entity's net income (after taking into account any tax imposed by this subtitle with respect to the subsequently listed transaction) for such taxable year which is attributable to the subsequently listed transaction and which is properly allocable to the period beginning on the later of the date such transaction is identified by guidance as a listed transaction by the Secretary or the first day of the taxable year, or

''(II) 75 percent of the proceeds received by the entity which are attributable to the subsequently listed transaction and which are properly allocable to the period beginning on the later of the date such transaction is identified by guidance as a listed transaction by the Secretary or the first day of the taxable year.

''(2) ENTITY MANAGER.—In the case of each entity manager to whom subsection (a)(2) applies, the amount of the tax under such subsection shall be $20,000 for each approval.

''(c) TAX-EXEMPT ENTITY.—For purposes of this section, the term 'tax-exempt entity' means an entity which is—

''(1) described in section 501(c) or 501(d),

''(2) described in section 170(c) (other than an agency or instrumentality of the United States) to which paragraph (1) of this subsection does not apply,

''(3) an Indian tribal government (within the meaning of section 7701(a)(40)),

''(4) described in paragraph (1), (2), or (3) of section 4979(e),

''(5) a program described in section 529,

''(6) an eligible deferred compensation plan described in section 457(b) which is maintained by an employer described in section 4457(e)(1)(A), or

''(7) an arrangement described in section 4973(a).

''(d) ENTITY MANAGER.—For purposes of this section, the term 'entity manager' means—

''(1) with respect to a tax-exempt entity described in paragraph (3) or (4) of section 501(c)—

''(A) in the case of an entity other than a private foundation, an organization manager (as defined in section 4958(f)(2)), and

''(B) in the case of a private foundation, a foundation manager (as defined in section 4946(b)), and

''(2) in all other cases, the person with authority or responsibility similar to that exercised by an officer, director, or trustee of an organization.

''(e) PROHIBITED TAX SHELTER TRANSACTION; SUBSEQUENTLY LISTED TRANSACTION.—For purposes of this section—

''(1) PROHIBITED TAX SHELTER TRANSACTION.—

''(A) IN GENERAL.—The term 'prohibited tax shelter transaction' means—

''(i) any listed transaction, or

''(ii) any prohibited reportable transaction if the tax-exempt entity knows or has reason to know that such transaction is a reportable transaction.

''(B) LISTED TRANSACTION.—The term 'listed transaction' has the meaning given such term by section 6707A(c)(2).

''(C) PROHIBITED REPORTABLE TRANSACTION.—The term 'prohibited reportable transaction' means any confidential transaction or any transaction with contractual protection (as defined under regulations prescribed by the Secretary) which is a reportable transaction (as defined in section 6707A(c)(1)).

''(2) SUBSEQUENTLY LISTED TRANSACTION.—The term 'subsequently listed transaction' means any transaction to which a tax-exempt entity is a party and which is determined by the Secretary to be a listed transaction at any time after the entity has entered into the transaction.

''(f) REGULATORY AUTHORITY.—The Secretary is authorized to promulgate regulations which provide guidance regarding the determination of the allocation of net income of a tax-exempt entity attributable to a transaction to various periods, including before and after the listing of the transaction or the date which is 90 days after the date of the enactment of this section.

''(g) COORDINATION WITH OTHER TAXES AND PENALTIES.—The tax imposed by this section is in addition to any other tax, addition to tax, or penalty imposed under this title.''.

(2) CONFORMING AMENDMENT.—The table of subchapters of chapter 42 is amended by adding at the end the following new item:

''SUBCHAPTER F. TAX SHELTER TRANSACTIONS.''.

(b) DISCLOSURE REQUIREMENTS.—

(1) DISCLOSURE BY ORGANIZATION TO THE INTERNAL REVENUE SERVICE.—

(A) IN GENERAL.—Section 6033(a) (relating to organizations required to file) is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) PARTICIPATION IN CERTAIN REPORTABLE TRANSACTIONS.—Every tax-exempt entity described in section 4965(c) shall file (in such form and manner and at such time as determined by the Secretary) a disclosure of—

''(A) such entity's participation in any prohibited tax shelter transaction (as defined in section 4965(e)), and

''(B) the identity of any other party participating in such transaction which is known by such tax-exempt entity.''.

(B) CONFORMING AMENDMENT.—Section 6033(a)(1) is amended by striking ''paragraph (2)'' and inserting ''paragraph (3)''.

(2) DISCLOSURE BY OTHER TAXPAYERS TO THE TAX-EXEMPT ENTITY.—Section 6011 (relating to general requirement of return, statement, or list) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) DISCLOSURE OF REPORTABLE TRANSACTION TO TAX-EXEMPT ENTITY.—Any taxable party to a prohibited tax shelter transaction (as defined in section 4965(e)(1)) shall by statement disclose to any tax-exempt entity (as defined in section 4965(c)) which is a party to such transaction that such transaction is such a prohibited tax shelter transaction.''.

(c) PENALTY FOR NONDISCLOSURE.—

(1) IN GENERAL.—Section 6652(c) (relating to returns by exempt organizations and by certain trusts), as amended by section 302, is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) DISCLOSURE UNDER SECTION 6033.—

''(A) PENALTY ON ORGANIZATIONS.—In the case of a failure to file a disclosure required under section 6033(a)(2), there shall be paid by the tax-exempt entity (the entity manager in the case of a tax-exempt entity described in paragraph (4), (5), (6), or (7) of section 4965(c)) $100 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 disclosure shall not exceed $50,000.

''(B) PERSONS.—

''(i) IN GENERAL.—The Secretary may make a written demand on any tax-exempt entity subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the disclosure shall be filed for purposes of this subparagraph.

''(ii) FAILURE TO COMPLY WITH DEMAND.—If any person fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by such person failing to so comply $100 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all tax-exempt entities for failures with respect to any 1 disclosure shall not exceed $10,000.

''(C) DEFINITIONS.—Any term used in this section which is also used in section 4965 shall have the meaning given such term under section 4965.''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 6652(c)(1) of such Code is amended by striking ''6033'' each place it appears in the text and heading thereof and inserting ''6033(a)(1)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions after the date of the enactment of this Act, except that no tax under section 4965(a) of the Internal Revenue Code of 1986 (as added by this section) shall apply with respect to income that is properly allocable to any period on or before the date which is 90 days after such date of enactment.

(2) DISCLOSURE.—The amendments made by subsections (b) and (c) shall apply to disclosures the due date for which are after the date of the enactment of this Act.

**SEC. 312. EXCISE TAX ON CERTAIN ACQUISITIONS OF INTERESTS IN INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD AN INTEREST.**

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—Subchapter F of chapter 42 (relating to tax shelter transactions), as added by this Act, is amended by adding at the end the following new section:

**''SEC. 4966. EXCISE TAX ON ACQUISITION OF INTERESTS IN INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD AN INTEREST.**

''(a) IMPOSITION OF TAX.—If there is a taxable acquisition of any interest in an applicable insurance contract, there is hereby imposed on the person acquiring the interest a tax equal to 100 percent of the acquisition costs of the interest.

''(b) TAXABLE ACQUISITION.—For purposes of this section—

''(1) IN GENERAL.—The term 'taxable acquisition' means the acquisition of any direct or indirect interest in an applicable insurance contract by—

''(A) an applicable exempt organization, or

''(B) a person other than an applicable exempt organization if such interest in the hands of such person is not an interest described in clause (i), (ii), (iii), or (iv) of paragraph (2)(B).

''(2) APPLICABLE INSURANCE CONTRACT.—

''(A) IN GENERAL.—The term 'applicable insurance contract' means any life insurance, annuity, or endowment contract with respect to which both an applicable exempt organization and a person other than an applicable exempt organization have directly or indirectly held an interest in the contract (whether or not at the same time).

''(B) EXCEPTIONS.—Such term shall not include a life insurance, annuity, or endowment contract if—

''(i) all persons directly or indirectly holding any interest in the contract (other than applicable exempt organizations) have an insurable interest in the insured under the contract independent of any interest of an applicable exempt organization in the contract,

''(ii) the sole interest in the contract of each person other than an applicable exempt organization is as a named beneficiary,

''(iii) the sole interest in the contract of each person other than an applicable exempt organization is—

''(I) as a beneficiary of a trust holding an interest in the contract, but only if the person's designation as such beneficiary was made without consideration and solely on a purely gratuitous basis, or

''(II) as a trustee who holds an interest in the contract in a fiduciary capacity solely for the benefit of applicable exempt organizations or persons otherwise described in clauses (i), (ii), and (iv) or subclause (I) of this clause, or

''(iv) except as provided in subparagraph (C), the sole interest in the contract of each person other than an applicable exempt organization is as a lender with respect to the contract and the contract covers only 1 individual and such individual is an officer, director, or employee of the applicable exempt organization with an interest in the contract.

''(C) RESTRICTIONS ON EXCEPTION FOR LENDERS.—

''(i) NUMERICAL LIMIT.—The number of contracts that may be taken into account under subparagraph (B)(iv) with respect to officers,

directors, or employees of the applicable exempt organization with interests in the contracts shall not exceed the greater of—

''(I) the lesser of 5 percent of the total officers, directors, and employees of the organization or 20, or

''(II) 5.

''(ii) AGGREGATE INDEBTEDNESS.—The exception under subparagraph (B)(iv) shall apply only to the extent that the aggregate amount of the indebtedness with respect to 1 or more contracts covering a single individual does not exceed $50,000.

''(D) SECRETARIAL AUTHORITY.—The Secretary may exempt a contract from treatment as an applicable insurance contract based on specific factors, including factors such as whether the transaction is at arms length, whether economic benefits to the applicable exempt organization substantially exceed the economic benefits to all other persons with an interest in the contract (determined without regard to whether, or the extent to which, such organization has paid or contributed with respect to the contract), and the likelihood of abuse.

''(3) DEFINITION AND RULE RELATING TO ACQUISITION COSTS.—

''(A) ACQUISITION COSTS DEFINED.—The term 'acquisition costs' means the direct or indirect costs of acquiring an interest in an applicable insurance contract. Such term shall include any fees, commissions, charges, or other amounts paid in connection with the acquisition, whether or not paid to the issuer of the contract.

''(B) TIMING OF PAYMENTS.—Except as provided in regulations, if acquisition costs of any acquisition are paid or incurred in more than 1 calendar year, the tax imposed by subsection (a) with respect to the acquisition shall be imposed each time the costs are so paid or incurred.

''(4) RULES RELATING TO INTERESTS.—

''(A) IN GENERAL.—An interest in the contract includes any right with respect to the contract, whether as an owner, beneficiary, or otherwise.

''(B) INDIRECT INTERESTS.—

''(i) IN GENERAL.—Except as provided in clause (ii), an indirect interest in a contract includes an interest in an entity which directly or indirectly holds an interest in the contract.

''(ii) PORTFOLIO INVESTMENTS.—If an applicable exempt organization holds an interest in a contract solely because the organization holds, as part of a diversified investment strategy, a de minimis interest in an entity which directly or indirectly holds the interest in the contract, such indirect interest in the contract shall not be taken into account for purposes of this section.

''(C) EXCHANGED CONTRACTS.—In the case of an exchange of an applicable insurance contract on which no gain or loss is recognized under section 1035, any interest in any of the contracts involved in the exchange shall be treated as an interest in all such contracts.

''(5) INCREASE IN INTEREST.—If a person increases an interest in an applicable insurance contract, the increase shall be treated as a separate acquisition for purposes of this section.

''(6) PRIOR ACQUISITIONS.—Except as provided in regulations, if a person acquires an interest in a contract before the contract is treated as an applicable insurance contract, the acquisition shall be treated as a taxable acquisition of an interest in an applicable insurance contract as of the date the contract becomes an applicable insurance contract.

''(c) APPLICABLE EXEMPT ORGANIZATION.—For purposes of this section, the term 'applicable exempt organization' means—

''(1) an organization described in section 170(c),

''(2) an organization described in section 168(h)(2)(A)(iv), or

''(3) an organization not described in paragraph (1) or (2) which is described in section 2055(a) or section 2522(a).

''(d) TAX NOT TREATED AS INVESTMENT IN THE CONTRACT.—For purposes of section 72, the tax imposed by this section shall not be included in investment in the contract.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. Such regulations may include regulations which—

''(1) provide, for purposes of subsection (b)(6), appropriate rules for the application of this section in any case where an interest is acquired before a contract becomes an applicable insurance contract,

''(2) prevent, in cases the Secretary determines appropriate, the imposition of more than one tax under this section if the same interest is acquired more than once, and

''(3) are designed to prevent avoidance of the purposes of this section, including through the use of intermediaries.''.

(2) CONFORMING AMENDMENT.—The table of sections for subchapter F of chapter 42, as added by this Act, is amended by adding at the end the following new item:

''Sec. 4966. Excise tax on acquisition of interests in insurance contracts in which certain exempt organizations hold an interest.''.

(b) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons), as amended by this Act, is amended by adding at the end the following new section:

**''SEC. 6050V. RETURNS RELATING TO APPLICABLE INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD INTERESTS.**

''(a) REQUIREMENTS OF REPORTING.—

''(1) EXEMPT ORGANIZATIONS.—Each—

''(A) applicable exempt organization which acquires (within the meaning of section 4966) an interest in any applicable insurance contract, and

''(B) other person which makes an acquisition of such an interest if such acquisition is taxable under section 4966,

shall make the return described in subsection (c).

''(2) TRANSFERS.—If a person (including an applicable exempt organization) acquires an interest in an applicable insurance contract in an acquisition which is taxable under section 4966 and then transfers such interest to 1 or more other persons, each person acquiring all or a portion of such interest shall make the return described in subsection (c).

''(b) TIME FOR MAKING RETURN.—Any organization or person required to make a return under subsection (a) shall file such return at such time as may be established by the Secretary with respect to—

''(1) in the case of a person described in subsection (a)(1), the calendar year in which the acquisition occurs, any calendar year in which acquisition costs are paid or incurred, and any other calendar years specified by the Secretary, and

''(2) in the case of a person described in subsection (a)(2), the calendar year in which the transfer occurs.

''(c) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary prescribes,

''(2) in the case of—

''(A) a return required under subsection (a)(1)(A), contains the name, address, and taxpayer identification number of the applicable exempt organization, the issuer of the applicable insurance contract, and any person acquiring an interest in the contract if the acquisition is taxable under section 4966,

''(B) a return required under subsection (a)(1)(B), contains the name, address, and taxpayer identification number of the person acquiring an interest in the applicable insurance contract if the acquisition is taxable under section 4966, any applicable exempt organization holding an interest in the contract, and the issuer of the contract, and

''(C) a return required under subsection (a)(2), contains the name, address, and taxpayer identification number of the transferor and transferee, and

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

''(d) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person whose taxpayer identification information is required to be included in such return under subsection (c) a written statement showing—

''(1) the name and address of the person required to make such return and the telephone number of the information contact for such person, and

''(2) the taxpayer identity and other information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished on or before the date specified by the Secretary.

''(e) DEFINITIONS.—For purposes of this section, any term used in this section which is also used in section 4966 shall have the meaning given such term by section 4966.''.

(2) PENALTIES.—

(A) IN GENERAL.—Section 6724(d) is amended—

(i) in paragraph (1)(B), by redesignating clauses (xiii) through (xviii) as clauses (xiv) through (xix) and by inserting after clause (xii) the following new clause:

''(xiii) section 6050V (relating to returns relating to applicable insurance contracts in which certain exempt organizations hold interests),'', and

(ii) in paragraph (3), by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) the statement required by subsection (d) of section 6050V (relating to returns relating to applicable insurance contracts in which certain exempt organizations hold interests).''.

(B) INTENTIONAL DISREGARD.—Section 6721(e)(2) is amended by striking ''or'' at the end of subparagraph (B), by striking ''and'' at the end of subparagraph (C) and inserting ''or'', and by adding at the end the following new subparagraph:

''(D) in the case of a return required to be filed under section 6050V, the amount of tax imposed under section 4966 which has not been paid with respect to items required to be included on the return, and''.

(3) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 6050V. Returns relating to applicable insurance contracts in which certain exempt organizations hold interests.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued after May 3, 2005.

(2) REPORTING OF EXISTING CONTRACTS.—In the case of any life insurance, annuity, or endowment contract—

(A) which was issued on or before May 3, 2005,

(B) with respect to which an applicable exempt organization (as defined in section 4966 of the Internal Revenue Code of 1986, as added by this section) holds an interest on May 3, 2005, and

(C) which would be treated as an applicable insurance contract (as so defined) if issued after May 3, 2005,

such organization shall, not later than the date which is 1 year after the date of the enactment of this Act, report to the Secretary of the Treasury with respect to such contract. Such report shall be in such form and manner, and contain such information, as the Secretary may prescribe. The Secretary shall submit such reports, along with any recommendations for legislation as the Secretary considers appropriate, to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate within 6 months of the date such reports are required to be filed.

**SEC. 313. INCREASE IN PENALTY EXCISE TAXES ON PUBLIC CHARITIES, SOCIAL WELFARE ORGANIZATIONS, AND PRIVATE FOUNDATIONS.**

(a) TAXES ON SELF-DEALING AND EXCESS BENEFIT TRANSACTIONS.—

(1) IN GENERAL.—Section 4941(a) (relating to initial taxes) is amended—

(A) in paragraph (1), by striking ''5 percent'' and inserting ''10 percent'', and

(B) in paragraph (2), by striking ''2½ percent'' and inserting ''5 percent''.

(2) INCREASE IN TAX IF SELF-DEALING INCLUDES COMPENSATION TO DISQUALIFIED PERSON.—Section 4941(a)(1) is amended by adding at the end the following new sentence: ''If the act of self-dealing includes acts described in subsection (d)(1)(D), '25 percent' shall be substituted for '10 percent', except that the Secretary may abate under section 4962 (determined without regard to the exception under subsection (b) thereof) not more than 15 percentage points of such tax.''.

(3) INCREASED LIMITATION FOR MANAGERS ON SELF-DEALING.—Section 4941(c)(2) is amended by striking ''$10,000'' each place it appears in the text and in the heading and inserting ''$20,000''.

(4) INCREASED LIMITATION FOR MANAGERS ON EXCESS BENEFIT TRANSACTIONS.—Section 4958(d)(2) is amended by striking ''$10,000'' and inserting ''$20,000''.

(b) TAXES ON FAILURE TO DISTRIBUTE INCOME.—Section 4942(a) (relating to initial tax) is amended by striking ''15 percent'' and inserting ''30 percent''.

(c) TAXES ON EXCESS BUSINESS HOLDINGS.—Section 4943(a)(1) (relating to imposition) is amended by striking ''5 percent'' and inserting ''10 percent''.

(d) TAXES ON INVESTMENTS WHICH JEOPARDIZE CHARITABLE PURPOSE.—

(1) IN GENERAL.—Section 4944(a) (relating to initial taxes) is amended by striking ''5 percent'' both places it appears and inserting ''10 percent''.

(2) INCREASED LIMITATION FOR MANAGERS.—Section 4944(d)(2) is amended—

(A) by striking ''$5,000,'' and inserting ''$10,000,'', and

(B) by striking ''$10,000.'' and inserting ''$20,000.''.

(e) TAXES ON TAXABLE EXPENDITURES.—

(1) IN GENERAL.—Section 4945(a) (relating to initial taxes) is amended—

(A) in paragraph (1), by striking ''10 percent'' and inserting ''20 percent'', and

(B) in paragraph (2), by striking ''2½ percent'' and inserting ''5 percent''.

(2) INCREASED LIMITATION FOR MANAGERS.—Section 4945(c)(2) is amended—

(A) by striking ''$5,000,'' and inserting ''$10,000,'', and

(B) by striking ''$10,000.'' and inserting ''$20,000.''.

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

**SEC. 314. REFORM OF CHARITABLE CONTRIBUTIONS OF CERTAIN EASEMENTS ON BUILDINGS IN REGISTERED HISTORIC DISTRICTS.**

(a) SPECIAL RULES WITH RESPECT TO BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—

(1) IN GENERAL.—Paragraph (4) of section 170(h) (relating to definition of conservation purpose) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULES WITH RESPECT TO BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—In the case of any contribution of a qualified real property interest which is a restriction with respect to the exterior of a building described in subparagraph (C)(ii), such contribution shall not be considered to be exclusively for conservation purposes unless—

''(i) such interest—

''(I) includes a restriction which preserves the entire exterior of the building (including the front, sides, rear, and height of the building), and

''(II) prohibits any change in the exterior of the building which is inconsistent with the historical character of such exterior,

''(ii) the donor and donee enter into a written agreement certifying, under penalty of perjury, that the donee—

''(I) is a qualified organization (as defined in paragraph (3)) with a purpose of environmental protection, land conservation, open space preservation, or historic preservation, and

''(II) has the resources to manage and enforce the restriction and a commitment to do so, and

''(iii) in the case of any contribution made in a taxable year beginning after the date of the enactment of this subparagraph, the taxpayer includes with the taxpayer's return for the taxable year of the contribution—

''(I) a qualified appraisal (within the meaning of subsection (f)(11)(E)) of the qualified property interest,

''(II) photographs of the entire exterior of the building, and

''(III) a description of all restrictions on the development of the building.''.

(b) DISALLOWANCE OF DEDUCTION FOR STRUCTURES AND LAND IN REGISTERED HISTORIC DISTRICTS.—Subparagraph (C) of section 170(h)(4), as redesignated by subsection (a), is amended—

(1) by striking ''any building, structure, or land area which'',

(2) by inserting ''any building, structure, or land area which'' before ''is listed'' in clause (i), and

(3) by inserting ''any building which'' before ''is located'' in clause (ii).

(c) FILING FEE FOR CERTAIN CONTRIBUTIONS.—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by inserting at the end the following new paragraph:

''(13) CONTRIBUTIONS OF CERTAIN INTERESTS IN BUILDINGS LOCATED IN REGISTERED HISTORIC DISTRICTS.—

''(A) IN GENERAL.—No deduction shall be allowed with respect to any contribution described in subparagraph (B) unless the taxpayer includes with the return for the taxable year of the contribution a $500 filing fee.

''(B) CONTRIBUTION DESCRIBED.—A contribution is described in this subparagraph if such contribution is a qualified conservation contribution (as defined in subsection (h)) which is a restriction with respect to the exterior of a building described in subsection (h)(4)(C)(ii) and for which a deduction is claimed in excess of the greater of—

''(i) 3 percent of the fair market value of the building (determined immediately before such contribution), or

''(ii) $10,000.

''(C) DEDICATION OF FEE.—Any fee collected under this paragraph shall be used for the enforcement of the provisions of subsection (h).''.

(d) EFFECTIVE DATE.—

(1) SPECIAL RULES FOR BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—The amendments made by subsection (a) shall apply to contributions made after November 15, 2005.

(2) DISALLOWANCE OF DEDUCTION FOR STRUCTURES AND LAND.—The amendments made by subsection (b) shall apply to contributions made after the date of the enactment of this Act.

(3) FILING FEE.—The amendment made by subsection (c) shall apply to contributions made 180 days after the date of the enactment of this Act.

**SEC. 315. CHARITABLE CONTRIBUTIONS OF TAXIDERMY PROPERTY.**

(a) IN GENERAL.—Subsection (f) of section 170, as amended by section 314 of this Act, is amended by adding at the end the following new paragraph:

''(14) CONTRIBUTIONS OF TAXIDERMY PROPERTY.—

''(A) CONTRIBUTIONS OF MORE THAN $500.—In the case of any contribution of taxidermy property for which a deduction of more than $500 is claimed, no deduction shall be allowed under subsection (a) unless the donor includes with the return for the taxable year in which the contribution is made a photograph of the taxidermy property and data with respect to the sales prices of similar taxidermy property.

''(B) CONTRIBUTIONS OF MORE THAN $5,000.—In the case of any contribution of taxidermy property for which a deduction of more than $5,000 is claimed, no deduction shall be allowed under subsection (a) unless the donor—

''(i) notifies the Internal Revenue Service of such deduction, and

''(ii) includes with the return for the taxable year in which the contribution is made—

''(I) a statement of value from the Internal Revenue Service, or

''(II) a request for a statement of value from the Internal Revenue Service and a $500 fee.

''(C) TAXIDERMY PROPERTY.—For purposes of this section, the term 'taxidermy property' means a mounted work of art which contains any part of a dead animal.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after November 15, 2005.

**SEC. 316. RECAPTURE OF TAX BENEFIT FOR CHARITABLE CONTRIBUTIONS OF EXEMPT USE PROPERTY NOT USED FOR AN EXEMPT USE.**

(a) RECAPTURE OF DEDUCTION ON CERTAIN SALES OF EXEMPT USE PROPERTY.—

(1) IN GENERAL.—Clause (i) of section 170(e)(1)(B) (related to certain contributions of ordinary income and capital gain property) is amended to read as follows:

''(i) of tangible personal property—

''(I) if the use by the donee is unrelated to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection (c)), or

''(II) which is applicable property (as defined in paragraph (7)(C)) which is sold, exchanged, or otherwise disposed of by the donee before the last day of the taxable year in which the contribution was made and with respect to which the donee has not made a certification in accordance with paragraph (7)(D),''.

(2) DISPOSITIONS AFTER CLOSE OF TAXABLE YEAR.—Section 170(e) is amended by adding at the end the following new paragraph:

''(7) RECAPTURE OF DEDUCTION ON CERTAIN DISPOSITIONS OF EXEMPT USE PROPERTY.—

''(A) IN GENERAL.—In the case of an applicable disposition of applicable property, there shall be included in the income of the donor of such property for the taxable year of such donor in which the applicable disposition occurs an amount equal to the excess (if any) of—

''(i) the amount of the deduction allowed to the donor under this section with respect to such property, over

''(ii) the donor's basis in such property at the time such property was contributed.

''(B) APPLICABLE DISPOSITION.—For purposes of this paragraph, the term 'applicable disposition' means any sale, exchange, or other disposition by the donee of applicable property—

''(i) after the last day of the taxable year of the donor in which such property was contributed, and

''(ii) before the last day of the 3-year period beginning on the date of the contribution of such property,

unless the donee makes a certification in accordance with subparagraph (D).

''(C) APPLICABLE PROPERTY.—For purposes of this paragraph, the term 'applicable property' means charitable deduction property (as defined in section 6050L(a)(2)(A))—

''(i) which is tangible personal property the use of which is identified by the donee as related to the purpose or function constituting the basis of the donee's exemption under section 501, and

''(ii) for which a deduction in excess of the donor's basis is allowed.

''(D) CERTIFICATION.—A certification meets the requirements of this subparagraph if it is a written statement which is signed under penalty of perjury by an officer of the donee organization and—

''(i) which—

''(I) certifies that the use of the property by the donee was related to the purpose or function constituting the basis for the donee's exemption under section 501, and

''(II) describes how the property was used and how such use furthered such purpose or function, or

''(ii) which—

''(I) states the intended use of the property by the donee at the time of the contribution, and

''(II) certifies that such intended use has become impossible or infeasible to implement.''.

(b) REPORTING REQUIREMENTS.—Paragraph (1) of section 6050L(a) (relating to returns relating to certain dispositions of donated property) is amended—

(1) by striking ''2 years'' and inserting ''3 years'', and

(2) by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting at the end the following:

''(F) a description of the donee's use of the property, and

''(G) a statement indicating whether the use of the property was related to the purpose or function constituting the basis for the donee's exemption under section 501.

''In any case in which the donee indicates that the use of applicable property (as defined in section 170(e)(1)(C)) was related to the purpose or function constituting the basis for the exemption of the donee under section 501 under subparagraph (G), the donee shall include with the return the certification described in section 170(e)(7)(D) if such certification is required under section 170(e)(7).''.

(c) PENALTY.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6720A the following new section:

**''SEC. 6720B. FRAUDULENT IDENTIFICATION OF EXEMPT USE PROPERTY.**

''In addition to any criminal penalty provided by law, any person who identifies applicable property (as defined in section 170(e)(7)(C)) as having a use which is related to a purpose or function constituting the basis for the donee's exemption under section 501 and who knows that such property is not intended for such a use shall pay a penalty of $10,000.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item relating to section 6720A the following new item:

''Sec. 6720B. Fraudulent identification of exempt use property.''.

(d) EFFECTIVE DATE.—

(1) RECAPTURE.—The amendments made by subsection (a) shall apply to contributions after June 1, 2006.

(2) REPORTING.—The amendments made by subsection (b) shall apply to returns filed after June 1, 2006.

(3) PENALTY.—The amendments made by subsection (c) shall apply to identifications made after the date of the enactment of this Act.

**SEC. 317. LIMITATION OF DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF CLOTHING AND HOUSEHOLD ITEMS.**

(a) IN GENERAL.—Subsection (f) of section 170, as amended by section 315 of this Act, is amended by adding at the end the following new paragraph:

''(15) CONTRIBUTIONS OF CLOTHING AND HOUSEHOLD ITEMS.—

''(A) IN GENERAL.—In the case of an individual, partnership, or S corporation, the deduction allowed under subsection (a) for any contribution of clothing or household items with respect to which the donor has obtained a qualified appraisal shall be—

''(i) in the case of an item which is in good used condition or better, no more than the amount assigned to such item under subparagraph (B) for such year,

''(ii) except as provided by clause (iii), in the case of an item which is not in good used condition or better, no more than 20 percent of the amount assigned to such item under subparagraph (B) for such year, and

''(iii) in the case of an item which is not functional with respect to the use for which it was designed, zero.

''(B) ASSIGNED VALUES.—Each year the Secretary shall publish an itemized list of clothing and household items and shall assign an amount with respect to each item on the list which represents the fair market value of such item in good used condition.

''(C) EXCEPTION FOR ITEMS SOLD BY THE DONEE.—Subparagraph (A) shall not apply to any contribution of clothing or household items for which a deduction of more than $500 is claimed if—

''(i) the donee sells the clothing or household items before the earlier of—

''(I) the due date (including extensions) for filing the return of tax for the taxable year of the donor in which the contribution was made, or

''(II) the date on which such return was filed,

''(ii) the donee reports the sales price of the clothing or household items to the donor, and

''(iii) the amount claimed as a deduction with respect to such clothing or household items does not exceed the amount of the sales price reported to the donor.

''(D) HOUSEHOLD ITEMS.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'household items' includes furniture, furnishings, electronics, appliances, linens, and other similar items.

''(ii) EXCLUDED ITEMS.—Such term does not include—

''(I) food,

''(II) paintings, antiques, and other objects of art,

''(III) jewelry and gems, and

''(IV) collections.

''(E) SPECIAL RULE FOR PASS-THRU ENTITIES.—In the case of a partnership or S corporation, this paragraph shall be applied at the entity level, except that the deduction shall be denied at the partner or shareholder level.''.

(b) SUBSTANTIATION.—

(1) ITEMS OF $250 OR MORE.—Subparagraph (B) of section 170(f)(8) is amended by inserting after clause (iii) the following new clause:

''(iv) In the case of a contribution consisting of clothing or household items, the number of items contributed, an indication of the condition of each item, a description of the type of item contributed, and a copy of the list published under paragraph (15)(B) or an instruction on how to obtain such list.''.

(2) ITEMS OF $500 OR MORE.—Subparagraph (B) of section 170(f)(11) is amended by inserting '', the information contained in the acknowledgment required under paragraph (8) in the case of any contribution of clothing or household items,'' after ''a description of such property''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2006.

**SEC. 318. MODIFICATION OF RECORDKEEPING REQUIREMENTS FOR CERTAIN CHARITABLE CONTRIBUTIONS.**

(a) RECORDKEEPING REQUIREMENT.—Subsection (f) of section 170, as amended by section 317 of this Act, is amended by adding at the end the following new paragraph:

''(16) RECORDKEEPING.—No deduction shall be allowed under subsection (a) for any contribution of a cash, check, or other monetary gift unless the donor maintains as a record of such contribution—

''(A) a cancelled check, or

''(B) a receipt or a letter or other written communication from the donee showing the name of the donee organization, the date of the contribution, and the amount of the contribution.''.

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

**SEC. 319. CONTRIBUTIONS OF FRACTIONAL INTERESTS IN TANGIBLE PERSONAL PROPERTY.**

(a) INCOME TAX.—Section 170 (relating to charitable, etc., contributions and gifts), as amended by section 301 of this Act, is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(q) SPECIAL RULES FOR FRACTIONAL GIFTS.—

''(1) VALUATION OF SUBSEQUENT GIFTS.—

''(A) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

''(i) the fair market value of the property at the time of the initial fractional contribution, or

''(ii) the fair market value of the property at the time of the additional contribution.

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means any charitable contribution by the taxpayer of any interest in property with respect to which the

taxpayer has previously made an initial fractional contribution.

''(ii) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any taxpayer, the first charitable contribution of an undivided portion of the taxpayer's entire interest in any tangible personal property.

''(2) RECAPTURE OF DEDUCTION IN CERTAIN CASES.—

''(A) IN GENERAL.—The Secretary shall provide for the recapture of an amount equal to the amount of any deduction allowed under this section (plus interest) with respect to any contribution of an undivided interest of a taxpayer's entire interest in property in any case where such property is not in the physical possession of the donee during any applicable period for a period of time which bears substantially the same ratio to 1 year as—

''(i) the percentage of the undivided interest of the donee in the property (determined on the day after such contribution was made), bears to

''(ii) 100 percent.

''(B) APPLICABLE PERIOD.—For purposes of subparagraph (A), the term 'applicable period' means any 1-year period which begins on—

''(i) in the year of the contribution, the date of the contribution, and

''(ii) in any subsequent calendar year, the date which corresponds to the date described in clause (i).

''(C) ANTI-ABUSE RULES.—The Secretary shall prescribe such regulations as necessary to prevent the avoidance of the purposes of this paragraph through the transfer of any such undivided interest to a third party controlled by the taxpayer.''.

(b) ESTATE TAX.—Section 2055 (relating to transfers for public, charitable, and religious uses) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) VALUATION OF SUBSEQUENT GIFTS.—

''(1) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

''(A) the fair market value of the property at the time of the initial fractional contribution, or

''(B) the fair market value of the property at the time of the additional contribution.

''(2) DEFINITIONS.—For purposes of this paragraph—

''(A) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means a bequest, legacy, devise, or transfer described in subsection (a) of any interest in a property with respect to which the decedent had previously made an initial fractional contribution.

''(B) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any decedent, any charitable contribution of an undivided portion of the decedent's entire interest in any tangible personal property for which a deduction was allowed under section 170.''.

(c) GIFT TAX.—Section 2522 (relating to charitable and similar gifts) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) SPECIAL RULES FOR FRACTIONAL GIFTS.—

''(1) VALUATION OF SUBSEQUENT GIFTS.—

''(A) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

''(i) the fair market value of the property at the time of the initial fractional contribution, or

''(ii) the fair market value of the property at the time of the additional contribution.

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means any gift for which a deduction is allowed under subsection (a) or (b) of any interest in a property with respect to which the donor has previously made an initial fractional contribution.

''(ii) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any donor, the first gift of an undivided portion of the donor's entire interest in any tangible personal property for which a deduction is allowed under subsection (a) or (b).

''(2) RECAPTURE OF DEDUCTION IN CERTAIN CASES.—

''(A) IN GENERAL.—The Secretary shall provide for the recapture of an amount equal to the amount of any deduction allowed under this section (plus interest) with respect to any contribution of an undivided interest of a donor's entire interest in property in any case where such property is not in the physical possession of the donee during any applicable period for a period of time which bears substantially the same ratio to 1 year as—

''(i) the percentage of the undivided interest of the donee in the property (determined on the day after such contribution was made), bears to

''(ii) 100 percent.

''(B) APPLICABLE PERIOD.—For purposes of subparagraph (A), the term 'applicable period' means any 1-year period which begins on—

''(i) in the year of the contribution, the date of the contribution, and

''(ii) in any subsequent calendar year, the date which corresponds to the date described in clause (i).

''(C) ANTI-ABUSE RULES.—The Secretary shall prescribe such regulations as necessary to prevent the avoidance of the purposes of this paragraph though the transfer of any such undivided interest to a third party controlled by the donor.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions, bequests, and gifts made after the date of the enactment of this Act.

**SEC. 320. PROVISIONS RELATING TO SUBSTANTIAL AND GROSS OVERSTATEMENTS OF VALUATIONS OF CHARITABLE DEDUCTION PROPERTY.**

(a) SUBSTANTIAL AND GROSS OVERSTATEMENTS OF VALUATIONS OF CHARITABLE DEDUCTION PROPERTY.—

(1) IN GENERAL.—Section 6662 (relating to imposition of accuracy-related penalties) is amended by adding at the end the following new subsection:

''(i) SPECIAL RULES FOR CHARITABLE DEDUCTION PROPERTY.—In the case of charitable deduction property (as defined in section 6664(c)(3)(A))—

''(1) the determination under subsection (e)(1)(A) as to whether there is a substantial valuation misstatement under chapter 1 with respect to the value of the property shall be made by substituting '150 percent' for '200 percent', and

''(2) the determination under subsection (h)(2)(A)(i) as to whether there is a gross valuation misstatement with respect to the value of the property shall be made by substituting '200 percent' for '400 percent' and by substituting '150 percent' for '200 percent' in applying subsection (e)(1)(A) for purposes of such determination.''.

(2) ELIMINATION OF REASONABLE CAUSE EXCEPTION FOR GROSS MISSTATEMENTS.—Section 6664(c)(2) (relating to reasonable cause exception for underpayments) is amended by striking ''paragraph (1) shall not apply unless'' and inserting ''paragraph (1) shall not apply. The preceding sentence shall not apply to a substantial valuation overstatement under chapter 1 if''.

(b) PENALTY ON APPRAISERS WHOSE APPRAISALS RESULT IN SUBSTANTIAL OR GROSS VALUATION MISSTATEMENTS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6695 the following new section:

**''SEC. 6695A. SUBSTANTIAL AND GROSS VALUATION MISSTATEMENTS ATTRIBUTABLE TO INCORRECT APPRAISALS.**

''(a) IMPOSITION OF PENALTY.—If—

''(1) a person prepares an appraisal of the value of property and such person knows, or reasonably should have known, that the appraisal would be used in connection with a return or a claim for refund, and

''(2) the claimed value of the property on a return or claim for refund which is based on such appraisal results in a substantial valuation misstatement under chapter 1 (within the meaning of section 6662(e)), or a gross valuation misstatement (within the meaning of section 6662(h)), with respect to such property,

then such person shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—The amount of the penalty imposed under subsection (a) on any person with respect to an appraisal shall be equal to the lesser of—

''(1) the greater of—

''(A) 10 percent of the amount of the underpayment (as defined in section 6664(a)) attributable to the misstatement described in subsection (a)(2), or

''(B) $1,000, or

''(2) 125 percent of the gross income received by the person described in subsection (a)(1) from the preparation of the appraisal.

''(c) EXCEPTION.—No penalty shall be imposed under subsection (a) if the person establishes to the satisfaction of the Secretary that the value established in the appraisal was more likely than not the proper value.''.

(2) RULES APPLICABLE TO PENALTY.—Section 6696 (relating to rules applicable with respect to sections 6694 and 6695) is amended—

(A) by striking ''6694 and 6695'' each place it appears in the text and heading and inserting ''6694, 6695, and 6695A'', and

(B) by striking ''6694 or 6695'' each place it appears in the text and inserting ''6694, 6695, or 6695A''.

(3) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6696 and inserting the following new items:

''Sec. 6695A. Substantial and gross valuation misstatements attributable to incorrect appraisals.

''Sec. 6696. Rules applicable with respect to sections 6694, 6695, and 6695A.''.

(c) QUALIFIED APPRAISERS AND APPRAISALS.—

(1) IN GENERAL.—Subparagraph (E) of section 170(f)(11) is amended to read as follows:

''(E) QUALIFIED APPRAISAL AND APPRAISER.—For purposes of this paragraph—

''(i) QUALIFIED APPRAISAL.—The term 'qualified appraisal' means, with respect to any property, an appraisal of such property which—

''(I) is treated for purposes of this paragraph as a qualified appraisal under regulations or other guidance prescribed by the Secretary, and

''(II) is conducted by a qualified appraiser in accordance with generally accepted appraisal standards and any regulations or other guidance prescribed under subclause (I).

''(ii) QUALIFIED APPRAISER.—Except as provided in clause (iii), the term 'qualified appraiser' means an individual who—

''(I) has earned an appraisal designation from a recognized professional appraiser organization or has otherwise met minimum education and experience requirements set forth in regulations prescribed by the Secretary,

''(II) regularly performs appraisals for which the individual receives compensation, and

''(III) meets such other requirements as may be prescribed by the Secretary in regulations or other guidance.

''(iii) SPECIFIC APPRAISALS.—An individual shall not be treated as a qualified appraiser with respect to any specific appraisal unless—

''(I) the individual demonstrates verifiable education and experience in valuing the type of property subject to the appraisal, and

''(II) the individual has not been prohibited from practicing before the Internal Revenue Service by the Secretary under section 330(c) of title 31, United States Code, at any time during the 3-year period ending on the date of the appraisal.''.

(2) REASONABLE CAUSE EXCEPTION.—Subparagraphs (B) and (C) of section 6664(c)(3) are amended to read as follows:

''(B) QUALIFIED APPRAISAL.—The term 'qualified appraisal' has the meaning given such term by section 170(f)(11)(E)(i).

''(C) QUALIFIED APPRAISER.—The term 'qualified appraiser' has the meaning given such term by section 170(f)(11)(E)(ii).''.

(d) DISCIPLINARY ACTIONS AGAINST APPRAISERS.—Section 330(c) of title 31, United States Code, is amended by striking ''with respect to whom a penalty has been assessed under section 6701(a) of the Internal Revenue Code of 1986''.

(e) EFFECTIVE DATES.—

(1) MISSTATEMENT PENALTIES.—Except as provided in paragraph (3), the amendments made by subsection (a) shall apply to returns filed after the date of the enactment of this Act.

(2) APPRAISER PROVISIONS.—Except as provided in paragraph (3), the amendments made by subsections (b), (c), and (d) shall apply to appraisals prepared with respect to returns or submissions filed after the date of the enactment of this Act.

(3) SPECIAL RULE FOR CERTAIN EASEMENTS.—In the case of a contribution of a qualified real property interest which is a restriction with respect to the exterior of a building described in section 170(h)(4)(C)(ii) of the Internal Revenue Code of 1986, and an appraisal with respect to the contribution, the amendments made by subsections (a) and (b) shall apply to returns filed after December 16, 2004.

**SEC. 321. ADDITIONAL STANDARDS FOR CREDIT COUNSELING ORGANIZATIONS.**

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

''(q) SPECIAL RULES FOR CREDIT COUNSELING ORGANIZATIONS.—

''(1) IN GENERAL.—An organization with respect to which the provision of credit counseling services is a substantial purpose shall not be exempt from tax under subsection (a) unless such organization is described in paragraph (3) or (4) of subsection (c) and such organization is organized and operated in accordance with the following requirements:

''(A) The organization—

''(i) provides credit counseling services tailored to the specific needs and circumstances of consumers,

''(ii) makes no loans to debtors and does not negotiate the making of loans on behalf of debtors, and

''(iii) does not promote, or charge any separate fee for, any service for the purpose of improving any consumer's credit record, credit history, or credit rating.

''(B) The organization does not refuse to provide credit counseling services to a consumer due to the inability of the consumer to pay, the ineligibility of the consumer for debt management plan enrollment, or the unwillingness of the consumer to enroll in a debt management plan.

''(C) The organization establishes and implements a fee policy which—

''(i) requires that any fees charged to a consumer for services are reasonable, and

''(ii) prohibits charging any fee based in whole or in part on a percentage of the consumer's debt, the consumer's payments to be made pursuant to a debt management plan, or the projected or actual savings to the consumer resulting from enrolling in a debt management plan.

''(D) At all times the organization has a board of directors or other governing body—

''(i) which is controlled by persons who represent the broad interests of the public, such as public officials acting in their capacities as such, persons having special knowledge or expertise in credit or financial education, and community leaders,

''(ii) not more than 20 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees or the repayment of consumer debt to creditors other than the credit counseling organization or its affiliates), and

''(iii) not more than 49 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees).

''(E) The organization does not own more than 35 percent of—

''(i) the total combined voting power of a corporation which is in the business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services,

''(ii) the profits interest of a partnership which is in the business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services, and

''(iii) the beneficial interest of a trust or estate which is in the business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services.

''(F) The organization receives no amount for providing referrals to others for financial services (including debt management services) or credit counseling services to be provided to consumers, and pays no amount to others for obtaining referrals of consumers.

''(2) REQUIREMENTS UNDER SUBSECTION (c)(3).—In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (3) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization is organized and operated in accordance with the following requirements:

''(A) The organization—

''(i) charges no fees (other than nominal fees) for debt management plan services or credit counseling services and waives any fees if the consumer is unable to pay such fees, and

''(ii) does not solicit contributions from consumers during the initial counseling process or while the consumer is receiving services from the organization.

''(B) The activities of the organization related to debt management plan services (in the aggregate) do not exceed 25 percent of the total activities of the organization activities measured by any of the following:

''(i) The time spent on activities.

''(ii) The resources dedicated to activities.

''(iii) The effort expended by the organization with respect to activities.

''(iv) The sources of revenue of the organization.

''(v) Any other measures prescribed by the Secretary.

''(3) REQUIREMENTS UNDER SUBSECTION (c)(4).—In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (4) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization—

''(A) is organized and operated such that it charges no fees (other than nominal fees) for credit counseling services and waives any fees if the consumer is unable to pay such fees, and

''(B) notifies the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition as a credit counseling organization.

''(4) SECRETARIAL AUTHORITY.—The Secretary may require any organization described in paragraph (1) to submit such information as the Secretary requires to verify that such organization meets the requirements of this section.

''(5) CREDIT COUNSELING SERVICES; DEBT MANAGEMENT PLAN SERVICES.—For purposes of this subsection—

''(A) CREDIT COUNSELING SERVICES.—The term 'credit counseling services' means—

''(i) the providing of educational information to the general public on budgeting, personal finance, financial literacy, saving and spending practices, and the sound use of consumer credit,

''(ii) the assisting of individuals and families with financial problems by providing them with counseling, or

''(iii) a combination of the activities described in clauses (i) and (ii).

''(B) DEBT MANAGEMENT PLAN SERVICES.—The term 'debt management plan services' means services related to the repayment, consolidation, or restructuring of a consumer's debt, and includes the negotiation with creditors of lower interest rates, the waiver or reduction of fees, and the marketing and processing of debt management plans.''.

(b) DEBT MANAGEMENT PLAN SERVICES TREATED AS AN UNRELATED BUSINESS.—Section 513 (relating to unrelated trade or business) is amended by adding at the end the following:

''(j) DEBT MANAGEMENT PLAN SERVICES.—The term 'unrelated trade or business' includes—

''(1) the provision of debt management plan services (as defined in section 501(q)(4)(B)) by an organization described in section 501(q) to the extent such services are not substantially related to the provision of credit counseling services (as defined in section 501(q)(4)(A)) to a consumer, and

''(2) the provision of debt management plan services (as so defined) by any organization other than an organization which meets the requirements of section 501(q).''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this

section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) TRANSITION RULE FOR EXISTING ORGANIZATIONS.—In the case of any organization described in paragraph (3) or (4) section 501(c) of the Internal Revenue Code of 1986 and with respect to which the provision of credit counseling services is a substantial purpose on the date of the enactment of this Act, the amendments made by this section shall apply to taxable years beginning after the date which is 1 year after the date of the enactment of this Act.

**SEC. 322. EXPANSION OF THE BASE OF TAX ON PRIVATE FOUNDATION NET INVESTMENT INCOME.**

(a) GROSS INVESTMENT INCOME.—

(1) IN GENERAL.—Paragraph (2) of section 4940(c) (relating to gross investment income) is amended by adding at the end the following new sentence: ''Such term shall also include income from sources similar to those in the preceding sentence.''.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 509 (relating to gross investment income) is amended by adding at the end the following new sentence: ''Such term shall also include income from sources similar to those in the preceding sentence.''.

(b) CAPITAL GAIN NET INCOME.—Paragraph (4) of section 4940(c) (relating to capital gains and losses) is amended—

(1) in subparagraph (A), by striking ''used for the production of interest, dividends, rents, and royalties'' and inserting ''used for the production of gross investment income (as defined in paragraph (2))'', and

(2) in subparagraph (C), by inserting ''or carrybacks'' after ''carryovers''.

(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. 323. DEFINITION OF CONVENTION OR ASSOCIATION OF CHURCHES.**

Section 7701 (relating to definitions) is amended by redesignating subsection(o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) CONVENTION OR ASSOCIATION OF CHURCHES.—For purposes of this title, any organization which is otherwise a convention or association of churches shall not fail to so qualify merely because the membership of such organization includes individuals as well as churches or because individuals have voting rights in such organization.''.

**SEC. 324. NOTIFICATION REQUIREMENT FOR ENTITIES NOT CURRENTLY REQUIRED TO FILE.**

(a) IN GENERAL.—Section 6033 (relating to returns by exempt organizations), as amended by section 346 of this Act, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) ADDITIONAL NOTIFICATION REQUIREMENTS.—Any organization the gross receipts of which in any taxable year result in such organization being referred to in subsection (a)(3)(A)(ii) or (a)(3)(B)—

''(1) shall furnish annually, at such time and in such manner as the Secretary may by forms or regulations prescribe, information setting forth—

''(A) the legal name of the organization,

''(B) any name under which such organization operates or does business,

''(C) the organization's mailing address and Internet web site address (if any),

''(D) the organization's taxpayer identification number,

''(E) the name and address of a principal officer, and

''(F) evidence of the continuing basis for the organization's exemption from the filing requirements under subsection (a)(1), and

''(2) upon the termination of the existence of the organization, shall furnish notice of such termination.''.

(b) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—Section 6033 (relating to returns by exempt organizations), as amended by subsection (a), is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—

''(1) IN GENERAL.—If an organization described in subsection (a)(1) or (i) fails to file an annual return or notice required under either subsection for 3 consecutive years, such organization's status as an organization exempt from tax under section 501(a) shall be considered revoked on and after the date set by the Secretary for the filing of the third annual return or notice. The Secretary shall publish and maintain a list of any organization the status of which is so revoked.

''(2) APPLICATION NECESSARY FOR REINSTATEMENT.—Any organization the tax-exempt status of which is revoked under paragraph (1) must apply in order to obtain reinstatement of such status regardless of whether such organization was originally required to make such an application.

''(3) RETROACTIVE REINSTATEMENT IF REASONABLE CAUSE SHOWN FOR FAILURE.—If upon application for reinstatement of status as an organization exempt from tax under section 501(a), an organization described in paragraph (1) can show to the satisfaction of the Secretary evidence of reasonable cause for the failure described in such paragraph, the organization's exempt status may, in the discretion of the Secretary, be reinstated effective from the date of the revocation under such paragraph.''.

(c) NO DECLARATORY JUDGMENT RELIEF.—Section 7428(b) (relating to limitations) is amended by adding at the end the following new paragraph:

''(4) NONAPPLICATION FOR CERTAIN REVOCATIONS.—No action may be brought under this section with respect to any revocation of status described in section 6033(k)(1).''.

(d) NO INSPECTION REQUIREMENT.—Section 6104(b) (relating to inspection of annual information returns) is amended by inserting ''(other than subsection (j) thereof)'' after ''6033''.

(e) NO DISCLOSURE REQUIREMENT.—Section 6104(d)(3) (relating to exceptions from disclosure requirements) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) NONDISCLOSURE OF ANNUAL NOTICES.—Paragraph (1) shall not require the disclosure of any notice required under section 6033(j).''.

(f) NO MONETARY PENALTY FOR FAILURE TO NOTIFY.—Section 6652(c)(1) (relating to annual returns under section 6033 or 6012(a)(6)) is amended by adding at the end the following new subparagraph:

''(E) NO PENALTY FOR CERTAIN ANNUAL NOTICES.—This paragraph shall not apply with respect to any notice required under section 6033(j).''.

(g) SECRETARIAL OUTREACH REQUIREMENTS.—

(1) NOTICE REQUIREMENT.—The Secretary of the Treasury shall notify in a timely manner every organization described in section 6033(j) of the Internal Revenue Code of 1986 (as added by this section) of the requirement under such section 6033(j) and of the penalty established under section 6033(k)—

(A) by mail, in the case of any organization the identity and address of which is included in the list of exempt organizations maintained by the Secretary, and

(B) by Internet or other means of outreach, in the case of any other organization.

(2) LOSS OF STATUS PENALTY FOR FAILURE TO FILE RETURN.—The Secretary of the Treasury shall publicize in a timely manner in appropriate forms and instructions and through other appropriate means, the penalty established under section 6033(k) of such Code for the failure to file a return under section 6033(a)(1) of such Code.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to notices and returns with respect to annual periods beginning after 2005.

**SEC. 325. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO EXEMPT ORGANIZATIONS.**

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) DISCLOSURE OF PROPOSED ACTIONS RELATED TO CHARITABLE ORGANIZATIONS.—

''(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

''(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

''(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

''(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

''(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

''(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

''(i) upon written request by an appropriate State officer, and

''(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

''(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of Federal or State issues relating to the tax-exempt status of such organization.

''(3) DISCLOSURE WITH RESPECT TO CERTAIN OTHER EXEMPT ORGANIZATIONS.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of an organization described in paragraph (2), (4), (6), (7), (8), (10), or (13) of section 501(c) for the purpose of, and to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may be inspected only by or disclosed only to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

''(4) USE IN CIVIL JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

''(5) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

''(6) DEFINITIONS.—For purposes of this subsection—

''(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

''(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

''(i) the State attorney general,

''(ii) the State tax officer,

''(iii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

''(iv) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6103(p)(3) is amended by inserting ''an section 6104(c)'' after ''section'' in the first sentence.

(2) Paragraph (4) of section 6103(p) is amended—

(A) in the matter preceding subparagraph (A), by inserting '', or any appropriate State officer (as defined in section 6104(c)),'' before ''or any other person'',

(B) in subparagraph (F)(i), by inserting ''or any appropriate State officer (as defined in section 6104(c)),'' before ''or any other person'', and

(C) in the matter following subparagraph (F), by inserting '', an appropriate State officer (as defined in section 6104(c)),'' after ''including an agency'' each place it appear.

(3) The heading for paragraph (1) of section 6104(c) is amended by inserting ''FOR CHARITABLE ORGANIZATIONS'' after ''RULE''.

(4) Paragraph (2) of section 7213(a) is amended by inserting ''or under section 6104(c)'' after ''6103''.

(5) Paragraph (2) of section 7213A(a) is amended by inserting ''or 6104(c)'' after ''6103''.

(6) Paragraph (2) of section 7431(a) is amended by inserting ''(including any disclosure in violation of section 6014(c)'' after ''6103''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

## PART II—IMPROVED ACCOUNTABILITY OF DONOR ADVISED FUNDS

### SEC. 331. EXCISE TAX ON SPONSORING ORGANIZATIONS OF DONOR ADVISED FUNDS FOR FAILURE TO MEET DISTRIBUTION REQUIREMENTS.

(a) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations), as amended by section 311, is amended by adding at the end the following new subchapter:

**''Subchapter G—Donor Advised Funds**



**''SEC. 4967. TAXES ON SPONSORING ORGANIZATIONS OF DONOR ADVISED FUNDS FOR FAILURE TO MEET DISTRIBUTION REQUIREMENTS.**

''(a) INITIAL TAX.—There is hereby imposed on any sponsoring organization a tax equal to 30 percent of each of the following amounts:

''(1) The organization level undistributed amount of such sponsoring organization (other than any organization subject to tax under section 4942) for any taxable year which has not been distributed before the first day of the second (or any succeeding) taxable year following such taxable year (if such first day falls within the taxable period).

''(2) The fund level undistributed amount of any donor advised fund of such sponsoring organization for any taxable year which has not been distributed before the 181st day of the first (or any succeeding) taxable year following the applicable period (if such 181st day falls within the taxable period).

''(3) The illiquid fund undistributed amount of any illiquid asset donor advised fund of such sponsoring organization for any taxable year which has not been distributed before the 181st day of the second (or any succeeding) taxable year following such taxable year (if such 181st day falls within the taxable period).

''(b) ADDITIONAL TAX.—In any case in which an initial tax is imposed under subsection (a) on any amount, if any portion of such amount remains undistributed at the close of the taxable period, there is hereby imposed a tax equal to 100 percent of the amount remaining undistributed at such time.

''(c) ORGANIZATION LEVEL UNDISTRIBUTED AMOUNT; FUND LEVEL UNDISTRIBUTED AMOUNT; ILLIQUID FUND UNDISTRIBUTED AMOUNT.—For purposes of this section—

''(1) ORGANIZATION LEVEL UNDISTRIBUTED AMOUNT.—The term 'organization level undistributed amount' means, with respect to any sponsoring organization for any taxable year, the amount by which—

''(A) the organization level distributable amount for such taxable year, exceeds

''(B) the qualifying distributions made during such taxable year and designated for the purpose of reducing such amount.

''(2) FUND LEVEL UNDISTRIBUTED AMOUNT.—The term 'fund level undistributed amount' means, with respect to any donor advised fund of a sponsoring organization for any applicable period, the amount by which—

''(A) the fund level distributable amount for such applicable period, exceeds

''(B) the qualifying distributions made during such applicable period and designated for the purpose of reducing such amount.

''(3) ILLIQUID FUND UNDISTRIBUTED AMOUNT.—

''(A) IN GENERAL.—The term 'illiquid fund undistributed amount' means, with respect to any illiquid asset donor advised fund of a sponsoring organization for any taxable year, the amount by which—

''(i) the illiquid fund distributable amount for such taxable year, exceeds

''(ii) the qualifying distributions made during such taxable year and designated for the purpose of reducing such amount.

''(B) ILLIQUID ASSET DONOR ADVISED FUND.—The term 'illiquid asset donor advised fund' means for any taxable year a donor advised fund the value of the illiquid assets of which (as of the end of the preceding taxable year) exceeds 10 percent of the value of the total assets of such fund.

''(C) ILLIQUID ASSET.—The term 'illiquid asset' means for any taxable year any asset other than cash and marketable securities the value of which is held for the entire taxable year as such asset or any other illiquid asset.

''(d) ORGANIZATION LEVEL DISTRIBUTABLE AMOUNT; FUND LEVEL DISTRIBUTABLE AMOUNT; ILLIQUID FUND DISTRIBUTABLE AMOUNT.—For purposes of this section—

''(1) ORGANIZATION LEVEL DISTRIBUTABLE AMOUNT.—The term 'organization level distributable amount' means, with respect to any sponsoring organization for any taxable year, an amount equal to the applicable percentage of the fair market value of the aggregate assets of all donor advised funds maintained by such organization as determined on the last day of the preceding taxable year (other than such funds which have been in existence for less than 1 year as so determined).

''(2) FUND LEVEL DISTRIBUTABLE AMOUNT.—The term 'fund level distributable amount' means, with respect to any donor advised fund of any sponsoring organization for any applicable 3-consecutive taxable year period, an amount equal to the greater of—

''(A) $250, or

''(B) 2.5 percent of the greater of—

''(i) the average of the sponsoring organization's required minimum initial contribution amount for such period, or

''(ii) the average of the sponsoring organization's required minimum balance for such period,

for the type of donor with respect to such donor advised fund.

''(3) ILLIQUID FUND DISTRIBUTABLE AMOUNT.—The term 'illiquid fund distributable amount' means, with respect to any illiquid asset donor advised fund of any sponsoring organization for any taxable year, an amount equal to the applicable percentage of the value of the assets in such fund as determined at the end of the preceding taxable year.

''(4) APPLICABLE PERCENTAGE.—For purposes of paragraphs (1) and (3), the applicable percentage is—

''(A) 3 percent for the first taxable year beginning after the date of the enactment of this section,

''(B) 4 percent for the second taxable year beginning after such date, and

''(C) 5 percent for any taxable year beginning after the second taxable year beginning after such date.

''(e) QUALIFYING DISTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying distribution' means—

''(A) any amount paid by the sponsoring organization from a donor advised fund—

''(i) to any organization described in section 170(b)(1)(A) (other than any organization described in section 509(a)(3)) or any sponsoring organization if such amount is for maintenance in a donor advised fund), and

''(ii) notwithstanding clause (i), to any organization described section 170(f)(17)(B)(ii), but only to the extent not prohibited by regulations, and

''(B) any amount set aside in such donor advised fund for purposes, and under procedures similar to those, described in section 4942(g)(2).

Such term shall also include any amount paid during any taxable year for reasonable and necessary administrative expenses charged to a donor advised fund by a sponsoring organization.

''(2) DISTRIBUTIONS TO SPONSORING ORGANIZATIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), such term shall include

any distribution to a sponsoring organization.

''(B) ORGANIZATION LEVEL DISTRIBUTIONS.—For purposes of subsection (c)(1)(B), such term shall not include any distribution to a sponsoring organization unless such distribution is designated for use in connection with a charitable program of such organization.

''(3) PURPOSE OF DISTRIBUTION.—Each qualifying distribution shall be taken into account in determining whether each of the requirements of paragraphs (1), (2), and (3) of subsection (a) are met, except that only qualifying distributions from a donor advised fund shall be taken into account in determining whether the requirements of paragraphs (2) and (3) of subsection (a) are met with respect to the fund.

''(4) DESIGNATION OF TAXABLE YEAR.—

''(A) IN GENERAL.—A sponsoring organization shall designate the taxable years or applicable periods with respect to which any qualifying distribution shall be applied for purposes of satisfying the distribution requirements of such taxable year or applicable period.

''(B) CARRYOVER OF EXCESS DISTRIBUTION DESIGNATIONS.—If a sponsoring organization designates an amount of qualifying distributions in excess of the amount necessary to meet the distribution requirements for all taxable years and all applicable periods, the sponsoring organization may designate such excess as a carryover distribution which may be applied for purposes of satisfying the distribution requirements of the succeeding 5 taxable years.

''(f) VALUATION RULES.—For purposes of determining the value of any asset held by a donor advised fund, the following rules shall apply:

''(1) Securities for which market quotations are readily available shall be valued at fair market value determined on a monthly basis.

''(2) Cash shall be determined on an average monthly basis.

''(3) Any illiquid asset transferred by a donor to a sponsoring organization for maintenance in such donor advised fund shall be valued in an amount equal to the sum of—

''(A) the value of such asset claimed by the donor for purposes of determining the donor's deduction under section 170, 2055, or 2522 with respect to such transfer and reported by the donor to the sponsoring organization (in any manner specified by the Secretary), and

''(B) an assumed annual rate of return of 5 percent of such value.

''(4) Any illiquid asset purchased by such fund shall be valued in an amount equal to—

''(A) the purchase price paid for such asset by such fund, and

''(B) an assumed annual rate of return of 5 percent of such value.

''(g) SPONSORING ORGANIZATION; DONOR ADVISED FUND.—For purposes of this subchapter—

''(1) SPONSORING ORGANIZATION.—The term 'sponsoring organization' means any organization which—

''(A) is described in section 170(c) (other than in paragraph (1) thereof, and without regard to paragraph (2)(A) thereof), and

''(B) maintains 1 or more donor advised funds.

''(2) DONOR ADVISED FUND.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'donor advised fund' means a fund or account—

''(i) which is separately identified by reference to contributions of a donor or donors,

''(ii) which is owned and controlled by a sponsoring organization, and

''(iii) with respect to which a donor or any person appointed or designated by such person) has, or reasonably expects to have, advisory privileges with respect to the distribution or investment of amounts held in such fund or account by reason of the donor's status as a donor.

''(B) EXCEPTION.—The term 'donor advised fund' shall not include any fund or account with respect to which a person described in subparagraph (A)(iii) advises as to which individuals receive grants for travel, study, or other similar purposes, but only if—

''(i) such person's advisory privileges are performed exclusively by such person in the person's capacity as a member of a committee appointed by the sponsoring organization,

''(ii) no combination of persons described in subparagraph (A)(iii) (or persons related to such persons) control, directly or indirectly, such committee, and

''(iii) all grants from such fund or account satisfy requirements similar to those described in section 4945(g) (concerning grants to individuals by private foundations).

''(C) SECRETARIAL AUTHORITY.—The Secretary may exempt a fund or account from treatment as a donor advised fund which—

''(i) is advised by committee not directly or indirectly controlled by the donor or advisor (and any related parties), or

''(ii) will benefit a single identified organization or governmental entity or a single identified charitable purpose.

''(h) OTHER DEFINITIONS.—For purposes of this section—

''(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to the undistributed amount for any taxable year, the period beginning with the first day of the taxable year and ending on the earlier of—

''(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212, or

''(B) the date on which the tax imposed by subsection (a) is assessed.

''(2) APPLICABLE PERIOD.—The term 'applicable period' means, with respect to any donor advised fund of any sponsoring organization, a 3-consecutive taxable year period determined under the following rules:

''(A) The first applicable 3-consecutive taxable year period for any donor advised fund shall begin on the first day of the first taxable year of the sponsoring organization beginning after the date such fund has been in existence for 1 year.

''(B) Any applicable 3-consecutive taxable year period after the first such period shall begin on the day after the termination of any preceding applicable 3-consecutive taxable year period with respect to such donor advised fund.

''(i) REGULATIONS.—The Secretary may issue such regulations as are necessary to carry out the purposes of this section, including regulations regarding—

''(1) the acceptable methods for calculating the organization level undistributed amount for sponsoring organizations,

''(2) the allowable adjustments in the determination of the value of any illiquid asset where the asset value has declined significantly after a contribution to, or purchase by, the donor advised fund, and

''(3) the treatment or disregard of transactions designed to avoid the application of the illiquid asset rules, such as through exchanges of illiquid assets for other assets.

**''SEC. 4968. TAXES ON PROHIBITED DISTRIBUTIONS.**

''(a) IMPOSITION OF TAXES.—

''(1) ON THE DONOR OR DONOR ADVISOR.—There is hereby imposed on the advice of any person described in section 4967(g)(2)(A)(iii) to have a sponsoring organization of a donor advised fund make a taxable distribution from such fund a tax equal to 20 percent of the amount thereof. The tax imposed by this paragraph shall be paid by such person who advised the sponsoring organization of the donor advised fund to make the distribution.

''(2) ON THE FUND MANAGEMENT.—There is hereby imposed on the agreement of any fund manager to the making of a distribution, knowing that it is a taxable distribution, a tax equal to 5 percent of the amount thereof, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any fund manager who agreed to the making of the distribution.

''(b) JOINT AND SEVERAL LIABILITY.—For purposes of subsection (a), if more than one person is liable under subsection (a)(1) or (a)(2) with respect to the making of a taxable distribution, all such persons shall be jointly and severally liable under such paragraph with respect to such distribution.

''(c) TAXABLE DISTRIBUTION.—For purposes of this subsection—

''(1) IN GENERAL.—The term 'taxable distribution' means any distribution from a donor advised fund to any person other than the sponsoring organization's non donor advised funds or accounts or organizations described in section 170(b)(1)(A) (other than any organization described in section 509(a)(3) or any sponsoring organization if such amount is for maintenance in a donor advised fund).

''(2) EXCEPTION.—Notwithstanding paragraph (1), such term shall not include any distribution from a donor advised fund to any organization described section 170(f)(17)(B)(ii) to the extent such distribution is not prohibited under regulations.

''(d) FUND MANAGER.—For purposes of this subchapter, the term 'fund manager' means, with respect to any sponsoring organization of a donor advised fund—

''(1) an officer, director, or trustee of such sponsoring organization (or an individual having powers or responsibilities similar to those of officers, directors, or trustees of the sponsoring organization), and

''(2) with respect to any act (or failure to act), the employees of the sponsoring organization having authority or responsibility with respect to such act (or failure to act).

**''SEC. 4969. TAXES ON PROHIBITED BENEFITS.**

''(a) IMPOSITION OF TAXES.—

''(1) ON THE DONOR, DONOR ADVISOR, OR RELATED PERSON.—There is hereby imposed on the advice of any person described in subsection (c) to have a sponsoring organization of a donor advised fund make a distribution from such fund which results in such a person receiving, directly or indirectly, a more than incidental benefit as a result of such distribution, a tax equal to 25 percent of the amount of such distribution. The tax imposed by this paragraph shall be paid by such person who advised the sponsoring organization of the donor advised fund to make the distribution.

''(2) ON THE RECIPIENT OF THE BENEFIT.—There is hereby imposed on any person described in subsection (c) who receives a benefit described in paragraph (1), a tax equal to 25 percent of the amount of the distribution described in paragraph (1).

''(3) ON THE FUND MANAGEMENT.—There is hereby imposed on the agreement of any fund manager to the making of a distribution, knowing that such distribution would confer a benefit described in paragraph (1), a tax equal to 10 percent of the amount of such distribution, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any fund manager who agreed to the making of the distribution.

''(b) JOINT AND SEVERAL LIABILITY.—For purposes of subsection (a), if more than one person is liable under subsection (a)(1), (a)(2), or (a)(3) with respect to the making of a distribution described in subsection (a), all such

persons shall be jointly and severally liable under such paragraph with respect to such distribution.

''(c) DONOR, DONOR ADVISOR, OR RELATED PERSON.—A person is described in this subsection if such person is described in section 4958(f)(1)(D) (determined without regard to any investment advisor).''.

(b) ABATEMENT OF TAXES ALLOWED.—Section 4963 is amended—

(1) by inserting ''4967, 4968, 4969,'' after ''4958,'' each place it appears in subsections (a) and (c),

(2) by inserting ''4967,'' after ''4958,'' in subsection (b),

(3) in subsection (d)(2), by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) in the case of the second tier tax imposed by section 4967(b), reducing the amount of the undistributed amount to zero.'', and

(4) in subsection (e)(2), by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (B) the following new subparagraphs:

''(C) in the case of section 4967(a)(1), on the first day of the taxable year for which there was a failure to distribute,

''(D) in the case of paragraph (2) or (3) of section 4967(a), on the 181st day of the taxable year for which there was a failure to distribute,''.

(c) CONFORMING AMENDMENT.—The table of subchapters of chapter 42 is amended by adding at the end the following new item:

''SUBCHAPTER G. DONOR ADVISED FUNDS.''.

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

**SEC. 332. PROHIBITED TRANSACTIONS.**

(a) DISQUALIFIED PERSONS.—

(1) IN GENERAL.—Paragraph (1) of section 4958(f) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding after subparagraph (C) the following new subparagraph:

''(D) any person who is described in paragraph (7) with respect to any sponsoring organization (as defined in section 4967(g)(1)).''.

(2) DONORS, DONOR ADVISORS, AND INVESTMENT ADVISORS TREATED AS DISQUALIFIED PERSONS.—Section 4958(f) is amended by adding at the end the following new paragraph:

''(7) DONORS, DONOR ADVISORS, AND INVESTMENT ADVISORS WITH RESPECT TO SPONSORING ORGANIZATIONS.—For purposes of paragraph (1)(D)—

''(A) IN GENERAL.—A person is described in this paragraph if such person—

''(i) is described in section 4967(g)(2)(A)(iii),

''(ii) is an investment advisor,

''(iii) is a member of the family of an individual described in clause (i) or (ii), or

''(iv) is a 35-percent controlled entity (as defined in paragraph (3) by substituting 'persons described in clause (i), (ii), or (iii) of paragraph (7)(A)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

''(B) INVESTMENT ADVISOR.—The term 'investment advisor' means, with respect to any sponsoring organization (as defined in section 4967(g)(1)), any person (other than an employee of such organization) compensated by such organization for managing the investment of, or providing investment advice with respect to, assets maintained in donor advised funds (as defined in section 4967(g)(2)) owned by such organization.''.

(3) DONORS, DONOR ADVISORS, AND INVESTMENT ADVISORS TREATED AS DISQUALIFIED PERSONS WITH RESPECT TO A SPONSORING ORGANIZATION WHICH IS A PRIVATE FOUNDATION.—Section 4946(a)(1) is amended by striking ''and'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', and'', and by adding at the end the following new subparagraph:

''(J) a person described in section 4958(f)(1)(D).''.

(b) CERTAIN TRANSACTIONS TREATED AS EXCESS BENEFIT TRANSACTIONS.—

(1) IN GENERAL.—Section 4958(c) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) SPECIAL RULES FOR DONOR ADVISED FUNDS OWNED BY SPONSORING ORGANIZATIONS.—In the case of any donor advised fund (as defined in section 4967(g)(2)) of a sponsoring organization (as defined in section 4967(g)(1))—

''(A) the term 'excess benefit transaction' includes any grant, loan, compensation, or other payment from such fund to a person described in subsection (f)(1)(D) (determined without regard to any investment advisor) with respect to such fund, and

''(B) the term 'excess benefit' includes, with respect to any transaction described in subparagraph (A), the amount of any such grant, loan, compensation, or other payment.

''Notwithstanding the last sentence of subsection (e), a sponsoring organization shall be treated as an applicable tax-exempt organization to the extent necessary to carry out this paragraph.''.

(2) SPECIAL RULE FOR CORRECTION OF TRANSACTION.—Section 4958(f)(6) is amended by inserting '', except that in the case of any correction of an excess benefit transaction described in subsection (c)(2), no amount repaid in a manner prescribed by the Secretary may be held in, or credited to, any donor advised fund'' after ''standards''.

(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. 333. TREATMENT OF CHARITABLE CONTRIBUTION DEDUCTIONS TO DONOR ADVISED FUNDS.**

(a) INCOME.—Section 170(f) (relating to disallowance of deduction in certain cases and special rules), as amended by section 318 of this Act, is amended by adding at the end the following new paragraph:

''(17) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

''(A) IN GENERAL.—A deduction otherwise allowed under subsection (a) for any contribution to a sponsoring organization (as defined in section 4967(g)(1)) to be maintained in any donor advised fund (as defined in section 4967(g)(2)) of such organization shall only be allowed if—

''(i) such sponsoring organization is not described in paragraph (3), (4), or (5) of subsection (c) or section 509(a)(3), and

''(ii) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of paragraph (8)(C) from the sponsoring organization that such organization has exclusive legal control over the assets contributed.

''(B) CONTRIBUTIONS TO TYPE I OR TYPE II SUPPORTING ORGANIZATIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a contribution to a sponsoring organization (as so defined) described in clause (ii) to be maintained in any donor advised fund (as so defined) of such organization shall be allowed to the extent not prohibited by regulations.

''(ii) ORGANIZATION DESCRIBED.—An organization is described in this clause if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

''(I) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

''(II) supervised or controlled in connection with one or more such organizations.''.

(b) ESTATE.—Section 2055(e) is amended by adding at the end the following new paragraph:

''(5) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

''(A) IN GENERAL.—A deduction otherwise allowed under subsection (a) for any contribution to a sponsoring organization (as defined in section 4967(g)(1)) to be maintained in any donor advised fund (as defined in section 4967(g)(2)) of such organization shall only be allowed if—

''(i) such sponsoring organization is not described in paragraph (3) or(4) of subsection (a) or section 509(a)(3), and

''(ii) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of section 170(f)(8)(C)) from the sponsoring organization that such organization has exclusive legal control over the assets contributed.

''(B) CONTRIBUTIONS TO TYPE I OR TYPE II SUPPORTING ORGANIZATIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a contribution to a sponsoring organization (as so defined) described in clause (ii) to be maintained in any donor advised fund (as so defined) of such organization shall be allowed to the extent not prohibited by regulations.

''(ii) ORGANIZATION DESCRIBED.—An organization is described in this clause if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

''(I) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

''(II) supervised or controlled in connection with one or more such organizations.''.

(c) GIFT.—Section 2522(c) is amended by adding at the end the following new paragraph:

''(13) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

''(A) IN GENERAL.—A deduction otherwise allowed under subsection (a) for any contribution to a sponsoring organization (as defined in section 4967(g)(1)) to be maintained in any donor advised fund (as defined in section 4967(g)(2)) of such organization shall only be allowed if—

''(i) such sponsoring organization is not described in paragraph (3) or (4) of subsection (a) or section 509(a)(3), and

''(ii) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of section 170(f)(8)(C)) from the sponsoring organization that such organization has exclusive legal control over the assets contributed.

''(B) CONTRIBUTIONS TO TYPE I OR TYPE II SUPPORTING ORGANIZATIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a contribution to a sponsoring organization (as so defined) described in clause (ii) to be maintained in any donor advised fund (as so defined) of such organization shall be allowed to the extent not prohibited by regulations.

''(ii) ORGANIZATION DESCRIBED.—An organization is described in this clause if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

''(I) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

''(II) supervised or controlled in connection with one or more such organizations.''.

(d) REGULATIONS.—The regulations prescribed under sections 170(f)(17)(B)(i), 2055(e)(5)(B)(i), 2522(c)(13)(B)(i),

4967(e)(i)(A)(ii), and 4968(c)(2) of the Internal Revenue Code of 1986 shall deny a deduction for contributions to sponsoring organizations (as defined in section 4967(g)(1) of such Code) which are described in section 170(f)(17)(B)(ii) of such Code and shall apply excise taxes to distributions from donor advised funds (as defined in section 4967(g)(2) of such Code) and sponsoring organizations (as so defined) to organizations so described in cases where the donor of the contributions or the donor or donor advisor of the amounts distributed directly or indirectly controls a supported organization (as defined in section 509(f)(3) of such Code) of such organization.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date which is 180 days after the date of the enactment of this Act.

**SEC. 334. RETURNS OF, AND APPLICATIONS FOR RECOGNITION BY, SPONSORING ORGANIZATIONS.**

(a) MATTERS INCLUDED ON RETURNS.—

(1) IN GENERAL.—Section 6033 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—Every organization described in section 4967(g)(1) shall, on the return required under subsection (a) for the taxable year—

''(1) list the total number of donor advised funds (as defined in section 4967(g)(2)) it owns at the end of such taxable year,

''(2) indicate the aggregate value of assets held in such funds at the end of such taxable year, and

''(3) indicate the aggregate contributions to and grants made from such funds during such taxable year.''.

(2) EXTENSION OF STATUTE OF LIMITATIONS.—Section 6501(c) is amended by adding at the end the following new paragraph:

''(11) DONOR ADVISED FUNDS.—If a sponsoring organization (as defined in section 4967(g)(1)) fails to include on any return for any taxable year any information with respect to any donor advised fund of such organization which is required under section 6033(h) to be included with such return, the time for assessment of any tax imposed under subchapter G of chapter 42 with respect to any distribution from such donor advised fund shall not expire before the date which is 3 years after the date on which the secretary is furnished the information so required.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to returns filed for taxable years ending after the date of the enactment of this Act.

(b) MATTERS INCLUDED ON EXEMPT STATUS APPLICATION.—

(1) IN GENERAL.—Section 508 is amended by adding at the end the following new subsection:

''(f) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—sponsoring organization (as defined in section 4967(g)(1)) shall give notice to the Secretary (in such manner as the Secretary may provide) whether such organization maintains or intends to maintain donor advised funds (as defined in section 4967(g)(2)) and the manner in which such organization plans to operate such funds.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to organizations applying for tax-exempt status after the date of the enactment of this Act.

## PART III—IMPROVED ACCOUNTABILITY OF SUPPORTING ORGANIZATIONS

**SEC. 341. REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.**

(a) TYPES OF SUPPORTING ORGANIZATIONS.—Subparagraph (B) of section 509(a)(3) is amended to read as follows:

''(B) is—

''(i) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2),

''(ii) supervised or controlled in connection with one or more such organizations, or

''(iii) operated in connection with one or more such organizations, and''.

(b) REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.—Section 509 (relating to private foundation defined) is amended by adding at the end the following new subsection:

''(f) REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.—

''(1) TYPE III SUPPORTING ORGANIZATIONS.—For purposes of subsection (a)(3)(B)(iii), an organization shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of subsection (a) unless such organization meets the following requirements:

''(A) APPLICATION REQUIREMENT.—The organization provides to the Secretary, as a part of any notification filed under section 508(a) after the date of the enactment of this subsection, a letter from each supported organization acknowledging that the supported organization has been designated by such organization as a supported organization.

''(B) RESPONSIVENESS.—For each taxable year beginning after the date of the enactment of this subsection, the organization provides to each supported organization such information as the Secretary may require to ensure that such organization is responsive to the needs or demands of the supported organization.

''(C) SUPPORTED ORGANIZATIONS.—

''(i) IN GENERAL.—The organization—

''(I) is not operated in connection with more than 5 supported organizations, and

''(II) is not operated in connection with any supported organization that is not organized in the United States on any date after the date which is 180 days after the date of the enactment of this subsection.

''(ii) SPECIAL RULE FOR EXISTING ORGANIZATIONS.—If the organization is operated in connection with more than 5 supported organizations on the date of the enactment of this subsection—

''(I) clause (i)(I) shall not apply, and

''(II) the organization may not be operated in connection with any other organization after such date unless the total number of supported organizations is 5 or less.

''(D) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—The organization makes no contributions to or for the use of any donor advised fund (as defined in section 4967(g)(2)).

''(2) ORGANIZATIONS CONTROLLED BY DONORS.—

''(A) IN GENERAL.—For purposes of subsection (a)(3)(B), an organization shall not be considered to be—

''(i) operated, supervised, or controlled by any organization described in paragraph (1) or (2) of subsection (a), or

''(ii) operated in connection with any organization described in paragraph (1) or (2) of subsection (a),

if such organization accepts any gift or contribution from any person described in subparagraph (B).

''(B) PERSON DESCRIBED.—A person is described in this subparagraph if such person is—

''(i) a person (other than an organization described in paragraph (1), (2), or (4) of section 509(a)) who controls, directly or indirectly, either alone or together with persons described in clauses (ii) and (iii), the governing body of a supported organization,

''(ii) a member of the family (determined under section 4958(f)(4)) of an individual described in clause (i), or

''(iii) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 509(f)(2)(B)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

''(3) SUPPORTED ORGANIZATION.—For purposes of this subsection, the term 'supported organization' means, with respect to an organization described in subsection (a)(3), an organization described in paragraph (1) or (2) of subsection (a)—

''(A) for whose benefit the organization described in subsection (a)(3) is organized and operated, or

''(B) with respect to which the organization performs the functions of, or carries out the purposes of.''.

(c) CHARITABLE TRUSTS WHICH ARE TYPE III SUPPORTING ORGANIZATIONS.—For purposes of section 509(a)(3)(B)(iii) of the Internal Revenue Code of 1986, an organization which is a trust shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of section 509(a) of such Code solely because—

(1) it is a charitable trust under State law,

(2) the supported organization (as defined in section 509(f)(3) of such Code) is a beneficiary of such trust, and

(3) the supported organization (as so defined) has the power to enforce the trust and compel an accounting.

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

**SEC. 342. EXCISE TAX ON SUPPORTING ORGANIZATIONS FOR FAILURE TO MEET DISTRIBUTION REQUIREMENTS.**

(a) IN GENERAL.—Subchapter D of chapter 42 (relating to failure by certain charitable organizations to meet certain qualification requirements) is amended by adding at the end the following new section:

**''SEC. 4959. TAXES ON CERTAIN SUPPORTING ORGANIZATIONS FAILING TO MEET DISTRIBUTION REQUIREMENTS.**

''(a) INITIAL TAX.—There is hereby imposed on the undistributed income of any type III supporting organization for any taxable year, which has not been distributed before the first day of the second (or any succeeding) taxable year following such taxable year (if such first day falls within the taxable period), a tax equal to 30 percent of the amount of such income remaining undistributed at the beginning of such second (or succeeding) taxable year.

''(b) ADDITIONAL TAX.—In any case in which an initial tax is imposed under subsection (a) on the undistributed income of a type III supporting organization for any taxable year, if any portion of such income remains undistributed at the close of the taxable period, there is hereby imposed a tax equal to 100 percent of the amount remaining undistributed at such time.

''(c) UNDISTRIBUTED INCOME.—For purposes of this section, the term 'undistributed income' means, with respect to any type III supporting organization for any taxable year as of any time, the amount by which—

''(1) the distributable amount for such taxable year, exceeds

''(2) the qualifying distributions made before such time out of such distributable amount.

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

''(1) IN GENERAL.—the term 'distributable amount' means, with respect to any type III supporting organization for any taxable year, an amount equal to the sum of—

''(A) the greater of—

''(i) 85 percent of the adjusted net income (as defined in section 4942(f)) of the type III supporting organization for the preceding taxable year, or

''(ii) the applicable percentage of the fair market value of the aggregate assets of such

organization (other than assets used or held to perform the functions of, or carry out the purposes of, a supported organization) on the last day of the preceding taxable year, and

''(B) any amount received during the preceding taxable year which is a repayment of amounts paid by the organization in any prior taxable year to a supported organization exclusively for the benefit of such supported organization or to perform the functions of, or carry out the purposes of such supported organization.

''(2) INVESTMENT ASSETS.—For purposes of paragraph (1)(A)(ii), assets held for investment or for the operation of an unrelated trade or business shall not be considered as assets used or held to perform the functions of, or carry out the purposes of, a supported organization.

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)(A)(ii), the applicable percentage is—

''(A) 3 percent for the first taxable year beginning after the date of the enactment of this section,

''(B) 4 percent for the second taxable year beginning after such date, and

''(C) 5 percent for any taxable year beginning after the second taxable year beginning after such date.

''(e) QUALIFYING DISTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying distribution' means amounts paid by the type III supporting organization to or for the use of a supported organization.

''(2) ADMINISTRATIVE AND OPERATING EXPENSES.—Reasonable and necessary administrative expenses of a type III supporting organization shall be treated as a qualifying distribution to a supported organization.

''(f) TREATMENT OF QUALIFYING DISTRIBUTIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), any qualifying distribution made during a taxable year shall be treated as made—

''(A) first out of the undistributed income of the immediately preceding taxable year (if the type III supporting organization was subject to the tax imposed by this section for such preceding taxable year) to the extent thereof, and

''(B) second out of the undistributed income for the taxable year to the extent thereof.

For purposes of this paragraph, distributions shall be taken into account in the order of time in which made.

''(2) CORRECTION OF DEFICIENT DISTRIBUTIONS FOR PRIOR TAXABLE YEARS, ETC.—In the case of any qualifying distribution which (under paragraph (1)) is not treated as made out of the undistributed income of the immediately preceding taxable year, the type III supporting organization may elect to treat any portion of such distribution as made out of the undistributed income of a designated prior taxable year. The election shall be made by the type III supporting organization at such time and in such manner as the Secretary shall by regulations prescribe.

''(g) ADJUSTMENT OF DISTRIBUTABLE AMOUNT WHERE DISTRIBUTIONS DURING PRIOR YEARS HAVE EXCEEDED INCOME.—

''(1) IN GENERAL.—If, for the taxable years in the adjustment period for which an organization is a type III supporting organization—

''(A) the aggregate qualifying distributions treated (under subsection (f)) as made out of the undistributed income for such taxable years, exceed

''(B) the distributable amounts for such taxable years (determined without regard to this subsection),

then, for purposes of this section (other than subsection (f)), the distributable amount for the taxable year shall be reduced by an amount equal to such excess.

''(2) TAXABLE YEARS IN ADJUSTMENT PERIOD.—For purposes of paragraph (1), with respect to any taxable year of a type III supporting organization, the taxable years in the adjustment period are the taxable years (not exceeding 5) beginning after the date of the enactment of this section and immediately preceding the taxable year.

''(h) OTHER DEFINITIONS.—For purposes of this section—

''(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to the undistributed income for any taxable year, the period beginning with the first day of the taxable year and ending on the earlier of—

''(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212, or

''(B) the date on which the tax imposed by subsection (a) is assessed.

''(2) TYPE III SUPPORTING ORGANIZATION.—The term 'type III supporting organization' means an organization which meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and which is operated in connection with one or more organizations described in paragraph (1) or (2) of section 509(a).

''(3) SUPPORTED ORGANIZATION.—The term 'supported organization' has the meaning given such term under section 509(f)(3).''.

(b) CONFORMING AMENDMENT.—The table of section for subchapter D of chapter 42 is amended by inserting after the item relating to section 4958 the following new item:

''Sec. 4959. Taxes on certain supporting organizations failing to meet distribution requirements.''.

(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. 343. EXCESS BENEFIT TRANSACTIONS.**

(a) IN GENERAL.—Section 4958(c), as amended by section 332 of this Act, is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR SUPPORTING ORGANIZATIONS.—

''(A) IN GENERAL.—In the case of any organization described in section 509(a)(3)—

''(i) the term 'excess benefit transaction' includes—

''(I) any grant, loan, compensation, or other payment provided by such organization to a person described in subparagraph (B), and

''(II) any loan provided by such organization to a disqualified person (other than an organization described in paragraph (1), (2), or (4) of section 509(a)), and

''(ii) the term 'excess benefit' includes, with respect to any transaction described in clause (i), the amount of any such grant, loan, compensation, or other payment.

''(B) PERSON DESCRIBED.—A person is described in this subparagraph if such person is—

''(i) a substantial contributor to such organization,

''(ii) a member of the family (determined under section 4958(f)(4)) of an individual described in clause (i), or

''(iii) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 4958(c)(3)(B)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

''(C) SUBSTANTIAL CONTRIBUTOR.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'substantial contributor' means any person who contributed or bequeathed an aggregate amount of more than $5,000 to the organization, if such amount is more than 2 percent of the total contributions and bequests received by the organization before the close of the taxable year of the organization in which the contribution or bequest is received by the organization from such person. In the case of a trust, such term also means the creator of the trust.

''(ii) EXCEPTION.—Such term shall not include any organization described in paragraph (1), (2), or (4) of section 509(a).''.

(b) DISQUALIFIED PERSONS.—Paragraph (1) of section 4958(f), as amended by section 332 of this Act, is amended by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', and'', and by adding after subparagraph (D) the following new subparagraph:

''(E) any person who is described in subparagraph (A), (B), or (C) with respect to an organization described in section 509(a)(3) which is organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of the applicable tax-exempt organization.''.

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

**SEC. 344. EXCESS BUSINESS HOLDINGS OF SUPPORTING ORGANIZATIONS.**

(a) IN GENERAL.—Section 4943 is amended by adding at the end the following new subsection:

''(e) APPLICATION OF TAX TO SUPPORTING ORGANIZATIONS.—

''(1) IN GENERAL.—For purposes of this section, a qualified supporting organization shall be treated as a private foundation.

''(2) EXCEPTION.—The Secretary may exempt any qualified supporting organization from the application of this subsection if the Secretary determines that the excess business holdings of such organization are consistent with the purpose or function constituting the basis for its exemption under section 501.

''(3) QUALIFIED SUPPORTING ORGANIZATION.—For purposes of this subsection, the term 'qualified supporting organization' means any—

''(A) type III supporting organization (as defined in section 4959(h)(2)), or

''(B) organization which meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and which is supervised or controlled in connection with or one or more organizations described in paragraph (1) or (2) of section 509(a), but only if such organization accepts any gift or contribution from any person described in section 509(f)(2)(B).

''(4) DISQUALIFIED PERSON.—

''(A) IN GENERAL.—In applying this section to any organization described in section 509(a)(3), the term 'disqualified person' means, with respect to the organization—

''(i) any person who was, at any time during the 5-year period ending on date described in subsection (a)(2)(A), in a position to exercise substantial influence over the affairs of the organization,

''(ii) any member of the family (determined under section 4958(f)(4)) of an individual described in clause (i),

''(iii) any 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 4943(e)(2)(A)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof),

''(iv) any person described in section 4958(c)(3)(B)), and

''(v) any organization—

''(I) which is effectively controlled (directly or indirectly) by the same person or persons who control the organization in question, or

''(II) substantially all of the contributions to which were made (directly or indirectly) by the same person or persons described in subparagraph (B) or a member of their family (within the meaning of section 4946(d)) who made (directly or indirectly) substantially all of the contributions to the organization in question.

''(B) PERSONS DESCRIBED.—A person is described in this subparagraph if such person is—

''(i) a substantial contributor to the organization (as defined in section 4958(c)(3)(C)),

''(ii) an officer, director, or trustee of the organization (or an individual having powers or responsibilities similar to those officers, directors, or trustees of the organization), or

''(iii) an owner of more than 20 percent of—

''(I) the total combined voting power of a corporation,

''(II) the profits interest of a partnership, or

''(III) the beneficial interest of a trust or unincorporated enterprise,

which is a substantial contributor (as so defined) to the organization.

''(5) SPECIAL RULE FOR CERTAIN HOLDINGS OF TYPE III SUPPORTING ORGANIZATIONS.—For purposes of this subsection, the term 'excess business holdings' shall not include any holdings of a type III supporting organization (as defined in section 4959(h)(2)) in any business enterprise if the holdings are held for the benefit of the community pursuant to the direction of a State attorney general or a State official with jurisdiction over the type III supporting organization.

''(6) PRESENT HOLDINGS.—For purposes of this subsection, rules similar to the rules of paragraphs (4), (5), and (6) of subsection (c) shall apply to organizations described in section 509(a)(3), except that—

''(A) 'the date of the enactment of this subsection' shall be substituted for 'May 26, 1969' each place it appears in paragraphs (4), (5), and (6), and

''(B) 'January 1, 2007' shall be substituted for 'January 1, 1970' in paragraph (4)(E).''.

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

**SEC. 345. TREATMENT OF AMOUNTS PAID TO SUPPORTING ORGANIZATIONS BY PRIVATE FOUNDATIONS.**

(a) QUALIFYING DISTRIBUTIONS.—Paragraph (4) of section 4942(g) is amended to read as follows:

''(4) LIMITATION ON DISTRIBUTIONS BY NONOPERATING PRIVATE FOUNDATIONS TO SUPPORTING ORGANIZATIONS.—For purposes of this section, the term 'qualifying distribution' shall not include any amount paid by a private foundation which is not an operating foundation to an organization described in section 509(a)(3).''.

(b) TAXABLE EXPENDITURES.—

(1) IN GENERAL.—Subsection (d) of section 4945 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) to an organization described in section 509(a)(3),''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4945(d)(5), as redesignated by subparagraph (A), is amended—

(i) by striking ''a grant to an organization'' and inserting ''a grant to any other organization'', and

(ii) by striking ''paragraph (1), (2), or (3) of section 509(a)'' in subparagraph (A) and inserting ''paragraph (1) or (2) of section 509(a)''.

(B) Section 4945(f) is amended by striking ''Subsection (d)(4)'' in the last sentence thereof and inserting ''Subsection (d)(5)''.

(C) Section 4945(h) is amended by striking ''subsection (d)(4)'' and inserting ''subsection (d)(5)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions and expenditures after the date of the enactment of this Act.

**SEC. 346. RETURNS OF SUPPORTING ORGANIZATIONS.**

(a) REQUIREMENT TO FILE RETURN.—Subparagraph (B) of section 6033(a)(3), as redesignated by section 311, is amended by inserting ''(other than an organization described in section 509(a)(3))'' after ''paragraph (1)''.

(b) MATTERS INCLUDED ON RETURNS.—Section 6033, as amended by section 334 of this Act, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) ADDITIONAL PROVISIONS RELATING TO SUPPORTING ORGANIZATIONS.—

''(1) IN GENERAL.—Every organization described in section 509(a)(3) shall, on the return required under subsection (a)—

''(A) list the organizations described in section 509(a)(3)(A) with respect to which such organization provides support,

''(B) indicate whether the organization meets the requirements of clause (i), (ii), or (iii) of section 509(a)(3)(B), and

''(C) certify that the organization meets the requirements of section 509(a)(3)(C).

''(2) TYPE III SUPPORTING ORGANIZATIONS.—Every type III supporting organization (as defined in section 4959(h)(2)) shall indicate on the return required under subsection (a) for the taxable year whether the organization has received a letter from each supported organization (as defined in section 509(f)(3)) during the taxable year which—

''(A) acknowledges that the supporting organization has designated such organization as a supported organization,

''(B) details the type of support provided by the supporting organization, and

''(C) explains how such support furthers the charitable purpose of the supported organization.''.

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

## TITLE IV—MISCELLANEOUS PROVISIONS

**SEC. 401. RESTRUCTURING OF NEW YORK LIBERTY ZONE TAX CREDITS.**

(a) IN GENERAL.—Subchapter Y of chapter 1 is amended by adding at the end the following new section:

**''SEC. 1400M. NEW YORK LIBERTY ZONE TAX CREDITS.**

''(a) IN GENERAL.—There shall be allowed as a credit against any taxes imposed by this title (other than by section 3111(a), section 3403, or subtitle D) paid or incurred by any governmental unit of the State of New York and the City of New York, New York (including any agency or instrumentality thereof) for any calendar year an amount equal to the lesser of—

''(1) the total expenditures during such year by such governmental unit for qualifying projects, or

''(2) the amount allocated to such governmental unit for such calendar year under subsection (b)(2).

''(b) QUALIFYING PROJECT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying project' means any transportation infrastructure project, including highways, mass transit systems, railroads, airports, ports, and waterways, in or connecting with the New York Liberty Zone (as defined in section 1400L(h)), which is designated as a qualifying project under this section jointly by the Governor of the State of New York and the Mayor of the City of New York, New York.

''(2) DOLLAR LIMITATION.—

''(A) IN GENERAL.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly allocate to a governmental unit the amount of expenditures which may be taken into account under subsection (a) for any calendar year in the credit period with respect to a qualifying project.

''(B) AGGREGATE LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for all calendar years in the credit period shall not exceed $2,000,000,000.

''(C) ANNUAL LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for any calendar year in the credit period shall not exceed the sum of—

''(i) $200,000,000, plus

''(ii) the aggregate amount authorized to be allocated under this paragraph for all preceding calendar years in the credit period which was not so allocated.

''(D) UNALLOCATED AMOUNTS AT END OF CREDIT PERIOD.—If, as of the close of the credit period, the amount under subparagraph (B) exceeds the aggregate amount allocated under subparagraph (A) for all calendar years in the credit period, the Governor of the State of New York and the Mayor of the City of New York, New York, may jointly allocate for any calendar year following the credit period for expenditures with respect to qualifying projects which may be taken into account under subsection (a) an amount equal to such excess, reduced by the aggregate amount allocated under this subparagraph for all preceding calendar years.

''(c) CARRYOVER OF UNUSED ALLOCATIONS.—

''(1) IN GENERAL.—If the amount allocated under subsection (b)(2) to a governmental unit for any calendar year exceeds the total expenditures for such year by such governmental unit for qualifying projects, the allocation of such governmental unit for the succeeding calendar year shall be increased by the amount of such excess.

''(2) REALLOCATION.—If a governmental unit does not use an amount allocated to it under subsection (b)(2) within the time prescribed by the Governor of the State of New York and the Mayor of the City of New York, New York, then such amount shall after such time be treated for purposes of subsection (b)(2) in the same manner as if it had never been allocated.

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

''(1) CREDIT PERIOD.—The term 'credit period' means the 10-year period beginning on January 1, 2006.

''(2) TREATMENT OF FUNDS.—Any expenditure for a qualifying project taken into account for purposes of the credit under this section shall be considered State and local funds for the purpose of any Federal program.

''(e) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to ensure compliance with the purposes of this section.''.

(b) TERMINATION OF CERTAIN NEW YORK LIBERTY ZONE BENEFITS.—

(1) SPECIAL ALLOWANCE AND EXPENSING.—Section 1400L(b)(2)(A)(v) is amended by striking ''the termination date'' and inserting ''the date of the enactment of the Tax Relief Act of 2005 or the termination date if pursuant to a binding contract in effect on such enactment date''.

(2) LEASEHOLD.—Section 1400L(c)(2)(B) is amended by striking ''before January 1, 2007'' and inserting ''on or before the date of the enactment of the Tax Relief Act of 2005 or before January 1, 2007, if pursuant to a binding contract in effect on such enactment date''.

**SEC. 402. MODIFICATION TO S CORPORATION PASSIVE INVESTMENT INCOME RULES.**

(a) INCREASED PERCENTAGE LIMIT.—Paragraph (2) of section 1375(a) is amended by striking ''25 percent'' and inserting ''60 percent''.

(b) REPEAL OF EXCESSIVE PASSIVE INCOME AS A TERMINATION EVENT.—

(1) IN GENERAL.—Section 1362(d) is amended by striking paragraph (3).

(2) CONFORMING AMENDMENT.—Subsection (b) of section 1375 is amended by striking paragraphs (3) and (4) and inserting the following new paragraph:

''(3) PASSIVE INVESTMENT INCOME DEFINED.—

''(A) Except as otherwise provided in this paragraph, the term 'passive investment income' means gross receipts derived from royalties, rents, dividends, interest, and annuities.

''(B) EXCEPTION FOR INTEREST ON NOTES FROM SALES OF INVENTORY.—The term 'passive investment income' shall not include interest on any obligation acquired in the ordinary course of the corporation's trade or business from its sale of property described in section 1221(a)(1).

''(C) TREATMENT OF CERTAIN LENDING OR FINANCE COMPANIES.—If the S corporation meets the requirements of section 542(c)(6) for the taxable year, the term 'passive investment income' shall not include gross receipts for the taxable year which are derived directly from the active and regular conduct of a lending or finance business (as defined in section 542(d)(1)).

''(D) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.

''(E) 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.

''(F) COORDINATION WITH SECTION 1374.—The amount of passive investment income shall be determined by not taking into account any recognized built-in gain or loss of the S corporation for any taxable year in the recognition period. Terms used in the preceding sentence shall have the same respective meanings as when used in section 1374.''.

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (J) of section 26(b)(2) is amended by striking ''25 percent'' and inserting ''60 percent''.

(2) Clause (i) of section 1042(c)(4)(A) is amended by striking ''section 1362(d)(3)(C)'' and inserting ''section 1375(b)(3)''.

(3) Subparagraph (B) of section 1362(f)(1) is amended by striking ''or (3)''.

(4) Clause (i) of section 1375(b)(1)(A) is amended by striking ''25 percent'' and inserting ''60 percent''.

(5) Subsection (d) of section 1375 is amended by striking ''subchapter C'' both places it appears and inserting ''accumulated''.

(6) The heading for section 1375 is amended by striking ''25 percent'' and inserting ''60 percent''.

(7) The item relating to section 1375 in the table of sections for part III of subchapter S of chapter 1 is amended by striking ''25 percent'' and inserting ''60 percent''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 403. MODIFICATION OF EFFECTIVE DATE OF DISREGARD OF CERTAIN CAPITAL EXPENDITURES FOR PURPOSES OF QUALIFIED SMALL ISSUE BONDS.**

(a) IN GENERAL.—Section 144(a)(4)(G) is amended by striking ''September 30, 2009'' and inserting ''December 31, 2006''.

(b) CONFORMING AMENDMENT.—Section 144(a)(4)(F) is amended by striking ''September 30, 2009'' and inserting ''December 31, 2006''.

**SEC. 404. PREMIUMS FOR MORTGAGE INSURANCE.**

(a) IN GENERAL.—Section 163(h)(3) (relating to qualified residence interest) is amended by adding at the end the following new subparagraph:

''(E) MORTGAGE INSURANCE PREMIUMS TREATED AS INTEREST.—

''(i) IN GENERAL.—Premiums paid or accrued for qualified mortgage insurance by a taxpayer during the taxable year in connection with acquisition indebtedness with respect to a qualified residence of the taxpayer shall be treated for purposes of this section as interest which is qualified residence interest.

''(ii) PHASEOUT.—The amount otherwise treated as interest under clause (i) shall be reduced (but not below zero) by 10 percent of such amount for each $1,000 ($500 in the case of a married individual filing a separate return) (or fraction thereof) that the taxpayer's adjusted gross income for the taxable year exceeds $100,000 ($50,000 in the case of a married individual filing a separate return).''.

(b) DEFINITION AND SPECIAL RULES.—Section 163(h)(4) (relating to other definitions and special rules) is amended by adding at the end the following new subparagraphs:

''(E) QUALIFIED MORTGAGE INSURANCE.—The term 'qualified mortgage insurance' means—

''(i) mortgage insurance provided by the Veterans Administration, the Federal Housing Administration, or the Rural Housing Administration, and

''(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subparagraph).

''(F) SPECIAL RULES FOR PREPAID QUALIFIED MORTGAGE INSURANCE.—Any amount paid by the taxpayer for qualified mortgage insurance that is properly allocable to any mortgage the payment of which extends to periods that are after the close of the taxable year in which such amount is paid shall be chargeable to capital account and shall be treated as paid in such periods to which so allocated. No deduction shall be allowed for the unamortized balance of such account if such mortgage is satisfied before the end of its term. The preceding sentences shall not apply to amounts paid for qualified mortgage insurance provided by the Veterans Administration or the Rural Housing Administration.''.

(c) INFORMATION RETURNS RELATING TO MORTGAGE INSURANCE.—Section 6050H (relating to returns relating to mortgage interest received in trade or business from individuals) is amended by adding at the end the following new subsection:

''(h) RETURNS RELATING TO MORTGAGE INSURANCE PREMIUMS.—

''(1) IN GENERAL.—The Secretary may prescribe, by regulations, that any person who, in the course of a trade or business, receives from any individual premiums for mortgage insurance aggregating $600 or more for any calendar year, shall make a return with respect to each such individual. Such return shall be in such form, shall be made at such time, and shall contain such information as the Secretary may prescribe.

''(2) STATEMENT TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under paragraph (1) shall furnish to each individual with respect to whom a return is made a written statement showing such information as the Secretary may prescribe. Such written statement shall be furnished on or before January 31 of the year following the calendar year for which the return under paragraph (1) was required to be made.

''(3) SPECIAL RULES.—For purposes of this subsection—

''(A) rules similar to the rules of subsection (c) shall apply, and

''(B) the term 'mortgage insurance' means—

''(i) mortgage insurance provided by the Veterans Administration, the Federal Housing Administration, or the Rural Housing Administration, and

''(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subsection).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued during the period beginning after December 31, 2006, and before January 1, 2008, and properly allocable to such period, with respect to mortgage insurance contracts issued after December 31, 2006.

**SEC. 405. SENSE OF THE SENATE ON USE OF NO-BID CONTRACTING BY FEDERAL EMERGENCY MANAGEMENT AGENCY.**

(a) FINDINGS.—The Senate finds that—

(1) on September 8, 2005, the Federal Emergency Management Agency announced that it had awarded 4 contracts for emergency housing relief following Hurricane Katrina to The Shaw Group of Baton Rouge, Louisiana, Fluor Corporation of Aliso Viejo, California, Bechtel National of San Francisco, California, and CH2M Hill of Denver, Colorado;

(2) these contracts were awarded with no competition from other capable firms, and up to $100,000,000 in taxpayer funds were authorized for each of these contracts;

(3) in the midst of concerns about abusive and irresponsible spending of taxpayer funds, the Federal Emergency Management Agency pledged to re-bid these noncompetitive contracts, with Acting Under Secretary of Emergency Preparedness and Response, R. David Paulison, stating before the Committee on Homeland Security and Government Affairs of the Senate that ''[a]ll of these no-bid contracts, we are going to go back and re-bid'';

(4) the Federal Emergency Management Agency has yet to reopen these 4 contracts to competitive bidding, and declared on November 11, 2005, that these contracts would not be reopened for bidding until February 2006;

(5) by February 2006, the majority of the contracts will have been completed and the majority of taxpayer funds will have been spent;

(6) large and politically-connected firms continue to benefit from no-bid and limited-competition contracts, and contracts are not being awarded to capable, local companies;

(7) according to an analysis in the Washington Post, companies outside the States

most affected by Hurricane Katrina have received more than 90 percent of the Federal contracts for recovery and reconstruction;

(8) the monitoring of Federal contracting practices remains difficult, with a report by the San Jose Mercury News stating ''The database of contracts is incomplete. Information released by Federal agencies is spotty and sporadic. And disclosure of many no-bid contracts isn't required by law''; and

(9)(A) there is currently no Chief Financial Officer charged with monitoring the flow of all funds to the affected areas; and

(B) the task of financial management is spread across disparate Federal departments and agencies with inadequate oversight of taxpayer funds.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Federal Emergency Management Agency should—

(1) immediately rebid noncompetitive contracts entered into following Hurricane Katrina, consistent with the commitment of the Agency made on October 6, 2005, before millions of taxpayer dollars are wasted on irresponsible and inefficient spending;

(2)(A) immediately implement the planned competitive contracting strategy of the Agency for recovery work in all current and future reconstruction efforts; and

(B) in carrying out that strategy, should prioritize local and small disadvantaged businesses in the contracting and subcontracting process; and

(3) immediately after the awarding of a contract, publicly disclose the amount and competitive or noncompetitive nature of the contract.

**SEC. 406. DISABILITY PREFERENCE PROGRAM FOR TAX COLLECTION CONTRACTS.**

(a) IN GENERAL.—The Secretary of the Treasury shall not enter into any qualified tax collection contract after April 1, 2006, until the Secretary implements a disability preference program that meets the requirements of subsection (b).

(b) DISABILITY PREFERENCE PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—A disability preference program meets the requirements of this subsection if such program requires that not less than 10 percent of the accounts of each dollar value category are awarded to persons described in paragraph (2).

(2) PERSON DESCRIBED.—For purposes of paragraph (1), a person is described in this paragraph if—

(A) as of the date any qualified tax collection contract is awarded—

(i) such person employs not less than 50 severely disabled individuals within the United States; or

(ii) not less than 30 percent of the employees of such person within the United States are severely disabled individuals;

(B) such person agrees as a condition of the qualified tax collection contract that not more than 90 days after the date such contract is awarded, not less than 35 percent of the employees of such person employed in connection with providing services under such contract shall—

(i) be hired after the date such contract is awarded; and

(ii) be severely disabled individuals; and

(C) such person is otherwise qualified to perform the services required.

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

(1) QUALIFIED TAX COLLECTION CONTRACT.—The term ''qualified tax collection contract'' shall have the meaning given such term under section 6306(b) of the Internal Revenue Code of 1986.

(2) DOLLAR VALUE CATEGORY.—The term ''dollar value category'' means the dollar ranges of accounts for collection as determined and assigned by the Secretary under section 6306(b)(1)(B) of the Internal Revenue Code of 1986 with respect to a qualified tax collection contract.

(3) SEVERELY DISABLED INDIVIDUAL.—The term ''severely disabled individual'' means—

(A) a veteran of the United States armed forces with a disability of 50 percent or greater—

(i) determined by the Secretary of Veterans Affairs to be service-connected; or

(ii) deemed by law to be service-connected; or

(B) any individual who is a disabled beneficiary (as defined in section 1148(k)(2) of the Social Security Act (42 U.S.C. 1320b–19(k)(2))) or who would be considered to be such a disabled beneficiary but for having income or resources in excess of the income or resources eligibility limits established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), respectively.

**SEC. 407. SENSE OF CONGRESS REGARDING DOHA ROUND.**

(a) FINDINGS.—The Congress makes the following findings:

(1) Members of the World Trade Organization (WTO) are currently engaged in a round of trade negotiations known as the Doha Development Agenda (Doha Round).

(2) The Doha Round includes negotiations aimed at clarifying and improving disciplines under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Antidumping Agreement) and the Agreement on Subsidies and Countervailing Measures (Subsidies Agreement).

(3) The WTO Ministerial Declaration adopted on November 14, 2001 (WTO Paper No. WT/MIN(01)/DEC/1) specifically provides that the Doha Round negotiations are to preserve the ''basic concepts, principles and effectiveness'' of the Antidumping Agreement and the Subsidies Agreement.

(4) In section 2102(b)(14)(A) of the Bipartisan Trade Promotion Authority Act of 2002, the Congress mandated that the principal negotiating objective of the United States with respect to trade remedy laws was to ''preserve the ability of the United States to enforce rigorously its trade laws . . . and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies''.

(5) The countries that have been the most persistent and egregious violators of international fair trade rules are engaged in an aggressive effort to significantly weaken the disciplines provided in the Antidumping Agreement and the Subsidies Agreement and undermine the ability of the United States to effectively enforce its trade remedy laws.

(6) Chronic violators of fair trade disciplines have put forward proposals that would substantially weaken United States trade remedy laws and practices, including mandating that unfair trade orders terminate after a set number of years even if unfair trade and injury are likely to recur, mandating that trade remedy duties reflect less than the full margin of dumping or subsidization, mandating higher de minimis levels of unfair trade, making cumulation of the effects of imports from multiple countries more difficult in unfair trade investigations, outlawing the critical practice of ''zeroing'' in antidumping investigations, mandating the weighing of causes, and mandating other provisions that make it more difficult to prove injury.

(7) United States trade remedy laws have already been significantly weakened by numerous unjust and activist WTO dispute settlement decisions which have created new obligations to which the United States never agreed.

(8) Trade remedy laws remain a critical resource for American manufacturers, agricultural producers, and aquacultural producers in responding to closed foreign markets, subsidized imports, and other forms of unfair trade, particularly in the context of the challenges currently faced by these vital sectors of the United States economy.

(9) The United States had a current account trade deficit of approximately $668,000,000,000 in 2004, including a trade deficit of almost $162,000,000,000 with China alone, as well as a trade deficit of $40,000,000,000 in advanced technology.

(10) United States manufacturers have lost over 3,000,000 jobs since June 2000, and United States manufacturing employment is currently at its lowest level since 1950.

(11) Many industries critical to United States national security are at severe risk from unfair foreign competition.

(12) The Congress strongly believes that the proposals put forward by countries seeking to undermine trade remedy disciplines in the Doha Round would result in serious harm to the United States economy, including significant job losses and trade disadvantages.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should not be a signatory to any agreement or protocol with respect to the Doha Development Round of the World Trade Organization negotiations, or any other bilateral or multilateral trade negotiations, that—

(A) adopts any proposal to lessen the effectiveness of domestic and international disciplines on unfair trade or safeguard provisions, including proposals—

(i) mandating that unfair trade orders terminate after a set number of years even if unfair trade and injury are likely to recur;

(ii) mandating that trade remedy duties reflect less than the full margin of dumping or subsidization;

(iii) mandating higher de minimis levels of unfair trade;

(iv) making cumulation of the effects of imports from multiple countries more difficult in unfair trade investigations;

(v) outlawing the critical practice of ''zeroing'' in antidumping investigations; or

(vi) mandating the weighing of causes or other provisions making it more difficult to prove injury in unfair trade cases; and

(B) would lessen in any manner the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws;

(2) the United States trade laws and international rules appropriately serve the public interest by offsetting injurious unfair trade, and that further ''balancing modifications'' or other similar provisions are unnecessary and would add to the complexity and difficulty of achieving relief against injurious unfair trade practices; and

(3) the United States should ensure that any new agreement relating to international disciplines on unfair trade or safeguard provisions fully rectifies and corrects decisions by WTO dispute settlement panels or the Appellate Body that have unjustifiably and negatively impacted, or threaten to negatively impact, United States law or practice, including a law or practice with respect to foreign dumping or subsidization.

**SEC. 408. MODIFICATION OF BOND RULE.**

In the case of bonds issued after the date of the enactment of this Act and before August 31, 2009—

(1) the requirement of paragraph (1) of section 648 of the Deficit Reduction Act of 1984 (98 Stat. 941) shall be treated as met with respect to the securities or obligations referred

to in such section if such securities or obligations are held in a fund the annual distributions from which cannot exceed 7 percent of the average fair market value of the assets held in such fund except to the extent distributions are necessary to pay debt service on the bond issue,

(2) paragraph (3) of such section shall be applied by substituting ''distributions from'' for ''the investment earnings of'' both places it appears, and

(3) Paragraph (4) of such section shall be applied by substituting ''March 1, 1985'' for ''October 9, 1969''.

**SEC. 409. TREATMENT OF CERTAIN STOCK OPTION PLANS UNDER NONQUALIFIED DEFERRED COMPENSATION RULES.**

(a) IN GENERAL.—The Secretary of the Treasury shall modify the regulations under section 409A of the Internal Revenue Code of 1986 to extend to applicable foreign option plans the exception under such section for incentive stock options under section 422 of such Code and options granted under an employee stock purchase plan meeting the requirements of section 423 of such Code. Such extension shall be subject to such terms and conditions as may be prescribed in such regulations.

(b) APPLICABLE FOREIGN OPTION PLANS.—For purposes of subsection (a)—

(1) IN GENERAL.—The term ''applicable foreign option plan'' means a plan providing for the issuance of employee stock options—

(A) which is established under the laws of a foreign jurisdiction, and

(B) which, under such laws or the terms of the plan (or both), is subject to requirements substantially similar to the requirements under section 422 or 423 of such Code.

(2) SUBSTANTIALLY SIMILAR.—A plan shall not be treated as subject to substantially similar requirements under paragraph (1)(B) unless—

(A) the plan is required to cover substantially all employees,

(B) in the case of an option under an employee stock purchase plan, the plan is required to provide an option price which is not less than the amount specified in section 423(b)(6) of such Code, except that such section shall be applied by substituting ''80 percent'' for ''85 percent'' each place it appears,

(C) the plan is required to provide coverage of individuals who, but for the exception of the application of section 409A of such Code by reason of this section, would be subject to tax under such section with respect to the plan, and

(D) the plan meets such other requirements as the Secretary of the Treasury prescribes in the regulations under subsection (a).

**SEC. 410. SENSE OF THE SENATE REGARDING THE DEDICATION OF EXCESS FUNDS.**

It is the sense of the Senate that any increases in revenues to the Treasury as a result of this Act and the amendments made by this Act that exceed the amounts specified in the reconciliation instructions shall be dedicated to the Low-Income Home Energy Assistance Program, in an amount not to exceed the amount which is $2,900,000,000 more than the funding levels established for such Program for fiscal year 2005.

## TITLE V—REVENUE OFFSET PROVISIONS

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

**SEC. 501. 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. 502. MODIFICATION OF EFFECTIVE DATE OF EXCEPTION FROM SUSPENSION RULES FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.**

(a) EFFECTIVE DATE MODIFICATION.—

(1) IN GENERAL.—Paragraph (2) of section 903(d) of the American Jobs Creation Act of 2004 is amended to read as follows:

''(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—

''(A) IN GENERAL.—The amendments made by subsection (c) shall apply with respect to interest accruing after October 3, 2004.

''(B) SPECIAL RULE FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the amendments made by subsection (c) shall also apply with respect to interest accruing on or before October 3, 2004.

''(ii) PARTICIPANTS IN SETTLEMENT INITIATIVES.—Clause (i) shall not apply to any transaction if, as of January 23, 2006—

''(I) the taxpayer is participating in a settlement initiative described in Internal Revenue Service Announcement 2005–80 with respect to such transaction, or

''(II) the taxpayer has entered into a settlement agreement pursuant to such an initiative.

''(iii) TERMINATION OF EXCEPTION.—Clause (ii)(I) shall not apply to any taxpayer if, after January 23, 2006, the taxpayer withdraws from, or terminates, participation in the initiative or the Secretary of the Treasury or the Secretary's delegate determines that a settlement agreement will not be reached pursuant to the initiative within a reasonable period of time.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates.

(b) TREATMENT OF AMENDED RETURNS AND OTHER SIMILAR NOTICES OF ADDITIONAL TAX OWED.—

(1) IN GENERAL.—Section 6404(g)(1) (relating to suspension) is amended by adding at the end the following new sentence: ''If, after the return for a taxable year is filed, the taxpayer provides to the Secretary one or more signed written documents showing that the taxpayer owes an additional amount of tax for the taxable year, clause (i) shall be applied by substituting the date the last of the documents was provided for the date on which the return is filed.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to documents provided on or after the date of the enactment of this Act.

**SEC. 503. 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. 504. 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 be 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 considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) CONFORMING AMENDMENT.—Section 6700(a) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the activities described in paragraphs (1) and (2) of section 6700(a) of the Internal Revenue Code of 1986 and after the date of the enactment of this Act.

**SEC. 505. 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 '', or tax liability reflected in,'' after ''the preparation or presentation of'' 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 be 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 considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and 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 the activities described in section 6701(a) of the Internal Revenue Code of 1986 after the date of the enactment of this Act.

**Subtitle B—Economic Substance Doctrine**

**SEC. 511. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.**

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) 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. 512. 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(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(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) and (3) 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) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

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

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting ''and noneconomic substance transaction understatements'' after ''reportable transaction understatements'' both places it appears,

(B) in paragraph (2)(A), by inserting ''and a noneconomic substance transaction understatement'' after ''reportable transaction understatement'',

(C) in paragraph (2)(B), by inserting ''6662B or'' before ''6663'',

(D) in paragraph (2)(C)(i), by inserting ''or section 6662B'' before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting ''and section 6662B'' after ''This section'',

(F) in paragraph (3), by inserting ''or noneconomic substance transaction understatement'' after ''reportable transaction understatement'', and

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

''(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).''.

(3) Subsection (e) of section 6707A is amended—

(A) by striking ''or'' at the end of subparagraph (B), and

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

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

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

(c) 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.''.

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

**SEC. 513. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.**

(a) IN GENERAL.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking ''attributable'' and all that follows and inserting the following: ''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)).'', and

(2) by inserting ''AND NONECONOMIC SUBSTANCE TRANSACTIONS'' in the heading thereof after ''TRANSACTIONS''.

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

## Subtitle C—Improvements in Efficiency and Safeguards in Internal Revenue Service Collection

**SEC. 521. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.**

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

''(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date which is 180 days after the date of the enactment of this Act.

**SEC. 522. TERMINATION OF INSTALLMENT AGREEMENTS.**

(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

''(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

''(D) to file a return of tax imposed under this title by its due date (including extensions), or''.

(b) CONFORMING AMENDMENT.—The heading for section 6159(b)(4) is amended by striking ''FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION'' and inserting ''FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

**SEC. 523. PARTIAL PAYMENTS REQUIRED WITH SUBMISSION OF OFFERS-IN-COMPROMISE.**

(a) IN GENERAL.—Section 7122 (relating to compromises), as amended by this Act, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) RULES FOR SUBMISSION OF OFFERS-IN-COMPROMISE.—

''(1) PARTIAL PAYMENT REQUIRED WITH SUBMISSION.—

''(A) LUMP-SUM OFFERS.—

''(i) IN GENERAL.—The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of amount of such offer.

''(ii) LUMP-SUM OFFER-IN-COMPROMISE.—For purposes of this section, the term 'lump-sum offer-in-compromise' means any offer of payments made in 5 or fewer installments.

''(B) PERIODIC PAYMENT OFFERS.—The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment and each proposed installment due during the period such offer is being evaluated for acceptance and has not been rejected by the Secretary. Any failure to make a payment required under the preceding sentence shall be deemed a withdrawal of the offer-in-compromise.

''(2) RULES OF APPLICATION.—

''(A) USE OF PAYMENT.—The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

''(B) NO USER FEE IMPOSED.—Any user fee which would otherwise be imposed under this section shall not be imposed on any offer-in-compromise accompanied by a payment required under this subsection.

''(C) WAIVER AUTHORITY.—The Secretary may issue regulations waiving any payment required under paragraph (1) in a manner consistent with the practices established in accordance with the requirements under subsection (d)(3).''.

(b) ADDITIONAL RULES RELATING TO TREATMENT OF OFFERS.—

(1) UNPROCESSABLE OFFER IF PAYMENT REQUIREMENTS ARE NOT MET.—Paragraph (3) of section 7122(d) (relating to standards for evaluation of offers), as redesignated by subsection (a), is amended by striking ''; and'' at the end of subparagraph (A) and inserting a comma, by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any offer-in-compromise which does not meet the requirements of subsection (c) shall be returned to the taxpayer as unprocessable.''.

(2) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Section 7122, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(g) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer (12 months for offers-in-compromise submitted after the date which is 5 years after the date of the enactment of this subsection). For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken in to account in determining the expiration of the 24-month period (or 12-month period, if applicable).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted on and after the date which is 60 days after the date of the enactment of this Act.

**Subtitle D—Penalties and Fines**

**SEC. 531. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.**

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking ''Any person who—'' and inserting ''(a) **IN GENERAL.**—Any person who—'', and

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

''(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.''.

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''5 years'' and inserting ''10 years''.

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking ''Any person'' and inserting the following:

''(a) IN GENERAL.—Any person'', and

(ii) by striking ''$25,000'' and inserting ''$50,000'',

(B) in the third sentence, by striking ''section'' and inserting ''subsection'', and

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

''(b) AGGRAVATED FAILURE TO FILE.—

''(1) IN GENERAL.—In the case of any failure described in paragraph (2), the first sentence of subsection (a) shall be applied by substituting—

''(A) 'felony' for 'misdemeanor',

''(B) '$500,000 ($1,000,000' for '$25,000 ($100,000', and

''(C) '10 years' for '1 year'.

''(2) FAILURE DESCRIBED.—A failure described in this paragraph is a failure to make a return described in subsection (a) for a period of 3 or more consecutive taxable years.''.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''3 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions, and failures to act, occurring after the date of the enactment of this Act.

**SEC. 532. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.**

(a) DETERMINATION OF PENALTY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) APPLICABLE TAXPAYER.—For purposes of this subsection—

(A) IN GENERAL.—The term ''applicable taxpayer'' means a taxpayer which—

(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of offshore payment mechanisms (including credit, debit, or charge cards) issued by banks or other entities in foreign jurisdictions, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has neither signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003–11 nor voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.

(B) AUTHORITY TO WAIVE.—The Secretary of the Treasury or the Secretary's delegate may waive the application of paragraph (1) to any taxpayer if the Secretary or the Secretary's delegate determines that the use of such offshore payment mechanisms is incidental to the transaction and, in addition, in the case of a trade or business, such use is conducted in the ordinary course of the type of trade or business of the taxpayer.

(C) ISSUES RAISED.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

(i) communicates to the taxpayer knowledge about the specific item, or

(ii) has made a request to the taxpayer for information and the taxpayer could not make a complete response to that request without giving the examiner knowledge of the specific item.

(b) APPLICABLE PENALTY.—For purposes of this section, the term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if, as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

**SEC. 533. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.**

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

Identification pursuant to subparagraph (B) alone shall not satisfy the requirement under subparagraph (A). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.''.

(b) REPORTING OF DEDUCTIBLE AMOUNTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6050T the following new section:

**''SEC. 6050U. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.**

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050T the following new item:

''Sec. 6050U. Information with respect to certain fines, penalties, and other amounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

**SEC. 534. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.**

(a) DISALLOWANCE OF DEDUCTION.—

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

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

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

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

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

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

**''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.**

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

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

''(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

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

''Sec. 91. Punitive damages compensated by insurance or otherwise''..

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

**SEC. 535. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.**

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking ''$750'' and inserting ''$2,000'', and

(2) by striking ''$15'' and inserting ''$40''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

**Subtitle E—Provisions To Discourage Expatriation**

**SEC. 541. TAX TREATMENT OF INVERTED ENTITIES.**

(a) IN GENERAL.—Section 7874 is amended—

(1) by striking ''March 4, 2003'' in subsection (a)(2)(B)(i) and in the matter following subsection (a)(2)(B)(iii) and inserting ''March 20, 2002'',

(2) by striking ''at least 60 percent'' in subsection (a)(2)(B)(ii) and inserting ''more than 50 percent'',

(3) by striking ''80 percent'' in subsection (b) and inserting ''at least 80 percent'',

(4) by striking ''60 percent'' in subsection (b) and inserting ''more than 50 percent'',

(5) by adding at the end of subsection (a)(2) the following new sentence: ''Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (B) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.'', and

(6) by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) SPECIAL RULES APPLICABLE TO EXPATRIATED ENTITIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an expatriated entity—

''(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

''(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an expatriated entity, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after March 20, 2002.

**SEC. 542. REVISION OF TAX RULES ON EXPATRIATION OF INDIVIDUALS.**

(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 2005, 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 2004' 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:

''(49) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation) is inadmissible.''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(21) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(3) EFFECTIVE DATES.—The amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(h) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after 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:

''(C) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4) Section 6039G(a) is amended by inserting ''or 877A'' after ''section 877(b)''.

(5) The second sentence of section 6039G(d) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''section 877(a))''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after 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 on or 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 F—Miscellaneous Provisions**

**SEC. 551. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.**

(a) IN GENERAL.—Section 1275(d) (relating to regulation authority) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'', and

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

''(2) TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT.—

''(A) IN GENERAL.—In the case of a debt instrument which—

''(i) is convertible into stock of the issuing corporation, into stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1)), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

''(ii) provides for contingent payments,

any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed-rate debt instrument shall be applied as if the regulations require that such comparable yield be determined by reference to a noncontingent fixed-rate debt instrument which is convertible into stock.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.''.

(b) CROSS REFERENCE.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

''For the treatment of contingent payment convertible debt, see section 1275(d)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued on or after the date of the enactment of this Act.

**SEC. 552. GRANT OF TREASURY REGULATORY AUTHORITY TO ADDRESS FOREIGN TAX CREDIT TRANSACTIONS INVOLVING INAPPROPRIATE SEPARATION OF FOREIGN TAXES FROM RELATED FOREIGN INCOME.**

(a) IN GENERAL.—Section 901 (relating to taxes of foreign countries and of possessions of United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) REGULATIONS.—The Secretary may prescribe regulations disallowing a credit under subsection (a) for all or a portion of any foreign tax, or allocating a foreign tax among 2 or more persons, in cases where the foreign tax is imposed on any person in respect of income of another person or in other cases involving the inappropriate separation of the foreign tax from the related foreign income.''.

(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. 553. REPEAL OF SPECIAL PROPERTY EXCEPTION TO LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.**

(a) IN GENERAL.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by striking paragraphs (1) and (2), by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

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

''(3) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2005, with respect to leases entered into on or before March 12, 2004.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

**SEC. 554. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE CORPORATIONS.**

(a) IN GENERAL.—Section 163(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) TREATMENT OF CORPORATE PARTNERS.—Except to the extent provided by regulations, in applying this subsection to a corporation which owns (directly or indirectly) an interest in a partnership—

''(A) such corporation's distributive share of interest income paid or accrued to such partnership shall be treated as interest income paid or accrued to such corporation,

''(B) such corporation's distributive share of interest paid or accrued by such partnership shall be treated as interest paid or accrued by such corporation, and

''(C) such corporation's share of the liabilities of such partnership shall be treated as liabilities of such corporation.''.

(b) ADDITIONAL REGULATORY AUTHORITY.—Section 163(j)(9) (relating to regulations), as redesignated by subsection (a), is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) regulations providing for the reallocation of shares of partnership indebtedness, or distributive shares of the partnership's interest income or interest expense, as may be appropriate to carry out the purposes of this subsection.''.

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

**SEC. 555. LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES.**

(a) IN GENERAL.—Paragraph (2) of section 274(e) (relating to expenses treated as compensation) is amended to read as follows:

''(2) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities, to the extent that the expenses do not exceed the amount of the expenses which are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to an employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).''.

(b) PERSONS NOT EMPLOYEES.—Paragraph (9) of section 274(e) is amended by striking ''to the extent that the expenses are includible in the gross income'' and inserting ''to the extent that the expenses do not exceed the amount of the expenses which are includible in the gross income''.

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

**SEC. 556. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.**

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

(b) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—Section 1(g)(4) (relating to net unearned income) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—For purposes of this subsection, in the case of any child who is a beneficiary of a qualified disability trust (as defined in section 642(b)(2)(C)(ii)), any amount included in the income of such child under sections 652 and 662 during a taxable year shall be considered earned income of such child for such taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 557. LOAN AND REDEMPTION REQUIREMENTS ON POOLED FINANCING REQUIREMENTS.**

(a) STRENGTHENED REASONABLE EXPECTATION REQUIREMENT.—Subparagraph (A) of section 149(f)(2) (relating to reasonable expectation requirement) is amended to read as follows:

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to an issue if the issuer reasonably expects that—

''(i) as of the close of the 1-year period beginning on the date of issuance of the issue, at least 50 percent of the net proceeds of the issue (as of the close of such period) will have been used directly or indirectly to make or finance loans to ultimate borrowers, and

''(ii) as of the close of the 3-year period beginning on such date of issuance, at least 95 percent of the net proceeds of the issue (as of the close of such period) will have been so used.''.

(b) WRITTEN LOAN COMMITMENT AND REDEMPTION REQUIREMENTS.—Section 149(f) (relating to treatment of certain pooled financing bonds) is amended by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively, and by inserting after paragraph (3) the following new paragraphs:

''(4) WRITTEN LOAN COMMITMENT REQUIREMENT.—

''(A) IN GENERAL.—The requirement of this paragraph is met with respect to an issue if the issuer receives prior to issuance written loan commitments identifying the ultimate potential borrowers of at least 50 percent of the net proceeds of such issue.

''(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any issuer which is a State (or an integral part of a State) issuing pooled financing bonds to make or finance loans to subordinate governmental units of such State or to State-created entities providing financing for water-infrastructure projects through the federally-sponsored State revolving fund program.

''(5) REDEMPTION REQUIREMENT.—The requirement of this paragraph is met if to the extent that less than the percentage of the proceeds of an issue required to be used under clause (i) or (ii) of paragraph (2)(A) is used by the close of the period identified in such clause, the issuer uses an amount of proceeds equal to the excess of—

''(A) the amount required to be used under such clause, over

''(B) the amount actually used by the close of such period,

''to redeem outstanding bonds within 90 days after the end of such period.''.

(c) ELIMINATION OF DISREGARD OF POOLED BONDS IN DETERMINING ELIGIBILITY FOR SMALL ISSUER EXCEPTION TO ARBITRAGE REBATE.—Section 148(f)(4)(D)(ii) (relating to aggregation of issuers) is amended by striking subclause (II) and by redesignating subclauses (III) and (IV) as subclauses (II) and (III), respectively.

(d) CONFORMING AMENDMENTS.—

(1) Section 149(f)(1) is amended by striking ''paragraphs (2) and (3)'' and inserting ''paragraphs (2), (3), (4), and (5)''.

(2) Section 149(f)(7)(B), as redesignated by subsection (b), is amended by striking ''paragraph (4)(A)'' and inserting ''paragraph (6)(A)''.

(3) Section 54(l)(2) is amended by striking ''section 149(f)(4)(A)'' and inserting ''section 149(f)(6)(A)''.

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

**SEC. 558. REPORTING OF INTEREST ON TAX-EXEMPT BONDS.**

(a) IN GENERAL.—Section 6049(b)(2) (relating to exceptions) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) CONFORMING AMENDMENT.—Section 6049(b)(2)(C), as redesignated by subsection (a), is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest earned after December 31, 2005.

**SEC. 559. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.**

(a) TAXABLE YEARS ENDING BEFORE 2006.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 29(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 29(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005.—Section 29(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar year 2005 and the amount in effect under subsection (a) for sales in such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(b) TAXABLE YEARS ENDING AFTER 2005.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 45K(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 45K(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005, 2006, AND 2007.—Section 45K(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar years 2005, 2006, and

2007 and the amount in effect under subsection (a) for sales in each such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(3) TREATMENT OF COKE AND COKE GAS.—

(A) NONAPPLICATION OF PHASEOUT.—Section 45K(g)(2) is amended by adding at the end the following new subparagraph:

''(D) NONAPPLICATION OF PHASEOUT.—Subsection (b)(1) shall not apply.''.

(B) APPLICATION OF INFLATION ADJUSTMENT.—Section 45K(g)(2)(B) is amended by inserting ''and the last sentence of subsection (b)(2) shall not apply.''.

(C) CLARIFICATION OF QUALIFYING FACILITY.—Section 45K(g)(1) is amended by inserting ''(other than from petroleum based products)'' after ''coke or coke gas''.

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

**SEC. 560. MODIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR.**

(a) IN GENERAL.—The table contained in section 6654(d)(1)(C) is amended by striking ''2002 or thereafter'' and inserting ''2002, 2003, 2004, or 2005'' and by adding at the end the following new items:

| | |
|---|---|
| ''2006 | 120 |
| 2007 or thereafter | 110''. |

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 2005.

**SEC. 561. REVALUATION OF LIFO INVENTORIES OF LARGE INTEGRATED OIL COMPANIES.**

(a) GENERAL RULE.—Notwithstanding any other provision of law, if a taxpayer is an applicable integrated oil company for its last taxable year ending in calendar year 2005, the taxpayer shall—

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

(2) decrease its cost of goods sold for such taxable year by the aggregate amount of the increases under paragraph (1).

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

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

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

(A) $18.75, and

(B) the number of barrels of crude oil (or in the case of natural gas or other petroleum products, the number of barrel-of-oil equivalents) represented by the layer.

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

(c) APPLICATION OF REQUIREMENT.—

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

(2) UNDERPAYMENTS OF ESTIMATED TAX.—o addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1986 (relating to failure by corporation to pay estimated tax) with respect to any underpayment of an installment required to be paid with respect to the taxable year described in subsection (a) to the extent such underpayment was created or increased by this section.

(d) APPLICABLE INTEGRATED OIL COMPANY.—For purposes of this section, the term ''applicable integrated oil company'' means an integrated oil company (as defined in section 291(b)(4) of the Internal Revenue Code of 1986) which has an average daily worldwide production of crude oil of at least 500,000 barels for the taxable year and which had gross receipts in excess of $1,000,000,000 for its last taxable year ending during calendar year 2005. For purposes of this subsection all persons treated as a single employer under subsections (a) and (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as 1 person and, in the case of a short taxable year, the rule under section 448(c)(3)(B) shall apply.

**SEC. 562. ELIMINATION OF AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR MAJOR INTEGRATED OIL COMPANIES.**

(a) IN GENERAL.—Section 167(h) is amended by adding at the end the following new paragraph:

''(5) NONAPPLICATION TO MAJOR INTEGRATED OIL COMPANIES.—This subsection shall not apply with respect to any expenses paid or incurred for any taxable year by any integrated oil company (as defined in section 291(b)(4)) which has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 1329(a) of the Energy Policy Act of 2005.

**SEC. 563. VALUATION OF EMPLOYEE PERSONAL USE OF NONCOMMERCIAL AIRCRAFT.**

(a) IN GENERAL.—For purposes of Federal income tax inclusion, the value of any employee personal use of noncommercial aircraft shall equal the excess (if any) of—

(1) greater of—

(A) the fair market value of such use, or

(B) the actual cost of such use (including all fixed and variable costs), over

(2) any amount paid by or on behalf of such employee for such use.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to use after the date of the enactment of this Act.

**SEC. 564. APPLICATION OF FIRPTA TO REGULATED INVESTMENT COMPANIES.**

(a) IN GENERAL.—Subclause (II) of section 897(h)(4)(A)(i) (defining qualified investment entity) is amended by inserting ''which is a United States real property holding corporation or which would be a United States real property holding corporation if the exceptions provided in subsections (c)(3) and (h)(2) did not apply to interests in any real estate investment trust or regulated investment company'' after ''regulated investment company''.

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

**SEC. 565. TREATMENT OF DISTRIBUTIONS ATTRIBUTABLE TO FIRPTA GAINS.**

(a) QUALIFIED INVESTMENT ENTITY.—

(1) IN GENERAL.—Section 897(h)(1) is amended—

(A) by striking ''a nonresident alien individual or a foreign corporation'' in the first sentence and inserting ''a nonresident alien individual, a foreign corporation, or other qualified investment entity'',

(B) by striking ''such nonresident alien individual or foreign corporation'' in the first sentence and inserting ''such nonresident alien individual, foreign corporation, or other qualified investment entity'', and

(C) by striking the second sentence and inserting the following new sentence: ''Notwithstanding the preceding sentence, any distribution by a qualified investment entity to a nonresident alien, a foreign corporation, or other qualified investment entity with respect to any class of stock which is regularly traded on an established securities market located in the United States shall not be treated as gain recognized from the sale or exchange of a United States real property interest if the shareholder did not own more than 5 percent of such class of stock at any time during the 1 year period ending on the date of such distribution.''.

(2) APPLICATION AFTER 2007.—Clause (ii) of section 897(h)(4)(A) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, an entity described in clause (i)(II) shall be treated as a qualified investment entity for purposes of applying paragraph (1) in any case in which a real estate investment trust makes a distribution to an entity described in clause (i)(II).''.

(b) TREATMENT OF CERTAIN DISTRIBUTIONS AS DIVIDENDS.—

(1) IN GENERAL.—Section 852(b)(3) (relating to capital gains) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN DISTRIBUTIONS.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount of such distribution which would be included in computing long-term capital gains for the shareholder under subparagraph (B) or (D) (without regard to this subparagraph)—

''(i) shall not be included in computing such shareholder's long-term capital gains, and

''(ii) shall be included in such shareholder's gross income as a dividend from the regulated investment company.''.

(2) CONFORMING AMENDMENT.—Section 871(k)(2) (relating to short-term capital gain dividends) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN DISTRIBUTIONS.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount which would be treated as a short-term capital gain dividend to the shareholder (without regard to this subparagraph)—

''(i) shall not be treated as a short-term capital gain dividend, and

''(ii) shall be included in such shareholder's gross income as a dividend from the regulated investment company.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of qualified investment entities beginning after the date of the enactment of this Act.

(2) DIVIDENDS.—The amendments made by subsection (b) shall apply to dividends with respect to taxable years of regulated investment companies beginning after December 31, 2004.

**SEC. 566. PREVENTION OF AVOIDANCE OF TAX ON INVESTMENTS OF FOREIGN PERSONS IN UNITED STATES REAL PROPERTY THROUGH WASH SALE TRANSACTIONS.**

(a) IN GENERAL.—Section 897(h) of the Internal Revenue Code of 1986 (relating to special rules in certain investment entities) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) TREATMENT OF CERTAIN WASH SALE TRANSACTIONS.—

''(A) IN GENERAL.—If an interest in a domestically controlled qualified investment entity is disposed of in an applicable wash sale transaction, the taxpayer shall, for purposes of this section, be treated as having gain from the sale or exchange of a United States real property interest in an amount equal to the portion of the distribution described in subparagraph (B) with respect to

such interest which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1).

''(B) APPLICABLE WASH SALES TRANSACTION.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable wash sales transaction' means any transaction (or series of transactions) under which a nonresident alien individual or foreign corporation—

''(I) disposes of an interest in a domestically controlled qualified investment entity during the 30-day period preceding a distribution which is to be made with respect to the interest and any portion of which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1), and

''(II) acquires an identical interest in such entity during the 60-day period beginning with the 1st day of the 30-day period described in subclause (I).

For purposes of subclause (II), a nonresident alien individual or foreign corporation shall be treated as having acquired any interest acquired by a person related (within the meaning of section 465(b)(3)(C)) to the individual or corporation.

''(ii) EXCEPTION WHERE DISTRIBUTION ACTUALLY RECEIVED.—A transaction shall not be treated as an applicable wash sales transaction if the nonresident alien individual or foreign corporation receives the distribution described in clause (i)(I) with respect to either the interest which was disposed of, or acquired, in the transaction.

''(iii) EXCEPTION FOR CERTAIN PUBLICLY TRADED STOCK.—A transaction shall not be treated as an applicable wash sales transaction if it involves the disposition of any class of stock in a qualified investment entity which is regularly traded on an established securities market within the United States but only if the nonresident alien individual or foreign corporation did not own more than 5 percent of such class of stock at any time during the 1-year period ending on the date of the distribution described in clause (i)(I).''.

(b) NO WITHHOLDING REQUIRED.—Section 1445(b) of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following new paragraph:

''(8) APPLICABLE WASH SALES TRANSACTIONS.—No person shall be required to deduct and withhold any amount under subsection (a) with respect to a disposition which is treated as a disposition of a United States real property interest solely by reason of section 897(h)(4).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after December 31, 2005, in taxable years ending after such date.

**SEC. 567. MODIFICATIONS TO RULES RELATING TO TAXATION OF DISTRIBUTIONS OF STOCK AND SECURITIES OF A CONTROLLED CORPORATION.**

(a) MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355.—

(1) IN GENERAL.—Section 355(b) (defining active conduct of a trade or business) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES RELATING TO ACTIVE BUSINESS REQUIREMENT.—

''(A) IN GENERAL.—For purposes of determining whether a corporation meets the requirement of paragraph (2)(A), all members of such corporation's separate affiliated group shall be treated as 1 corporation. For purposes of the preceding sentence, the term 'separate affiliated group' means, with respect to any corporation, the affiliated group which would be determined under section 1504(a) if such corporation were the common parent and section 1504(b) did not apply.

''(B) CONTROL.—For purposes of paragraph (2)(D), all distributee corporations which are members of the same affiliated group (as defined in section 1504(a) without regard to section 1504(b)) shall be treated as 1 distributee corporation.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 355(b)(2) is amended to read as follows:

''(A) it is engaged in the active conduct of a trade or business,''.

(B) Section 355(b)(2) of such Code is amended by striking the last sentence.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply—

(i) to distributions after the date of the enactment of this Act, and before January 1, 2010, and

(ii) for purposes of determining the continued qualification under section 355(b)(2)(A) of the Internal Revenue Code of 1986 (as amended by paragraph (2)(A)) of distributions made before such date, as a result of an acquisition, disposition, or other restructuring after such date and before January 1, 2010.

(B) TRANSITION RULE.—The amendments made by this subsection shall not apply to any distribution pursuant to a transaction which is—

(i) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(C) ELECTIONS.—

(i) OUT OF TRANSITION RELIEF.—Subparagraph (B) shall not apply if the distributing corporation elects not to have such subparagraph apply to distributions of such corporation. Any such election, once made, shall be irrevocable.

(ii) APPLICATION TO PRIOR DISTRIBUTIONS.—Subparagraph (A)(ii) shall not apply to a distributing or controlled corporation if the corporation elects not to have such subparagraph apply to such corporation. Any such election, once made, shall be irrevocable.

(b) SECTION 355 NOT TO APPLY TO DISTRIBUTIONS IF THE DISTRIBUTING OR CONTROLLED CORPORATION IS A DISQUALIFIED INVESTMENT CORPORATION.—

(1) IN GENERAL.—Section 355 (relating to distributions of stock and securities of a controlled corporation) is amended by adding at the end the following new subsection:

''(g) SECTION NOT TO APPLY TO DISTRIBUTIONS INVOLVING DISQUALIFIED INVESTMENT CORPORATIONS.—

''(1) IN GENERAL.—This section (and so much of section 356 as relates to this section) shall not apply to any distribution which is part of a transaction if—

''(A) either the distributing corporation or controlled corporation is, immediately after the transaction, a disqualified investment corporation, and

''(B) any person holds, immediately after the transaction, a 50-percent or greater interest in any disqualified investment corporation, but only if such person did not hold such an interest in such corporation immediately before the transaction.

''(2) DISQUALIFIED INVESTMENT CORPORATION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'disqualified investment corporation' means any distributing or controlled corporation if the fair market value of the investment assets of the corporation is 75 percent or more of the fair market value of all assets of the corporation.

''(B) INVESTMENT ASSETS.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'investment assets' means—

''(I) cash,

''(II) any stock or securities in a corporation,

''(III) any interest in a partnership,

''(IV) any debt instrument or other evidence of indebtedness,

''(V) any option, forward or futures contract, notional principal contract, or derivative,

''(VI) foreign currency, or

''(VII) any similar asset.

''(ii) EXCEPTION FOR ASSETS USED IN ACTIVE CONDUCT OF CERTAIN FINANCIAL TRADES OR BUSINESSES.—Such term shall not include any asset which is held for use in the active and regular conduct of—

''(I) a lending or finance business (within the meaning of section 954(h)(4)),

''(II) a banking business through a bank (as defined in section 581), a domestic building and loan association (within the meaning of section 7701(a)(19)), or any similar institution specified by the Secretary, or

''(III) an insurance business if the conduct of the business is licensed, authorized, or regulated by an applicable insurance regulatory body.

This clause shall only apply with respect to any business if substantially all of the income of the business is derived from persons who are not related (within the meaning of section 267(b) or 707(b)(1)) to the person conducting the business.

''(iii) EXCEPTION FOR SECURITIES MARKED TO MARKET.—Such term shall not include any security (as defined in section 475(c)(2)) which is held by a dealer in securities and to which section 475(a) applies.

''(iv) STOCK OR SECURITIES IN A 25-PERCENT CONTROLLED ENTITY.—

''(I) IN GENERAL.—Such term shall not include any stock and securities in, or any asset described in subclause (IV) or (V) of clause (i) issued by, a corporation which is a 25-percent controlled entity with respect to the distributing or controlled corporation.

''(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any 25-percent controlled entity.

''(III) 25-PERCENT CONTROLLED ENTITY.—For purposes of this clause, the term '25-percent controlled entity' means, with respect to any distributing or controlled corporation, any corporation with respect to which the distributing or controlled corporation owns directly or indirectly stock meeting the requirements of section 1504(a)(2), except that such section shall be applied by substituting '25 percent' for '80 percent' and without regard to stock described in section 1504(a)(4).

''(v) INTERESTS IN CERTAIN PARTNERSHIPS.—

''(I) IN GENERAL.—Such term shall not include any interest in a partnership, or any debt instrument or other evidence of indebtedness, issued by the partnership, if 1 or more of the trades or businesses of the partnership are (or, without regard to the 5-year requirement under subsection (b)(2)(B), would be) taken into account by the distributing or controlled corporation, as the case may be, in determining whether the requirements of subsection (b) are met with respect to the distribution.

''(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any partnership described in subclause (I).

''(3) 50-PERCENT OR GREATER INTEREST.—For purposes of this subsection—

''(A) IN GENERAL.—The term '50-percent or greater interest' has the meaning given such term by subsection (d)(4).

''(B) ATTRIBUTION RULES.—The rules of section 318 shall apply for purposes of determining ownership of stock for purposes of this paragraph.

''(4) TRANSACTION.—For purposes of this subsection, the term 'transaction' includes a series of transactions.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out, or prevent the avoidance of, the purposes of this subsection, including regulations—

''(A) to carry out, or prevent the avoidance of, the purposes of this subsection in cases involving—

''(i) the use of related persons, intermediaries, pass-thru entities, options, or other arrangements, and

''(ii) the treatment of assets unrelated to the trade or business of a corporation as investment assets if, prior to the distribution, investment assets were used to acquire such unrelated assets,

''(B) which in appropriate cases exclude from the application of this subsection a distribution which does not have the character of a redemption which would be treated as a sale or exchange under section 302, and

''(C) which modify the application of the attribution rules applied for purposes of this subsection.''.

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to distributions after the date of the enactment of this Act.

(B) TRANSITION RULE.—The amendments made by this subsection shall not apply to any distribution pursuant to a transaction which is—

(i) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

**SEC. 568. AMORTIZATION OF EXPENSES INCURRED IN CREATING OR ACQUIRING MUSIC OR MUSIC COPYRIGHTS.**

(a) IN GENERAL.—Section 263A (relating to capitalization and inclusion in inventory costs of certain expenses) is amended by redesignating subsection (i) as subsection (j) and by adding after subsection (h) the following new subsection:

''(i) SPECIAL RULES FOR CERTAIN MUSICAL WORKS AND COPYRIGHTS.—

''(1) IN GENERAL.—If—

''(A) any expense is paid or incurred by the taxpayer in creating or acquiring any musical composition (including any accompanying words) or any copyright with respect to a musical composition, and

''(B) such expense is required to be capitalized under this section,

then, notwithstanding section 167(g), the amount capitalized shall be amortized ratably over the 5-year period beginning with the month in which the composition or copyright was acquired (or, in the case of expenses paid or incurred in connection with the creation of a musical composition, the 5-taxable-year period beginning with the taxable year in which the expenses were paid or incurred).

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any expense—

''(A) which is a qualified creative expense under subsection (h),

''(B) to which a simplified procedure established under subsection (j)(2) applies,

''(C) which is an amortizable section 197 intangible (as defined in section 197(c)), or

''(D) which, without regard to this section, would not be allowable as a deduction.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after December 31, 2005, in taxable years ending after such date.

**SEC. 569. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.**

(a) IN GENERAL.—Subpart H of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new section:

**''SEC. 54A. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.**

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a rural renaissance bond on a credit allowance date of such bond, which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a rural renaissance bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any rural renaissance bond is the product of—

''(A) the credit rate determined by the Secretary under paragraph (3) for the day on which such bond was sold, multiplied by

''(B) the outstanding face amount of the bond.

''(3) DETERMINATION.—For purposes of paragraph (2), with respect to any rural renaissance bond, the Secretary shall determine daily or caused to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary's designee estimates will permit the issuance of rural renaissance bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer.

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term also includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under this part (other than subpart C thereof, relating to refundable credits).

''(d) RURAL RENAISSANCE BOND.—For purposes of this section—

''(1) IN GENERAL.—The term 'rural renaissance bond' means any bond issued as part of an issue if—

''(A) the bond is issued by a qualified issuer,

''(B) 95 percent or more of the proceeds from the sale of such issue are to be used for capital expenditures incurred for 1 or more qualified projects,

''(C) the qualified issuer designates such bond for purposes of this section and the bond is in registered form, and

''(D) the issue meets the requirements of subsections (e) and (h).

''(2) QUALIFIED PROJECT; SPECIAL USE RULES.—

''(A) IN GENERAL.—The term 'qualified project' means 1 or more projects described in subparagraph (B) located in a rural area.

''(B) PROJECTS DESCRIBED.—A project described in this subparagraph is—

''(i) a water or waste treatment project,

''(ii) an affordable housing project,

''(iii) a community facility project, including hospitals, fire and police stations, and nursing and assisted-living facilities,

''(iv) a value-added agriculture or renewable energy facility project for agricultural producers or farmer-owned entities, including any project to promote the production, processing, or retail sale of ethanol (including fuel at least 85 percent of the volume of which consists of ethanol), biodiesel, animal waste, biomass, raw commodities, or wind as a fuel,

''(v) a distance learning or telemedicine project,

''(vi) a rural utility infrastructure project, including any electric or telephone system,

''(vii) a project to expand broadband technology,

''(viii) a rural teleworks project, and

''(ix) any project described in any preceding clause carried out by the Delta Regional Authority.

''(C) SPECIAL RULES.—For purposes of this paragraph—

''(i) any project described in subparagraph (B)(iv) for a farmer-owned entity may be considered a qualified project if such entity is located in a rural area, or in the case of a farmer-owned entity the headquarters of which are located in a nonrural area, if the project is located in a rural area, and

''(ii) any project for a farmer-owned entity which is a facility described in subparagraph (B)(iv) for agricultural producers may be considered a qualified project regardless of whether the facility is located in a rural or nonrural area.

''(3) SPECIAL USE RULES.—

''(A) REFINANCING RULES.—For purposes of paragraph (1)(B), a qualified project may be refinanced with proceeds of a rural renaissance bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred after the date of the enactment of this section.

''(B) REIMBURSEMENT.—For purposes of paragraph (1)(B), a rural renaissance bond may be issued to reimburse a borrower for amounts paid after the date of the enactment of this section with respect to a qualified project, but only if—

''(i) prior to the payment of the original expenditure, the borrower declared its intent to reimburse such expenditure with the proceeds of a rural renaissance bond,

''(ii) not later than 60 days after payment of the original expenditure, the qualified issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

''(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

''(C) TREATMENT OF CHANGES IN USE.—For purposes of paragraph (1)(B), the proceeds of an issue shall not be treated as used for a qualified project to the extent that a borrower takes any action within its control which causes such proceeds not to be used

for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a rural renaissance bond.

''(e) MATURITY LIMITATIONS.—

''(1) DURATION OF TERM.—A bond shall not be treated as a rural renaissance bond if the maturity of such bond exceeds the maximum term determined by the Secretary under paragraph (2) with respect to such bond.

''(2) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined without regard to the requirements of subsection (f)(3) and using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

''(3) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a rural renaissance bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each calendar year that the issue is outstanding.

''(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) NATIONAL LIMITATION.—There is a rural renaissance bond limitation of $200,000,000.

''(2) ALLOCATION BY SECRETARY.—The Secretary shall allocate the amount described in paragraph (1) among qualified projects in such manner as the Secretary determines appropriate.

''(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(h) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the qualified issuer reasonably expects—

''(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified projects within the 5-year period beginning on the date of issuance of the rural renaissance bond,

''(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the rural renaissance bond or, in the case of a rural renaissance bond, the proceeds of which are to be loaned to 2 or more borrowers, such binding commitment will be incurred within the 6-month period beginning on the date of the loan of such proceeds to a borrower, and

''(C) such projects will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the qualified issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related projects will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the qualified issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(i) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a rural renaissance bond unless, with respect to the issue of which the bond is a part, the qualified issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

''(j) QUALIFIED ISSUER.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified issuer' means any not-for-profit cooperative lender which has as of the date of the enactment of this section received a guarantee under section 306 of the Rural Electrification Act and which meets the requirement of paragraph (2).

''(2) USER FEE REQUIREMENT.—The requirement of this paragraph is met if the issuer of any rural renaissance bond makes grants for qualified projects as defined under subsection (d)(2) on a semi-annual basis every year that such bond is outstanding in an annual amount equal to one-half of the rate on United States Treasury Bills of the same maturity multiplied by the outstanding principle balance of rural renaissance bonds issued by such issuer.

''(k) SPECIAL RULES RELATING TO POOL BONDS.—No portion of a pooled financing bond may be allocable to loan unless the borrower has entered into a written loan commitment for such portion prior to the issue date of such issue.

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

''(1) BOND.—The term 'bond' includes any obligation.

''(2) POOLED FINANCING BOND.—The term 'pooled financing bond' shall have the meaning given such term by section 149(f)(4)(A).

''(3) RURAL AREA.—The term 'rural area' means any area other than—

''(A) a city or town which has a population of greater than 50,000 inhabitants, or

''(B) the urbanized area contiguous and adjacent to such a city or town.

''(4) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—

''(A) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(B) NO BASIS ADJUSTMENT.—In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(i) shall apply.

''(5) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any rural renaissance bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(6) REPORTING.—Issuers of rural renaissance bonds shall submit reports similar to the reports required under section 149(e).''.

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(9) REPORTING OF CREDIT ON RURAL RENAISSANCE BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(c) CONFORMING AMENDMENT.—The table of sections for subpart H of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54A. Credit to holders of rural renaissance bonds.''.

(d) ISSUANCE OF REGULATIONS.—The Secretary of Treasury shall issue regulations required under section 54A of the Internal Revenue Code of 1986 (as added by this section) not later than 120 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act and before January 1, 2010.

**SEC. 570. MODIFICATION OF TREATMENT OF LOANS TO QUALIFIED CONTINUING CARE FACILITIES.**

(a) IN GENERAL.—Subsection (g) of section 7872 is amended to read as follows:

''(g) EXCEPTION FOR LOANS TO QUALIFIED CONTINUING CARE FACILITIES.—

''(1) IN GENERAL.—This section shall not apply for any calendar year to any below-market loan owed by a facility which on the last day of such year is a continuing care facility, if such loan was made pursuant to a continuing care contract and if the lender (or the lender's spouse) attains age 62 before the close of such year.

''(2) CONTINUING CARE CONTRACT.—For purposes of this section, the term 'continuing care contract' means a written contract between an individual and a qualified continuing care facility under which—

''(A) the individual or individual's spouse may use a qualified continuing care facility for their life or lives,

''(B) the individual or individual's spouse will be provided with housing in an independent living unit (which has additional available facilities outside such unit for the provision of meals and other personal care), an assisted living facility or a nursing facility, as is available in the continuing care facility, as appropriate for the health of such individual or individual's spouse, and

''(C) the individual or individual's spouse will be provided assisted living or nursing care as the health of such individual or individual's spouse requires, and as is available in the continuing care facility.

''(3) QUALIFIED CONTINUING CARE FACILITY.—

''(A) IN GENERAL.—For purposes of this section, the term 'qualified continuing care facility' means 1 or more facilities—

''(i) which are designed to provide services under continuing care contracts,

''(ii) that include an independent living unit, plus an assisted living or nursing facility, or both, and

''(iii) substantially all of the independent living unit residents of which are covered by continuing care contracts.

''(B) NURSING HOMES EXCLUDED.—The term 'qualified continuing care facility' shall not include any facility which is of a type which is traditionally considered a nursing home.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to loans made after December 31, 2005.

**SEC. 571. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO LARGE INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.**

(a) IN GENERAL.—Section 901 (relating to credit for taxes of foreign countries and of possessions of the United States), as amended by this Act, is amended by redesignating subsections (m) and (n) as subsections (n) and (o), respectively, and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULES RELATING TO LARGE INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer which is a large integrated oil company to a foreign country or possession of the United States for any period shall not be considered a tax—

''(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

''(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

''(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

''(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

''(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

''(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

''(i) persons who are not dual capacity taxpayers, and

''(ii) persons who are citizens or residents of the foreign country or possession.

''(4) LARGE INTEGRATED OIL COMPANY.—For purposes of this subsection, the term 'large integrated oil company' means, with respect to any taxable year, an integrated oil company (as defined in section 291(b)(4)) which—

''(A) had gross receipts in excess of $1,000,000,000 for such taxable year, and

''(B) has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

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

**SEC. 572. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY CERTAIN EMPLOYEES OF THE INTELLIGENCE COMMUNITY.**

(a) IN GENERAL.—Subparagraph (A) of section 121(d)(9) (relating to exclusion of gain from sale of principal residence) is amended by striking ''duty'' and all that follows and inserting ''duty—

''(i) as a member of the uniformed services,

''(ii) as a member of the Foreign Service of the United States, or

''(iii) as an employee of the intelligence community.''.

(b) EMPLOYEE OF INTELLIGENCE COMMUNITY DEFINED.—Subparagraph (C) of section 121(d)(9) is amended by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

''(iv) EMPLOYEE OF INTELLIGENCE COMMUNITY.—The term 'employee of the intelligence community' means an employee (as defined by section 2105 of title 5, United States Code) of—

''(I) the Office of the Director of National Intelligence,

''(II) the Central Intelligence Agency,

''(III) the National Security Agency,

''(IV) the Defense Intelligence Agency,

''(V) the National Geospatial-Intelligence Agency,

''(VI) the National Reconnaissance Office,

''(VII) any other office within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs,

''(VIII) any of the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of Treasury, the Department of Energy, and the Coast Guard,

''(IX) the Bureau of Intelligence and Research of the Department of State, or

''(X) any of the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information.''.

(c) SPECIAL RULE.—Subparagraph (C) of section 121(d)(9), as amended by subsection (b), is amended by adding at the end the following new clause:

''(vi) SPECIAL RULE RELATING TO INTELLIGENCE COMMUNITY.—An employee of the intelligence community shall not be treated as serving on qualified extended duty unless—

''(I) for purposes of such duty such employee has moved from 1 duty station to another, and

''(II) at least 1 of such duty stations is located outside of the Washington, District of Columbia, and Baltimore metropolitan statistical areas (as defined by the Secretary of Commerce).''.

(d) CONFORMING AMENDMENT.—The heading for section 121(d)(9) is amended to read as follows: ''UNIFORMED SERVICES, FOREIGN SERVICE, AND INTELLIGENCE COMMUNITY''.

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

**SEC. 573. DISABILITY PREFERENCE PROGRAM FOR TAX COLLECTION CONTRACTS.**

(a) IN GENERAL.—The Secretary of the Treasury shall not enter into any qualified tax collection contract after April 1, 2006, until the Secretary implements a disability preference program that meets the requirements of subsection (b).

(b) DISABILITY PREFERENCE PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—A disability preference program meets the requirements of this subsection if such program requires that not less than 10 percent of the accounts of each dollar value category are awarded to persons described in paragraph (2).

(2) PERSON DESCRIBED.—For purposes of paragraph (1), a person is described in this paragraph if—

(A) as of the date any qualified tax collection contract is awarded—

(i) such person employs not less than 50 severely disabled individuals within the United States; or

(ii) not less than 30 percent of the employees of such person within the United States are severely disabled individuals;

(B) such person agrees as a condition of the qualified tax collection contract that not more than 90 days after the date such contract is awarded, not less than 35 percent of the employees of such person employed in connection with providing services under such contract shall—

(i) be hired after the date such contract is awarded; and

(ii) be severely disabled individuals; and

(C) such person is otherwise qualified to perform the services required.

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

(1) QUALIFIED TAX COLLECTION CONTRACT.—The term ''qualified tax collection contract'' shall have the meaning given such term under section 6306(b) of the Internal Revenue Code of 1986.

(2) DOLLAR VALUE CATEGORY.—The term ''dollar value category'' means the dollar ranges of accounts for collection as determined and assigned by the Secretary under section 6306(b)(1)(B) of the Internal Revenue Code of 1986 with respect to a qualified tax collection contract.

(3) SEVERELY DISABLED INDIVIDUAL.—The term ''severely disabled individual'' means—

(A) a veteran of the United States armed forces with a disability of 50 percent or greater—

(i) determined by the Secretary of Veterans Affairs to be service-connected; or

(ii) deemed by law to be service-connected; or

(B) any individual who is a disabled beneficiary (as defined in section 1148(k)(2) of the Social Security Act (42 U.S.C. 1320b–19(k)(2))) or who would be considered to be such a disabled beneficiary but for having income or resources in excess of the income or resources eligibility limits established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), respectively.

## TITLE VI—COMPLIANCE WITH CONGRESSIONAL BUDGET ACT

**SEC. 601. SUNSET OF CERTAIN PROVISIONS AND AMENDMENTS.**

The provisions of, and amendments made by, title I, title II, subtitle A of title III, and title IV shall not apply to taxable years beginning after September 30, 2010, and the Internal Revenue Code of 1986 shall be applied and administered to such years as if such provisions and amendments had never been enacted.

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**SA 2708.** Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

Strike all after the first word and insert the following:

**1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Tax Relief Act of 2005''.

(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 for this Act is as follows:

## TITLE I—EXTENSION OF EXPIRING PROVISIONS

### SEC. 101. EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESS.

Section 179 is amended by striking ''2008'' each place it appears and inserting ''2010''.

### SEC. 102. CREDIT FOR ELECTIVE DEFERRALS AND IRA CONTRIBUTIONS.

Section 25B(h) is amended by striking ''2006'' and inserting ''2009''.

### SEC. 103. ABOVE-THE-LINE DEDUCTION FOR HIGHER EDUCATION.

(a) IN GENERAL.—Section 222(e) is amended by striking ''2005''and inserting ''2009''.

(b) CONFORMING AMENDMENTS.—Section 222(b)(2)(B) is amended—

(1) by striking ''a taxable year beginning in 2004 or 2005'' and inserting ''any taxable year beginning after 2003'', and

(2) by striking ''2004 AND 2005'' and inserting ''AFTER 2003''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

### SEC. 104. EXTENSION AND MODIFICATION OF NEW MARKETS TAX CREDIT.

(a) EXTENSION.—Section 45D(f)(1)(D) is amended by striking ''and 2007'' and inserting '', 2007, and 2008''.

(b) REGULATIONS REGARDING NON-METROPOLITAN COUNTIES.—Section 45D(i) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end by the following new paragraph:

''(6) which ensure that non-metropolitan counties receive a proportional allocation of qualified equity investments.''.

### SEC. 105. ELECTION TO DEDUCT STATE AND LOCAL GENERAL SALES TAXES.

(a) IN GENERAL.—Section 164(b)(5)(I) is amended by striking ''2006'' and inserting ''2008''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

### SEC. 106. EXTENSION AND INCREASE IN MINIMUM TAX RELIEF TO INDIVIDUALS.

(a) IN GENERAL.—Section 55(d)(1) is amended—

(1) by striking ''$58,000'' and all that follows through ''2005'' in subparagraph (A) and inserting ''$62,550 in the case of taxable years beginning in 2006'', and

(2) by striking ''$40,250'' and all that follows through ''2005'' in subparagraph (B) and inserting ''$42,500 in the case of taxable years beginning in 2006''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

### SEC. 107. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX LIABILITY.

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

(1) by striking ''2005'' in the heading thereof and inserting ''2007'', and

(2) by striking ''or 2005'' and inserting ''2005, 2006, or 2007''.

(b) CONFORMING PROVISIONS.—

(1) Section 30B(g) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR 2006 AND 2007.—For purposes of any taxable year beginning during 2006 or 2007, the credit allowed under subsection (a) (after the application of paragraph (1)) shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under subpart A and this subpart (other than this section and section 30C).''.

(2) Section 30C(d) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR 2006 AND 2007.—For purposes of any taxable year beginning during 2006 or 2007, the credit allowed under subsection (a) (after the application of paragraph (1)) shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under subpart A and this subpart (other than this section).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

### SEC. 108. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h)(1)(B) is amended by striking ''2005'' and inserting ''2007''.

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking ''2005'' and inserting ''2007''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2005.

(b) INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.—Subparagraph (A) of section 41(c)(4) (relating to election of alternative incremental credit) is amended—

(1) by striking ''2.65 percent'' and inserting ''3 percent'',

(2) by striking ''3.2 percent'' and inserting ''4 percent'', and

(3) by striking ''3.75 percent'' and inserting ''5 percent''.

(c) ALTERNATIVE SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH EXPENSES.—

(1) IN GENERAL.—Subsection (c) of section 41 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

''(5) ELECTION OF ALTERNATIVE SIMPLIFIED CREDIT.—

''(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

''(B) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE YEARS.—

''(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any 1 of the 3 taxable years preceding the taxable year for which the credit is being determined.

''(ii) CREDIT RATE.—The credit determined under this subparagraph shall be equal to 6 percent of the qualified research expenses for the taxable year.

''(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies.''.

(2) COORDINATION WITH ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

(A) IN GENERAL.—Section 41(c)(4)(B) (relating to election) is amended by adding at the end the following: ''An election under this paragraph may not be made for any taxable year to which an election under paragraph (5) applies.''.

(B) TRANSITION RULE.—In the case of an election under section 41(c)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes the date of the enactment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by subsection (a)) for such year.

(d) EXPANSION OF CREDIT TO EXPENSES OF GENERAL COLLABORATIVE RESEARCH CONSORTIA.—Section 41 is amended—

(1) by striking ''an energy research consortium'' in subsections (a)(3) and (b)(3)(C)(i) and inserting ''a research consortium'',

(2) by striking ''energy'' each place it appears in subsection (f)(6)(A),

(3) by inserting ''or 501(c)(6)'' after ''section 501(c)(3)'' in subsection (f)(6)(A)(i)(I), and

(4) by striking ''ENERGY RESEARCH'' in the heading for subsection (f)(6) and inserting ''RESEARCH''.

(e) EFFECTIVE DATE.—Except as provided in subsection (a)(3), the amendments made by

this section shall apply to taxable years ending after December 31, 2005.

**SEC. 109. WORK OPPORTUNITY TAX CREDIT AND WELFARE-TO-WORK CREDIT.**

(a) IN GENERAL.—Section 51(c)(4)(B) is amended by striking ''2005'' and inserting ''2007''.

(b) ELIGIBILITY OF EX-FELONS DETERMINED WITHOUT REGARD TO FAMILY INCOME.—Paragraph (4) of section 51(d) is amended by adding ''and'' at the end of subparagraph (A), by striking '', and'' at the end of subparagraph (B) and inserting a period, and by striking all that follows subparagraph (B).

(c) INCREASE IN MAXIMUM AGE FOR ELIGIBILITY OF FOOD STAMP RECIPIENTS.—Clause (i) of section 51(d)(8)(A) is amended by striking ''25'' and inserting ''40''.

(d) INCREASE IN MAXIMUM AGE FOR DESIGNATED COMMUNITY RESIDENTS.—

(1) IN GENERAL.—Paragraph (5) of section 51(d) is amended to read as follows:

''(5) DESIGNATED COMMUNITY RESIDENTS.—

''(A) IN GENERAL.—The term 'designated community resident' means any individual who is certified by the designated local agency—

''(i) as having attained age 18 but not age 40 on the hiring date, and

''(ii) as having his principal place of abode within an empowerment zone, enterprise community, or renewal community.

''(B) INDIVIDUAL MUST CONTINUE TO RESIDE IN ZONE OR COMMUNITY.—In the case of a designated community resident, the term 'qualified wages' shall not include wages paid or incurred for services performed while the individual's principal place of abode is outside an empowerment zone, enterprise community, or renewal community.''

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 51(d)(1) is amended to read as follows:

''(D) a designated community resident,''.

(e) CONSOLIDATION OF WORK OPPORTUNITY CREDIT WITH WELFARE-TO-WORK CREDIT.—

(1) IN GENERAL.—Paragraph (1) of section 51(d) is amended by striking ''or'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', or'', and by adding at the end the following new subparagraph:

''(I) a long-term family assistance recipient.''

(2) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—Subsection (d) of section 51 is amended by redesignating paragraphs (10) through (12) as paragraphs (11) through (13), respectively, and by inserting after paragraph (9) the following new paragraph:

''(10) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—The term 'long-term family assistance recipient' means any individual who is certified by the designated local agency—

''(A) as being a member of a family receiving assistance under a IV–A program (as defined in paragraph (2)(B)) for at least the 18-month period ending on the hiring date,

''(B)(i) as being a member of a family receiving such assistance for 18 months beginning after August 5, 1997, and

''(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

''(C)(i) as being a member of a family which ceased to be eligible for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

''(ii) as having a hiring date which is not more than 2 years after the date of such cessation.''

(3) INCREASED CREDIT FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Section 51 is amended by inserting after subsection (d) the following new subsection:

''(e) CREDIT FOR SECOND-YEAR WAGES FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—

''(1) IN GENERAL.—With respect to the employment of a long-term family assistance recipient—

''(A) the amount of the work opportunity credit determined under this section for the taxable year shall include 50 percent of the qualified second-year wages for such year, and

''(B) in lieu of applying subsection (b)(3), the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to such a recipient shall not exceed $10,000 per year.

''(2) QUALIFIED SECOND-YEAR WAGES.—For purposes of this subsection, the term 'qualified second-year wages' means qualified wages—

''(A) which are paid to a long-term family assistance recipient, and

''(B) which are attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such recipient determined under subsection (b)(2).

''(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—If such recipient is an employee to whom subparagraph (A) or (B) of subsection (h)(1) applies, rules similar to the rules of such subparagraphs shall apply except that—

''(A) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000', and

''(B) such subparagraph (B) shall be applied by substituting '$833.33' for '$500'.''

(4) REPEAL OF SEPARATE WELFARE-TO-WORK CREDIT.—

(A) IN GENERAL.—Section 51A is hereby repealed.

(B) CLERICAL AMENDMENT.—The table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 51A.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2005.

**SEC. 110. QUALIFIED ZONE ACADEMY BONDS.**

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking ''and 2005'' and inserting ''2005, 2006, and 2007''.

(b) FORM OF PRIVATE BUSINESS CONTRIBUTIONS.—Section 1397E(d)(2)(B) is amended by striking ''any contribution'' and all that follows and inserting ''any cash or cash equivalent contribution''.

(c) SPECIAL RULES RELATING TO AMORTIZATION, EXPENDITURES, ARBITRAGE, AND REPORTING.—

(1) IN GENERAL.—Section 1397E is amended—

(A) in subsection (d)(1), by striking ''and'' at the end of subparagraph (C)(iii), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) the issue meets the requirements of subsections (f), (g), (h), and (i).'', and

(B) by redesignating subsections (f), (g), (h), and (i) as subsection (j), (k), (l), and (m), respectively, and by inserting after subsection (e) the following new subsections:

''(f) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—An issue shall be treated as meeting the requirements of this subsection if such issue provides for an equal amount of principal to be paid by the issuer during each calendar year that the issue is outstanding.

''(g) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the issuer reasonably expects—

''(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified purposes with respect to qualified zone academies within the 5-year period beginning on the date of issuance of the qualified zone academy bond,

''(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the qualified zone academy bond, and

''(C) such purposes will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related purposes will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(h) SPECIAL RULES RELATING TO ARBITRAGE.—An issue shall be treated as meeting the requirements of this subsection if the issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

''(i) REPORTING.—Issuers of qualified academy zone bonds shall submit reports similar to the reports required under section 149(e).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1397E(d)(3) is amended by inserting ''without regard to the requirements of subsection (f) and'' after ''Such present value shall be determined''.

(B) Sections 54(l)(3)(B) and 1400N(l)(7)(B)(ii) are each amended by striking ''section 1397E(i)'' and inserting ''section 1397E(l)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2005.

**SEC. 111. DEDUCTION FOR CORPORATE DONATIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT.**

(a) IN GENERAL.—Section 170(e)(6)(G) is amended by striking ''2005'' and inserting ''2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 112. ABOVE-THE-LINE DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.**

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking ''or 2005'' and inserting ''2005, 2006, or 2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 113. EXPENSING OF BROWNFIELDS REMEDIATION COSTS.**

(a) EXTENSION.—Subsection (h) of section 198 is amended by striking ''2005'' and inserting ''2007''.

(b) EXPANSION.—Section 198(d)(1) (defining hazardous substance) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any petroleum product (as defined in section 4612(a)(3)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after December 31, 2005.

**SEC. 114. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.**

(a) DESIGNATION OF ZONE.—

(1) IN GENERAL.—Subsection (f) of section 1400 is amended by striking ''2005'' both places it appears and inserting ''2006''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods beginning after December 31, 2005.

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—

(1) IN GENERAL.—Subsection (b) of section 1400A is amended by striking ''2005'' and inserting ''2006''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to bonds issued after December 31, 2005.

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) IN GENERAL.—Subsection (b) of section 1400B is amended by striking ''2006'' each place it appears and inserting ''2007''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1400B(e)(2) is amended—

(i) by striking ''2010'' and inserting ''2011'', and

(ii) by striking ''2010'' in the heading thereof and inserting ''2011''.

(B) Section 1400B(g)(2) is amended by striking ''2010'' and inserting ''2011''.

(C) Section 1400F(d) is amended by striking ''2010'' and inserting ''2011''.

(3) EFFECTIVE DATES.—

(A) EXTENSION.—The amendments made by paragraph (1) shall apply to acquisitions after December 31, 2005.

(B) CONFORMING AMENDMENTS.—The amendments made by paragraph (2) shall take effect on the date of the enactment of this Act.

(d) FIRST-TIME HOMEBUYER CREDIT.—

(1) IN GENERAL.—Subsection (i) of section 1400C is amended by striking ''2006'' and inserting ''2007''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property purchased after December 31, 2005.

**SEC. 115. INDIAN EMPLOYMENT TAX CREDIT.**

(a) IN GENERAL.—Section 45A(f) is amended by striking ''2005'' and inserting ''2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 116. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATION.**

(a) IN GENERAL.—Section 168(j)(8) is amended by striking ''2005'' and inserting ''2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2005.

**SEC. 117. FIFTEEN-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT IMPROVEMENTS.**

(a) IN GENERAL.—Clauses (iv) and (v) of section 168(e)(3)(E) are each amended by striking ''2006'' and inserting ''2008''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2005.

**SEC. 118. EXTENSION OF FULL CREDIT FOR QUALIFIED ELECTRIC VEHICLES.**

(a) IN GENERAL.—Section 30(e) is amended by striking ''2006'' and inserting ''2007''.

(b) REPEAL OF PHASEOUT.—Section 30(b) (relating to limitations) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 119. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.**

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

## TITLE II—PROVISIONS RELATING TO CHARITABLE DONATIONS

### Subtitle A—Charitable Giving Incentives

**SEC. 201. CHARITABLE DEDUCTION FOR NON-ITEMIZERS.**

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) DEDUCTION FOR INDIVIDUALS NOT ITEMIZING DEDUCTIONS.—In the case of an individual who does not itemize deductions for any taxable year beginning after December 31, 2005, and before January 1, 2008, there shall be taken into account as a direct charitable deduction under section 63 an amount equal to the amount allowable under subsection (a) for the taxable year for cash contributions (determined without regard to any carryover).''.

(b) DIRECT CHARITABLE DEDUCTION.—

(1) IN GENERAL.—Subsection (b) of section 63 (defining taxable income) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) the direct charitable deduction.''.

(2) DEFINITION.—Section 63 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) DIRECT CHARITABLE DEDUCTION.—For purposes of this section, the term 'direct charitable deduction' means that portion of the amount allowable under section 170(a) which is taken as a direct charitable deduction for the taxable year under section 170(o).''.

(3) CONFORMING AMENDMENT.—Subsection (d) of section 63 is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) the direct charitable deduction.''.

(c) FLOOR ON CHARITABLE CONTRIBUTIONS BY INDIVIDUALS.—Section 170(a) is amended by adding at the end the following new paragraph:

''(4) DOLLAR FLOOR ON CHARITABLE CONTRIBUTIONS BY INDIVIDUALS.—In the case of an individual, for any taxable year beginning after December 31, 2005, and before January 1, 2008, the amount otherwise allowed as a deduction under paragraph (1) shall be allowed only to the extent that such amount exceeds $210 ($420 in the case of a joint return).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 202. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.**

(a) IN GENERAL.—Subsection (d) of section 408 (relating to individual retirement accounts) is amended by adding at the end the following new paragraph:

''(8) DISTRIBUTIONS FOR CHARITABLE PURPOSES.—

''(A) IN GENERAL.—No amount shall be includible in gross income by reason of a qualified charitable distribution.

''(B) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the term 'qualified charitable distribution' means any distribution from an individual retirement plan (other than a plan described in subsection (k) or (p))—

''(i) which is made directly by the trustee—

''(I) to an organization described in section 170(c), or

''(II) to a split-interest entity, and

''(ii) which is made on or after—

''(I) in the case of any distribution described in clause (i)(I), the date that the individual for whose benefit the plan is maintained has attained age 70½, and

''(II) in the case of any distribution described in clause (i)(II), the date that such individual has attained age 59½.

A distribution shall be treated as a qualified charitable distribution only to the extent that the distribution would be includible in gross income without regard to subparagraph (A) and, in the case of a distribution to a split-interest entity, only if no person holds an income interest in the amounts in the split-interest entity attributable to such distribution other than one or more of the following: the individual for whose benefit such plan is maintained, the spouse of such individual, or any organization described in section 170(c).

''(C) CONTRIBUTIONS MUST BE OTHERWISE DEDUCTIBLE.—For purposes of this paragraph—

''(i) DIRECT CONTRIBUTIONS.—A distribution to an organization described in section 170(c) shall be treated as a qualified charitable distribution only if a deduction for the entire distribution would be allowable under section 170 (determined without regard to subsections (a)(4) and (b) thereof and this paragraph).

''(ii) SPLIT-INTEREST GIFTS.—A distribution to a split-interest entity shall be treated as a qualified charitable distribution only if a deduction for the entire value of the interest in the distribution for the use of an organization described in section 170(c) would be allowable under section 170 (determined without regard to subsections (a)(4) and (b) thereof and this paragraph).

''(D) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which a distribution is a qualified charitable distribution, the entire amount of the distribution shall be treated as includible in gross income without regard to subparagraph (A) to the extent that such amount does not exceed the aggregate amount which would have been so includible if all amounts distributed from all individual retirement plans were treated as 1 contract under paragraph (2)(A) for purposes of determining the inclusion of such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

''(E) SPECIAL RULES FOR SPLIT-INTEREST ENTITIES.—

''(i) CHARITABLE REMAINDER TRUSTS.—Notwithstanding section 664(b), distributions made from a trust described in subparagraph (G)(i) shall be treated as ordinary income in the hands of the beneficiary to whom is paid the annuity described in section 664(d)(1)(A) or the payment described in section 664(d)(2)(A).

''(ii) POOLED INCOME FUNDS.—No amount shall be includible in the gross income of a pooled income fund (as defined in subparagraph (G)(ii)) by reason of a qualified charitable distribution to such fund, and all distributions from the fund which are attributable to qualified charitable distributions shall be treated as ordinary income to the beneficiary.

''(iii) CHARITABLE GIFT ANNUITIES.—Qualified charitable distributions made for a charitable gift annuity shall not be treated as an investment in the contract.

''(F) DENIAL OF DEDUCTION.—Qualified charitable distributions shall not be taken into account in determining the deduction under section 170.

''(G) SPLIT-INTEREST ENTITY DEFINED.—For purposes of this paragraph, the term 'split-interest entity' means—

''(i) a charitable remainder annuity trust or a charitable remainder unitrust (as such terms are defined in section 664(d)) which must be funded exclusively by qualified charitable distributions,

''(ii) a pooled income fund (as defined in section 642(c)(5)), but only if the fund accounts separately for amounts attributable to qualified charitable distributions, and

''(iii) a charitable gift annuity (as defined in section 501(m)(5)).

''(H) TERMINATION.—This paragraph shall not apply to distributions made in taxable years beginning after December 31, 2007.''.

(b) MODIFICATIONS RELATING TO INFORMATION RETURNS BY CERTAIN TRUSTS.—

(1) RETURNS.—Section 6034 (relating to returns by trusts described in section 4947(a)(2) or claiming charitable deductions under section 642(c)) is amended to read as follows:

**''SEC. 6034. RETURNS BY CERTAIN TRUSTS.**

''(a) SPLIT-INTEREST TRUSTS.—Every trust described in section 4947(a)(2) shall furnish such information with respect to the taxable year as the Secretary may by forms or regulations require.

''(b) TRUSTS CLAIMING CERTAIN CHARITABLE DEDUCTIONS.—

''(1) IN GENERAL.—Every trust not required to file a return under subsection (a) but claiming a deduction under section 642(c) for the taxable year shall furnish such information with respect to such taxable year as the Secretary may by forms or regulations prescribe, including—

''(A) the amount of the deduction taken under section 642(c) within such year,

''(B) the amount paid out within such year which represents amounts for which deductions under section 642(c) have been taken in prior years,

''(C) the amount for which such deductions have been taken in prior years but which has not been paid out at the beginning of such year,

''(D) the amount paid out of principal in the current and prior years for the purposes described in section 642(c),

''(E) the total income of the trust within such year and the expenses attributable thereto, and

''(F) a balance sheet showing the assets, liabilities, and net worth of the trust as of the beginning of such year.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to a trust for any taxable year if—

''(A) all the net income for such year, determined under the applicable principles of the law of trusts, is required to be distributed currently to the beneficiaries, or

''(B) the trust is described in section 4947(a)(1).''.

(2) INCREASE IN PENALTY RELATING TO FILING OF INFORMATION RETURN BY SPLIT-INTEREST TRUSTS.—Paragraph (2) of section 6652(c) (relating to returns by exempt organizations and by certain trusts) is amended by adding at the end the following new subparagraph:

''(C) SPLIT-INTEREST TRUSTS.—In the case of a trust which is required to file a return under section 6034(a), subparagraphs (A) and (B) of this paragraph shall not apply and paragraph (1) shall apply in the same manner as if such return were required under section 6033, except that—

''(i) the 5 percent limitation in the second sentence of paragraph (1)(A) shall not apply,

''(ii) in the case of any trust with gross income in excess of $250,000, the first sentence of paragraph (1)(A) shall be applied by substituting '$100' for '$20', and the second sentence thereof shall be applied by substituting '$50,000' for '$10,000', and

''(iii) the third sentence of paragraph (1)(A) shall be disregarded.

In addition to any penalty imposed on the trust pursuant to this subparagraph, if the person required to file such return knowingly fails to file the return, such penalty shall also be imposed on such person who shall be personally liable for such penalty.''.

(3) CONFIDENTIALITY OF NONCHARITABLE BENEFICIARIES.—Subsection (b) of section 6104 (relating to inspection of annual information returns) is amended by adding at the end the following new sentence: ''In the case of a trust which is required to file a return under section 6034(a), this subsection shall not apply to information regarding beneficiaries which are not organizations described in section 170(c).''.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to distributions made in taxable years beginning after December 31, 2005.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to returns for taxable years beginning after December 31, 2005.

**SEC. 203. MODIFICATION OF CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.**

(a) IN GENERAL.—Subparagraph (C) of section 170(e)(3) (relating to special rule for certain contributions of inventory and other property) is amended to read as follows:

''(C) SPECIAL RULE FOR CONTRIBUTIONS OF FOOD INVENTORY.—

''(i) GENERAL RULE.—In the case of a charitable contribution of food from any trade or business of the taxpayer, this paragraph shall be applied—

''(I) without regard to whether the contribution is made by a C corporation, and

''(II) only to food that is apparently wholesome food.

''(ii) LIMITATION.—In the case of a taxpayer other than a C corporation, the aggregate amount of such contributions for any taxable year which may be taken into account under this section shall not exceed 10 percent of the taxpayer's aggregate net income for such taxable year from all trades or businesses from which such contributions were made for such year, computed without regard to this section.

''(iii) LIMITATION ON REDUCTION.—In the case of any such contribution, notwithstanding subparagraph (B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of the apparently wholesome food exceeds twice the basis of such food.

''(iv) DETERMINATION OF BASIS.—If a taxpayer—

''(I) does not account for inventories under section 471, and

''(II) is not required to capitalize indirect costs under section 263A,

the taxpayer may elect, solely for purposes of subparagraph (B), to treat the basis of any apparently wholesome food as being equal to 25 percent of the fair market value of such food.

''(v) DETERMINATION OF FAIR MARKET VALUE.—In the case of any such contribution of apparently wholesome food which, solely by reason of internal standards of the taxpayer or lack of market, cannot or will not be sold, the fair market value of such contribution shall be determined—

''(I) without regard to such internal standards or such lack of market and

''(II) by taking into account the price at which the same or substantially the same food items (as to both type and quality) are sold by the taxpayer at the time of the contribution (or, if not so sold at such time, in the recent past).

''(vi) APPARENTLY WHOLESOME FOOD.—For purposes of this subparagraph, the term 'apparently wholesome food' has the meaning given to such term by section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(2)), as in effect on the date of the enactment of this subparagraph.

''(vii) TERMINATION.—This subparagraph shall not apply to contributions made after December 31, 2007.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2005.

**SEC. 204. BASIS ADJUSTMENT TO STOCK OF S CORPORATION CONTRIBUTING PROPERTY.**

(a) IN GENERAL.—Paragraph (2) of section 1367(a) (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new flush sentence:

''The decrease under subparagraph (B) by reason of a charitable contribution (as defined in section 170(c)) of property shall be the amount equal to the shareholder's pro rata share of the adjusted basis of such property. The preceding sentence shall not apply to contributions made in taxable years beginning after December 31, 2007.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

**SEC. 205. MODIFICATION OF CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORY.**

(a) IN GENERAL.—Subparagraph (D) of section 170(e)(3) (relating to special rule for certain contributions of inventory and other property) is amended to read as follows:

''(D) SPECIAL RULE FOR CONTRIBUTIONS OF BOOK INVENTORY FOR EDUCATIONAL PURPOSES.—

''(i) CONTRIBUTIONS OF BOOK INVENTORY.—In determining whether a qualified book contribution is a qualified contribution, subparagraph (A) shall be applied without regard to whether—

''(I) the donee is an organization described in the matter preceding clause (i) of subparagraph (A), and

''(II) the property is to be used by the donee solely for the care of the ill, the needy, or infants.

''(ii) AMOUNT OF REDUCTION.—Notwithstanding subparagraph (B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of the contributed property (as determined by the taxpayer using a bona fide published market price for such book) exceeds twice the basis of such property.

''(iii) QUALIFIED BOOK CONTRIBUTION.—For purposes of this paragraph, the term 'qualified book contribution' means a charitable contribution of books, but only if the requirements of clauses (iv) and (v) are met.

''(iv) IDENTITY OF DONEE.—The requirement of this clause is met if the contribution is to an organization—

''(I) described in subclause (I) or (III) of paragraph (6)(B)(i), or

''(II) described in section 501(c)(3) and exempt from tax under section 501(a) (other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j)(3)), which is organized primarily to make books available to the general public at no cost or to operate a literacy program.

''(v) CERTIFICATION BY DONEE.—The requirement of this clause is met if, in addition to the certifications required by subparagraph (A) (as modified by this subparagraph), the donee certifies in writing that—

''(I) the books are suitable, in terms of currency, content, and quantity, for use in the donee's educational programs, and

''(II) the donee will use the books in its educational programs.

''(vi) BONA FIDE PUBLISHED MARKET PRICE.—For purposes of this subparagraph, the term 'bona fide published market price' means, with respect to any book, a price—

''(I) determined using the same printing and edition,

''(II) determined in the usual market in which such a book has been customarily sold by the taxpayer, and

''(III) for which the taxpayer can demonstrate to the satisfaction of the Secretary that the taxpayer customarily sold such books in arm's length transactions within 7 years preceding the contribution of such a book.

''(vii) TERMINATION.—This subparagraph shall not apply to contributions made after December 31, 2007.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2005.

**SEC. 206. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS AND PUBLIC DISCLOSURE OF INFORMATION RELATING TO UNRELATED BUSINESS INCOME.**

(a) MODIFICATION OF SECTION 512(B)(13).—

(1) IN GENERAL.—Paragraph (13) of section 512(b) (relating to special rules for certain amounts received from controlled entities) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

''(E) PARAGRAPH TO APPLY ONLY TO EXCESS PAYMENTS.—

''(i) IN GENERAL.—Subparagraph (A) shall apply only to the portion of a specified payment received or accrued by the controlling organization that exceeds the amount which would have been paid or accrued if such payment met the requirements prescribed under section 482.

''(ii) ADDITION TO TAX FOR VALUATION MISSTATEMENTS.—The tax imposed by this chapter on the controlling organization shall be increased by an amount equal to 20 percent of the larger of—

''(I) such excess determined without regard to any amendment or supplement to a return of tax, or

''(II) such excess determined with regard to all such amendments and supplements.''.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by this subsection shall apply to payments received or accrued after December 31, 2000.

(B) PAYMENTS SUBJECT TO BINDING CONTRACT TRANSITION RULE.—If the amendments made by section 1041 of the Taxpayer Relief Act of 1997 did not apply to any amount received or accrued in the first 2 taxable years beginning on or after the date of the enactment of the Taxpayer Relief Act of 1997 under any contract described in subsection (b)(2) of such section, such amendments also shall not apply to amounts received or accrued under such contract before January 1, 2001.

(b) PUBLIC AVAILABILITY OF UNRELATED BUSINESS INCOME TAX RETURNS.—

(1) IN GENERAL.—Subparagraph (A) of section 6104(d)(1) is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following new clause:

''(ii) any annual return filed under section 6011 which relates to any tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations) by such organization, but only if such organization is described in section 501(c)(3),''.

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

(c) CERTIFICATION OF UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN ORGANIZATIONS.—

(1) IN GENERAL.—Section 6011 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) RETURNS OF CERTAIN ORGANIZATIONS RELATING TO UNRELATED BUSINESS TAXABLE INCOME.—

''(1) IN GENERAL.—Every applicable exempt organization shall include with the return under subsection (a) for the taxable year a statement by an independent auditor or an independent counsel which meets the requirements of paragraph (2).

''(2) STATEMENT.—A statement meets the requirement of this paragraph if the statement—

''(A) contains a certification that—

''(i) the information contained in the return—

''(I) has been reviewed by the auditor or counsel, and

''(II) to the best of the auditor's or counsel's knowledge, is accurate, and

''(ii) to the best of the auditor's or counsel's knowledge, the allocation of expenses between the unrelated trades and business of the organization and the activities related to the purpose or function constituting the basis of the organization's exemption under section 501 complies with the requirements set forth by the Secretary under section 512, and

''(B) indicates—

''(i) whether the auditor or counsel has provided a tax opinion to the organization regarding—

''(I) the classification of any trade or business of the organization as an unrelated trade or business, or

''(II) the treatment of any income as unrelated business taxable income, and

''(ii) a description of any material facts with respect to any such opinion.

''(3) APPLICABLE EXEMPT ORGANIZATION.—For purposes of this subsection, the term 'applicable exempt organization' means any organization which—

''(A) is described in section 501(c)(3),

''(B) has—

''(i) gross income and receipts of not less than $10,000,000 for the taxable year, or

''(ii) gross assets of not less than $10,000,000 on the last day of the taxable year, and

''(C) is subject to the tax imposed under section 511 for the taxable year.''.

(2) PENALTY.—

(A) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

**''SEC. 6720B. UNRELATED BUSINESS INCOME REQUIREMENTS.**

''(a) IN GENERAL.—Any applicable exempt organization (as defined in section 6011(g)(3)) which fails to file a statement required under section 6011(g) shall pay a penalty in an amount equal to ½ percent of the gross revenue amount of such organization for the taxable year to which such statement relates.

''(b) GROSS REVENUE AMOUNT.—For purposes of subsection (a), the term 'gross revenue amount' means, with respect to any taxable year, the gross income and receipts of the organization determined without regard to any contributions or grants received by the organization.

''(c) REASONABLE CAUSE.—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.''.

(B) CONFORMING AMENDMENT.—The table of sections of part I of subchapter B of chapter 68 is amended by adding after the item relating to section 6720A the following new item:

''Sec. 6720B. Unrelated business income requirements.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to returns for taxable years beginning after the date of the enactment of this Act.

**SEC. 207. ENCOURAGEMENT OF CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.**

(a) IN GENERAL.—

(1) INDIVIDUALS.—Paragraph (1) of subsection 170(b) (relating to percentage limitations) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

''(E) CONTRIBUTIONS OF QUALIFIED CONSERVATION CONTRIBUTIONS.—

''(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1)) to an organization described in subparagraph (A) shall be allowed to the extent the aggregate of such contributions does not exceed the excess of 50 percent of the taxpayer's contribution base over the amount of all other charitable contributions allowable under this paragraph.

''(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(1)) as a charitable contribution to which clause (i) applies in each of the 15 succeeding years in order of time.

''(iii) COORDINATION WITH OTHER SUBPARAGRAPHS.—For purposes of applying this subsection and subsection (d)(1), contributions described in clause (i) shall not be treated as described in subparagraph (A), (B), (C), or (D) and such subparagraphs shall apply without regard to such contributions.

''(iv) QUALIFIED FARMER OR RANCHER.—

''(I) IN GENERAL.—If the individual is a qualified farmer or rancher for the taxable year in which the contribution is made, clause (i) shall be applied by substituting '100 percent' for '50 percent'.

''(II) DEFINITION.—For purposes of subclause (I), the term 'qualified farmer or rancher' means a taxpayer whose gross income from the trade or business of farming (within the meaning of section 2032A(e)(5)) is greater than 50 percent of the taxpayer's gross income for the taxable year.

''(v) TERMINATION.—This subparagraph shall not apply to any contribution made in taxable years beginning after December 31, 2007.''.

(2) CORPORATIONS.—Paragraph (2) of section 170(b) is amended to read as follows:

''(2) CORPORATIONS.—In the case of a corporation—

''(A) IN GENERAL.—The total deductions under subsection (a) for any taxable year (other than for contributions to which subparagraph (B) applies) shall not exceed 10 percent of the taxpayer's taxable income.

''(B) QUALIFIED CONSERVATION CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—

''(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1)) made—

''(I) by a corporation which, for the taxable year during which the contribution is made, is a qualified farmer or rancher (as defined in paragraph (1)(E)(iv)(II)) and the stock of which is not readily tradable on an established securities market at any time during such year, and

''(II) to an organization described in paragraph (1)(A),

shall be allowed to the extent the aggregate of such contributions does not exceed the excess of the taxpayer's taxable income over the amount of charitable contributions allowable under subparagraph (A).

''(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(2)) as a charitable contribution to which clause (i) applies in each of the 15 succeeding years in order of time.

''(iii) TERMINATION.—This subparagraph shall not apply to any contribution made in taxable years beginning after December 31, 2007.

''(C) TAXABLE INCOME.—For purposes of this paragraph, taxable income shall be computed without regard to—

''(i) this section,

''(ii) part VIII (except section 248),

''(iii) any net operating loss carrryback to the taxable year under section 172,

''(iv) section 199, and

''(v) any capital loss carryback to the taxable year under section 1212(a)(1).''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 170(d) is amended by striking ''subsection (b)(2)'' each place it appears and inserting ''subsection (b)(2)(A)''.

(2) Section 545(b)(2) is amended by striking ''and (D)'' and inserting ''(D), and (E)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

**SEC. 208. ENHANCED DEDUCTION FOR CHARITABLE CONTRIBUTION OF LITERARY, MUSICAL, ARTISTIC, AND SCHOLARLY COMPOSITIONS.**

(a) IN GENERAL.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL, ARTISTIC, OR SCHOLARLY COMPOSITIONS.—

''(A) IN GENERAL.—In the case of a qualified artistic charitable contribution—

''(i) the amount of such contribution taken into account under this section shall be the fair market value of the property contributed (determined at the time of such contribution), and

''(ii) no reduction in the amount of such contribution shall be made under paragraph (1).

''(B) QUALIFIED ARTISTIC CHARITABLE CONTRIBUTION.—For purposes of this paragraph, the term 'qualified artistic charitable contribution' means a charitable contribution of any literary, musical, artistic, or scholarly composition, or similar property, or the copyright thereon (or both), but only if—

''(i) such property was created by the personal efforts of the taxpayer making such contribution no less than 18 months prior to such contribution,

''(ii) the taxpayer—

''(I) has received a qualified appraisal of the fair market value of such property in accordance with the regulations under this section, and

''(II) attaches to the taxpayer's income tax return for the taxable year in which such contribution was made a copy of such appraisal,

''(iii) the donee is an organization described in subsection (b)(1)(A),

''(iv) the use of such property by the donee is related to the purpose or function constituting the basis for the donee's exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described under section 501(c)),

''(v) the taxpayer receives from the donee a written statement representing that the donee's use of the property will be in accordance with the provisions of clause (iv), and

''(vi) the written appraisal referred to in clause (ii) includes evidence of the extent (if any) to which property created by the personal efforts of the taxpayer and of the same type as the donated property is or has been—

''(I) owned, maintained, and displayed by organizations described in subsection (b)(1)(A), and

''(II) sold to or exchanged by persons other than the taxpayer, donee, or any related person (as defined in section 465(b)(3)(C)).

''(C) MAXIMUM DOLLAR LIMITATION; NO CARRYOVER OF INCREASED DEDUCTION.—

''(i) IN GENERAL.—Subsections (b) and (d) shall not apply to the amount by which any charitable contribution is increased by reason of this paragraph and such increased contribution shall not be taken into account for purposes of applying subparagraphs (A) through (D) of subsection (b)(1) and subsection (d).

''(ii) CONTRIBUTION BASE LIMITATION.—The increased contributions shall be allowed to the extent the aggregate of such contributions do not exceed the excess of 50 percent of the contribution base (as defined in subparagraph (F) of subsection (b)(1)) over the amount of all other charitable contributions allowable under subparagraphs (A) through (D) of subsection (b)(1).

''(iii) ARTISTIC ADJUSTED GROSS INCOME.—The aggregate increase in the charitable contributions by reason of this paragraph for any taxable year shall not exceed the artistic adjusted gross income of the taxpayer for such taxable year.

''(D) ARTISTIC ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'artistic adjusted gross income' means that portion of the adjusted gross income of the taxpayer for the taxable year attributable to—

''(i) income from the sale or use of property created by the personal efforts of the taxpayer which is of the same type as the donated property, and

''(ii) income from teaching, lecturing, performing, or similar activity with respect to property described in clause (i).

''(E) PARAGRAPH NOT TO APPLY TO CERTAIN CONTRIBUTIONS.—Subparagraph (A) shall not apply to any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while the individual is an officer or employee of any person (including any government agency or instrumentality) unless such letter, memorandum, or similar property is entirely personal.

''(F) COPYRIGHT TREATED AS SEPARATE PROPERTY FOR PARTIAL INTEREST RULE.—In the case of a qualified artistic charitable contribution, the tangible literary, musical, artistic, or scholarly composition, or similar property and the copyright on such work shall be treated as separate properties for purposes of this paragraph and subsection (f)(3).

''(G) TERMINATION.—This paragraph shall not apply to contributions made after December 31, 2007.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2005.

**SEC. 209. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.**

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by inserting after section 139A the following new section:

**''SEC. 139B. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS.**

''(a) IN GENERAL.—Gross income of an individual does not include amounts received, from an organization described in section 170(c), as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization. The preceding sentence shall apply only to the extent that the expenses which are reimbursed would be deductible under this chapter if section 274(d) were applied—

''(1) by using the standard business mileage rate established under such section, and

''(2) as if the individual were an employee of an organization not described in section 170(c).

''(b) APPLICATION TO VOLUNTEER SERVICES ONLY.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

''(c) NO DOUBLE BENEFIT.—A taxpayer may not claim a deduction or credit under any other provision of this title with respect to the expenses under subsection (a).

''(d) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).

''(e) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2007.''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 139A the following new item:

''Sec. 139B. Mileage reimbursements to charitable volunteers.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 210. ALTERNATIVE PERCENTAGE LIMITATION FOR CORPORATE CHARITABLE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.**

(a) IN GENERAL.—Section 170(b) (related to percentage limitations) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR CORPORATE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.—

''(A) IN GENERAL.—In the case of a corporation which makes an eligible mathematics and science contribution—

''(i) the limitation under paragraph (2) shall apply separately with respect to all such contributions and all other charitable contributions, and

''(ii) paragraph (2)(A) shall be applied by substituting for '10 percent of the taxpayer's taxable income' the following: 'the sum of (i) the lesser of all eligible mathematics and science contributions or 15 percent of the taxpayer's taxable income, plus (ii) the lesser of the contributions (other than eligible mathematics and science contributions and contributions to which subparagraph (B) applies) or 10 percent of the taxpayer's taxable income reduced by all eligible mathematics and science contributions'.

''(B) ELIGIBLE MATHEMATICS AND SCIENCE CONTRIBUTION.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'eligible mathematics and science contribution' means a charitable contribution (other than a contribution of used equipment) to a qualified partnership for the purpose of an activity described in section 2202(c) of the Elementary and Secondary Education Act of 1965.

''(ii) QUALIFIED PARTNERSHIP.—The term 'qualified partnership' means an eligible partnership (within the meaning of section 2201(b)(1) of the Elementary and Secondary Education Act of 1965), but only to the extent that such partnership does not include a person other than a person described in paragraph (1)(A).

''(C) TERMINATION.—This paragraph shall not apply to any contributions made in taxable years beginning after December 31, 2006.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

**Subtitle B—Reforming Charitable Organizations**

**PART I—GENERAL REFORMS**

**SEC. 211. TAX INVOLVEMENT BY EXEMPT ORGANIZATIONS IN TAX SHELTER TRANSACTIONS.**

(a) IMPOSITION OF EXCISE TAX.—

(1) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations) is amended by adding at the end the following new subchapter:

**''Subchapter F—Tax Shelter Transactions**

''Sec. 4965. Excise tax on certain tax-exempt entities entering into prohibited tax shelter transactions.

**''SEC. 4965. EXCISE TAX ON CERTAIN TAX-EXEMPT ENTITIES ENTERING INTO PROHIBITED TAX SHELTER TRANSACTIONS.**

''(a) PARTICIPATION IN AND APPROVAL OF PROHIBITED TRANSACTIONS.—

''(1) TAX-EXEMPT ENTITY.—

''(A) IN GENERAL.—If any tax-exempt entity (other than a tax-exempt entity described in paragraph (4), (5), (6), or (7) of subsection (c)) is a party to a prohibited tax shelter transaction at any time during the taxable year and knows or has reason to know such transaction is a prohibited tax shelter transaction, such entity shall pay a tax for such taxable year in the amount determined under subsection (b)(1)(A).

''(B) POST-TRANSACTION DETERMINATION.—If any tax-exempt entity (other than a tax-exempt entity described in paragraph (4), (5), (6), or (7) of subsection (c)) is a party to a subsequently listed transaction at any time during the taxable year, such entity shall pay a tax in the amount determined under subsection (b)(1)(B).

''(2) ENTITY MANAGER.—If any entity manager of a tax-exempt entity approves such entity as (or otherwise causes such entity to be) a party to a prohibited tax shelter transaction at any time during the taxable year and knows or has reason to know that the transaction is a prohibited tax shelter transaction, such manager shall pay a tax for such taxable year in the amount determined under subsection (b)(2).

''(3) REASONABLE CAUSE EXCEPTION.—No tax shall be imposed under paragraph (1)(A) or (2) if it is shown that the participation of the tax-exempt entity in the transaction was not willful and was due to reasonable cause.

''(b) AMOUNT OF TAX.—

''(1) ENTITY.—In the case of a tax-exempt entity—

''(A) IN GENERAL.—The amount of the tax imposed under subsection (a)(1)(A) on the entity with respect to a taxable year shall be the greater of—

''(i) 100 percent of the entity's net income (after taking into account any tax imposed by this subtitle with respect to the prohibited tax shelter transaction) for such taxable year which is attributable to the prohibited tax shelter transaction, or

''(ii) 75 percent of the proceeds received by the entity which are attributable to the prohibited tax shelter transaction.

''(B) POST-TRANSACTION DETERMINATION.—The amount of the tax imposed under subsection (a)(1)(B) on the entity with respect to any taxable year shall be an amount equal to the product of—

''(i) the highest rate of tax under section 11, and

''(ii) the greater of—

''(I) the entity's net income (after taking into account any tax imposed by this subtitle with respect to the subsequently listed transaction) for such taxable year which is attributable to the subsequently listed transaction and which is properly allocable to the period beginning on the later of the date such transaction is identified by guidance as a listed transaction by the Secretary or the first day of the taxable year, or

''(II) 75 percent of the proceeds received by the entity which are attributable to the subsequently listed transaction and which are properly allocable to the period beginning on the later of the date such transaction is identified by guidance as a listed transaction by the Secretary or the first day of the taxable year.

''(2) ENTITY MANAGER.—In the case of each entity manager to whom subsection (a)(2) applies, the amount of the tax under such subsection shall be $20,000 for each approval.

''(c) TAX-EXEMPT ENTITY.—For purposes of this section, the term 'tax-exempt entity' means an entity which is—

''(1) described in section 501(c) or 501(d),

''(2) described in section 170(c) (other than an agency or instrumentality of the United States) to which paragraph (1) of this subsection does not apply,

''(3) an Indian tribal government (within the meaning of section 7701(a)(40)),

''(4) described in paragraph (1), (2), or (3) of section 4979(e),

''(5) a program described in section 529,

''(6) an eligible deferred compensation plan described in section 457(b) which is maintained by an employer described in section 4457(e)(1)(A), or

''(7) an arrangement described in section 4973(a).

''(d) ENTITY MANAGER.—For purposes of this section, the term 'entity manager' means—

''(1) with respect to a tax-exempt entity described in paragraph (3) or (4) of section 501(c)—

''(A) in the case of an entity other than a private foundation, an organization manager (as defined in section 4958(f)(2)), and

''(B) in the case of a private foundation, a foundation manager (as defined in section 4946(b)), and

''(2) in all other cases, the person with authority or responsibility similar to that exercised by an officer, director, or trustee of an organization.

''(e) PROHIBITED TAX SHELTER TRANSACTION; SUBSEQUENTLY LISTED TRANSACTION.—For purposes of this section—

''(1) PROHIBITED TAX SHELTER TRANSACTION.—

''(A) IN GENERAL.—The term 'prohibited tax shelter transaction' means—

''(i) any listed transaction, or

''(ii) any prohibited reportable transaction if the tax-exempt entity knows or has reason to know that such transaction is a reportable transaction.

''(B) LISTED TRANSACTION.—The term 'listed transaction' has the meaning given such term by section 6707A(c)(2).

''(C) PROHIBITED REPORTABLE TRANSACTION.—The term 'prohibited reportable transaction' means any confidential transaction or any transaction with contractual protection (as defined under regulations prescribed by the Secretary) which is a reportable transaction (as defined in section 6707A(c)(1)).

''(2) SUBSEQUENTLY LISTED TRANSACTION.—The term 'subsequently listed transaction' means any transaction to which a tax-exempt entity is a party and which is determined by the Secretary to be a listed transaction at any time after the entity has entered into the transaction.

''(f) REGULATORY AUTHORITY.—The Secretary is authorized to promulgate regulations which provide guidance regarding the determination of the allocation of net income of a tax-exempt entity attributable to a transaction to various periods, including before and after the listing of the transaction or the date which is 90 days after the date of the enactment of this section.

''(g) COORDINATION WITH OTHER TAXES AND PENALTIES.—The tax imposed by this section is in addition to any other tax, addition to tax, or penalty imposed under this title.''.

(2) CONFORMING AMENDMENT.—The table of subchapters for chapter 42 is amended by adding at the end the following new item:

''SUBCHAPTER F. TAX SHELTER TRANSACTIONS.''.

(b) DISCLOSURE REQUIREMENTS.—

(1) DISCLOSURE BY ORGANIZATION TO THE INTERNAL REVENUE SERVICE.—

(A) IN GENERAL.—Section 6033(a) (relating to organizations required to file) is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) PARTICIPATION IN CERTAIN REPORTABLE TRANSACTIONS.—Every tax-exempt entity described in section 4965(c) shall file (in such form and manner and at such time as determined by the Secretary) a disclosure of—

''(A) such entity's participation in any prohibited tax shelter transaction (as defined in section 4965(e)), and

''(B) the identity of any other party participating in such transaction which is known by such tax-exempt entity.''.

(B) CONFORMING AMENDMENT.—Section 6033(a)(1) is amended by striking ''paragraph (2)'' and inserting ''paragraph (3)''.

(2) DISCLOSURE BY OTHER TAXPAYERS TO THE TAX-EXEMPT ENTITY.—Section 6011 (relating to general requirement of return, statement, or list), as amended by this Act, is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) DISCLOSURE OF REPORTABLE TRANSACTION TO TAX-EXEMPT ENTITY.—Any taxable party to a prohibited tax shelter transaction (as defined in section 4965(e)(1)) shall by statement disclose to any tax-exempt entity (as defined in section 4965(c)) which is a party to such transaction that such transaction is such a prohibited tax shelter transaction.''.

(c) PENALTY FOR NONDISCLOSURE.—

(1) IN GENERAL.—Section 6652(c) (relating to returns by exempt organizations and by certain trusts), as amended by this Act, is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) DISCLOSURE UNDER SECTION 6033.—

''(A) PENALTY ON ORGANIZATIONS.—In the case of a failure to file a disclosure required under section 6033(a)(2), there shall be paid by the tax-exempt entity (the entity manager in the case of a tax-exempt entity described in paragraph (4), (5), (6), or (7) of section 4965(c)) $100 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 disclosure shall not exceed $50,000.

''(B) PERSONS.—

''(i) IN GENERAL.—The Secretary may make a written demand on any tax-exempt entity subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the disclosure shall be filed for purposes of this subparagraph.

''(ii) FAILURE TO COMPLY WITH DEMAND.—If any person fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by such person failing to so comply $100 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all tax-exempt entities for failures with respect to any 1 disclosure shall not exceed $10,000.

''(C) DEFINITIONS.—Any term used in this section which is also used in section 4965 shall have the meaning given such term under section 4965.''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 6652(c)(1) of such Code is amended by striking ''6033'' each place it appears in the text and heading thereof and inserting ''6033(a)(1)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions after the date of the enactment of this Act, except that no tax under section 4965(a) of the Internal Revenue Code of 1986 (as added by this section) shall apply with respect to income that is properly allocable to any period on or before the date which is 90 days after such date of enactment.

(2) DISCLOSURE.—The amendments made by subsections (b) and (c) shall apply to disclosures the due date for which are after the date of the enactment of this Act.

**SEC. 212. EXCISE TAX ON CERTAIN ACQUISITIONS OF INTERESTS IN INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD AN INTEREST.**

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—Subchapter F of chapter 42 (relating to tax shelter transactions), as added by this Act, is amended by adding at the end the following new section:

**''SEC. 4966. EXCISE TAX ON ACQUISITION OF INTERESTS IN INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD AN INTEREST.**

''(a) IMPOSITION OF TAX.—If there is a taxable acquisition of any interest in an applicable insurance contract, there is hereby imposed on the person acquiring the interest a tax equal to 100 percent of the acquisition costs of the interest.

''(b) TAXABLE ACQUISITION.—For purposes of this section—

''(1) IN GENERAL.—The term 'taxable acquisition' means the acquisition of any direct or indirect interest in an applicable insurance contract by—

''(A) an applicable exempt organization, or

''(B) a person other than an applicable exempt organization if such interest in the hands of such person is not an interest described in clause (i), (ii), (iii), or (iv) of paragraph (2)(B).

''(2) APPLICABLE INSURANCE CONTRACT.—

''(A) IN GENERAL.—The term 'applicable insurance contract' means any life insurance, annuity, or endowment contract with respect to which both an applicable exempt organization and a person other than an applicable exempt organization have directly or indirectly held an interest in the contract (whether or not at the same time).

''(B) EXCEPTIONS.—Such term shall not include a life insurance, annuity, or endowment contract if—

''(i) all persons directly or indirectly holding any interest in the contract (other than applicable exempt organizations) have an insurable interest in the insured under the contract independent of any interest of an applicable exempt organization in the contract,

''(ii) the sole interest in the contract of each person other than an applicable exempt organization is as a named beneficiary,

''(iii) the sole interest in the contract of each person other than an applicable exempt organization is—

''(I) as a beneficiary of a trust holding an interest in the contract, but only if the person's designation as such beneficiary was made without consideration and solely on a purely gratuitous basis, or

''(II) as a trustee who holds an interest in the contract in a fiduciary capacity solely for the benefit of applicable exempt organizations or persons otherwise described in clauses (i), (ii), and (iv) or subclause (I) of this clause, or

''(iv) except as provided in subparagraph (C), the sole interest in the contract of each person other than an applicable exempt organization is as a lender with respect to the contract and the contract covers only 1 individual and such individual is an officer, director, or employee of the applicable exempt organization with an interest in the contract.

''(C) RESTRICTIONS ON EXCEPTION FOR LENDERS.—

''(i) NUMERICAL LIMIT.—The number of contracts that may be taken into account under subparagraph (B)(iv) with respect to officers, directors, or employees of the applicable exempt organization with interests in the contracts shall not exceed the greater of—

''(I) the lesser of 5 percent of the total officers, directors, and employees of the organization or 20, or

''(II) 5.

''(ii) AGGREGATE INDEBTEDNESS.—The exception under subparagraph (B)(iv) shall apply only to the extent that the aggregate amount of the indebtedness with respect to 1 or more contracts covering a single individual does not exceed $50,000.

''(D) SECRETARIAL AUTHORITY.—The Secretary may exempt a contract from treatment as an applicable insurance contract based on specific factors, including factors such as whether the transaction is at arms length, whether economic benefits to the applicable exempt organization substantially exceed the economic benefits to all other persons with an interest in the contract (determined without regard to whether, or the extent to which, such organization has paid or contributed with respect to the contract), and the likelihood of abuse.

''(3) DEFINITION AND RULE RELATING TO ACQUISITION COSTS.—

''(A) ACQUISITION COSTS DEFINED.—The term 'acquisition costs' means the direct or indirect costs of acquiring an interest in an applicable insurance contract. Such term shall include any fees, commissions, charges, or other amounts paid in connection with the acquisition, whether or not paid to the issuer of the contract.

''(B) TIMING OF PAYMENTS.—Except as provided in regulations, if acquisition costs of any acquisition are paid or incurred in more than 1 calendar year, the tax imposed by subsection (a) with respect to the acquisition shall be imposed each time the costs are so paid or incurred.

''(4) RULES RELATING TO INTERESTS.—

''(A) IN GENERAL.—An interest in the contract includes any right with respect to the contract, whether as an owner, beneficiary, or otherwise.

''(B) INDIRECT INTERESTS.—

''(i) IN GENERAL.—Except as provided in clause (ii), an indirect interest in a contract includes an interest in an entity which directly or indirectly holds an interest in the contract.

''(ii) PORTFOLIO INVESTMENTS.—If an applicable exempt organization holds an interest in a contract solely because the organization holds, as part of a diversified investment strategy, a de minimis interest in an entity which directly or indirectly holds the interest in the contract, such indirect interest in the contract shall not be taken into account for purposes of this section.

''(C) EXCHANGED CONTRACTS.—In the case of an exchange of an applicable insurance contract on which no gain or loss is recognized under section 1035, any interest in any of the contracts involved in the exchange shall be treated as an interest in all such contracts.

''(5) INCREASE IN INTEREST.—If a person increases an interest in an applicable insurance contract, the increase shall be treated as a separate acquisition for purposes of this section.

''(6) PRIOR ACQUISITIONS.—Except as provided in regulations, if a person acquires an interest in a contract before the contract is treated as an applicable insurance contract, the acquisition shall be treated as a taxable acquisition of an interest in an applicable insurance contract as of the date the contract becomes an applicable insurance contract.

''(c) APPLICABLE EXEMPT ORGANIZATION.—For purposes of this section, the term 'applicable exempt organization' means—

''(1) an organization described in section 170(c),

''(2) an organization described in section 168(h)(2)(A)(iv), or

''(3) an organization not described in paragraph (1) or (2) which is described in section 2055(a) or section 2522(a).

''(d) TAX NOT TREATED AS INVESTMENT IN THE CONTRACT.—For purposes of section 72, the tax imposed by this section shall not be included in investment in the contract.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. Such regulations may include regulations which—

''(1) provide, for purposes of subsection (b)(6), appropriate rules for the application of this section in any case where an interest is acquired before a contract becomes an applicable insurance contract,

''(2) prevent, in cases the Secretary determines appropriate, the imposition of more than one tax under this section if the same interest is acquired more than once, and

''(3) are designed to prevent avoidance of the purposes of this section, including through the use of intermediaries.''.

(2) CONFORMING AMENDMENT.—The table of sections for subchapter F of chapter 42, as added by this Act, is amended by adding at the end the following new item:

''Sec. 4966. Excise tax on acquisition of interests in insurance contracts in which certain exempt organizations hold an interest.''.

(b) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end the following new section:

**''SEC. 6050U. RETURNS RELATING TO APPLICABLE INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD INTERESTS.**

''(a) REQUIREMENTS OF REPORTING.—

''(1) EXEMPT ORGANIZATIONS.—Each—

''(A) applicable exempt organization which acquires (within the meaning of section 4966) an interest in any applicable insurance contract, and

''(B) other person which makes an acquisition of such an interest if such acquisition is taxable under section 4966,

shall make the return described in subsection (c).

''(2) TRANSFERS.—If a person (including an applicable exempt organization) acquires an interest in an applicable insurance contract in an acquisition which is taxable under section 4966 and then transfers such interest to 1 or more other persons, each person acquiring all or a portion of such interest shall make the return described in subsection (c).

''(b) TIME FOR MAKING RETURN.—Any organization or person required to make a return under subsection (a) shall file such return at such time as may be established by the Secretary with respect to—

''(1) in the case of a person described in subsection (a)(1), the calendar year in which

the acquisition occurs, any calendar year in which acquisition costs are paid or incurred, and any other calendar years specified by the Secretary, and

''(2) in the case of a person described in subsection (a)(2), the calendar year in which the transfer occurs.

''(c) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary prescribes,

''(2) in the case of—

''(A) a return required under subsection (a)(1)(A), contains the name, address, and taxpayer identification number of the applicable exempt organization, the issuer of the applicable insurance contract, and any person acquiring an interest in the contract if the acquisition is taxable under section 4966,

''(B) a return required under subsection (a)(1)(B), contains the name, address, and taxpayer identification number of the person acquiring an interest in the applicable insurance contract if the acquisition is taxable under section 4966, any applicable exempt organization holding an interest in the contract, and the issuer of the contract, and

''(C) a return required under subsection (a)(2), contains the name, address, and taxpayer identification number of the transferor and transferee, and

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

''(d) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person whose taxpayer identification information is required to be included in such return under subsection (c) a written statement showing—

''(1) the name and address of the person required to make such return and the telephone number of the information contact for such person, and

''(2) the taxpayer identity and other information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished on or before the date specified by the Secretary.

''(e) DEFINITIONS.—For purposes of this section, any term used in this section which is also used in section 4966 shall have the meaning given such term by section 4966.''.

(2) PENALTIES.—

(A) IN GENERAL.—Section 6724(d) is amended—

(i) in paragraph (1)(B), by redesignating clauses (xiii) through (xviii) as clauses (xiv) through (xix) and by inserting after clause (xii) the following new clause:

''(xiii) section 6050U (relating to returns relating to applicable insurance contracts in which certain exempt organizations hold interests),'', and

(ii) in paragraph (3), by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) the statement required by subsection (d) of section 6050U (relating to returns relating to applicable insurance contracts in which certain exempt organizations hold interests).''.

(B) INTENTIONAL DISREGARD.—Section 6721(e)(2) is amended by striking ''or'' at the end of subparagraph (B), by striking ''and'' at the end of subparagraph (C) and inserting ''or'', and by adding at the end the following new subparagraph:

''(D) in the case of a return required to be filed under section 6050U, the amount of tax imposed under section 4966 which has not been paid with respect to items required to be included on the return, and''.

(3) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61is amended by adding at the end the following new item:

''Sec. 6050U. Returns relating to applicable insurance contracts in which certain exempt organizations hold interests.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued after May 3, 2005.

(2) REPORTING OF EXISTING CONTRACTS.—In the case of any life insurance, annuity, or endowment contract—

(A) which was issued on or before May 3, 2005,

(B) with respect to which an applicable exempt organization (as defined in section 4966 of the Internal Revenue Code of 1986, as added by this section) holds an interest on May 3, 2005, and

(C) which would be treated as an applicable insurance contract (as so defined) if issued after May 3, 2005,

such organization shall, not later than the date which is 1 year after the date of the enactment of this Act, report to the Secretary of the Treasury with respect to such contract. Such report shall be in such form and manner, and contain such information, as the Secretary may prescribe. The Secretary shall submit such reports, along with any recommendations for legislation as the Secretary considers appropriate, to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate within 6 months of the date such reports are required to be filed.

**SEC. 213. INCREASE IN PENALTY EXCISE TAXES ON PUBLIC CHARITIES, SOCIAL WELFARE ORGANIZATIONS, AND PRIVATE FOUNDATIONS.**

(a) TAXES ON SELF-DEALING AND EXCESS BENEFIT TRANSACTIONS.—

(1) IN GENERAL.—Section 4941(a) (relating to initial taxes) is amended—

(A) in paragraph (1), by striking ''5 percent'' and inserting ''10 percent'', and

(B) in paragraph (2), by striking ''2½ percent'' and inserting ''5 percent''.

(2) INCREASE IN TAX IF SELF-DEALING INCLUDES COMPENSATION TO DISQUALIFIED PERSON.—Section 4941(a)(1) is amended by adding at the end the following new sentence: ''If the act of self-dealing includes acts described in subsection (d)(1)(D), '25 percent' shall be substituted for '10 percent', except that the Secretary may abate under section 4962 (determined without regard to the exception under subsection (b) thereof) not more than 15 percentage points of such tax.''.

(3) INCREASED LIMITATION FOR MANAGERS ON SELF-DEALING.—Section 4941(c)(2) is amended by striking ''$10,000'' each place it appears in the text and heading thereof and inserting ''$20,000''.

(4) INCREASED LIMITATION FOR MANAGERS ON EXCESS BENEFIT TRANSACTIONS.—Section 4958(d)(2) is amended by striking ''$10,000'' and inserting ''$20,000''.

(b) TAXES ON FAILURE TO DISTRIBUTE INCOME.—Section 4942(a) (relating to initial tax) is amended by striking ''15 percent'' and inserting ''30 percent''.

(c) TAXES ON EXCESS BUSINESS HOLDINGS.—Section 4943(a)(1) (relating to imposition) is amended by striking ''5 percent'' and inserting ''10 percent''.

(d) TAXES ON INVESTMENTS WHICH JEOPARDIZE CHARITABLE PURPOSE.—

(1) IN GENERAL.—Section 4944(a) (relating to initial taxes) is amended by striking ''5 percent'' both places it appears and inserting ''10 percent''.

(2) INCREASED LIMITATION FOR MANAGERS.—Section 4944(d)(2) is amended—

(A) by striking ''$5,000,'' and inserting ''$10,000,'', and

(B) by striking ''$10,000.'' and inserting ''$20,000.''.

(e) TAXES ON TAXABLE EXPENDITURES.—

(1) IN GENERAL.—Section 4945(a) (relating to initial taxes) is amended—

(A) in paragraph (1), by striking ''10 percent'' and inserting ''20 percent'', and

(B) in paragraph (2), by striking ''2½ percent'' and inserting ''5 percent''.

(2) INCREASED LIMITATION FOR MANAGERS.—Section 4945(c)(2) is amended—

(A) by striking ''$5,000,'' and inserting ''$10,000,'', and

(B) by striking ''$10,000.'' and inserting ''$20,000.''.

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

**SEC. 214. REFORM OF CHARITABLE CONTRIBUTIONS OF CERTAIN EASEMENTS ON BUILDINGS IN REGISTERED HISTORIC DISTRICTS.**

(a) SPECIAL RULES WITH RESPECT TO BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—

(1) IN GENERAL.—Paragraph (4) of section 170(h) (relating to definition of conservation purpose) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULES WITH RESPECT TO BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—In the case of any contribution of a qualified real property interest which is a restriction with respect to the exterior of a building described in subparagraph (C)(ii), such contribution shall not be considered to be exclusively for conservation purposes unless—

''(i) such interest—

''(I) includes a restriction which preserves the entire exterior of the building (including the front, sides, rear, and height of the building), and

''(II) prohibits any change in the exterior of the building which is inconsistent with the historical character of such exterior,

''(ii) the donor and donee enter into a written agreement certifying, under penalty of perjury, that the donee—

''(I) is a qualified organization (as defined in paragraph (3)) with a purpose of environmental protection, land conservation, open space preservation, or historic preservation, and

''(II) has the resources to manage and enforce the restriction and a commitment to do so, and

''(iii) in the case of any contribution made in a taxable year beginning after the date of the enactment of this subparagraph, the taxpayer includes with the taxpayer's return for the taxable year of the contribution—

''(I) a qualified appraisal (within the meaning of subsection (f)(11)(E)) of the qualified property interest,

''(II) photographs of the entire exterior of the building, and

''(III) a description of all restrictions on the development of the building.''.

(b) DISALLOWANCE OF DEDUCTION FOR STRUCTURES AND LAND IN REGISTERED HISTORIC DISTRICTS.—Subparagraph (C) of section 170(h)(4), as redesignated by subsection (a), is amended—

(1) by striking ''any building, structure, or land area which'',

(2) by inserting ''any building, structure, or land area which'' before ''is listed'' in clause (i), and

(3) by inserting ''any building which'' before ''is located'' in clause (ii).

(c) FILING FEE FOR CERTAIN CONTRIBUTIONS.—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by inserting at the end the following new paragraph:

''(13) CONTRIBUTIONS OF CERTAIN INTERESTS IN BUILDINGS LOCATED IN REGISTERED HISTORIC DISTRICTS.—

''(A) IN GENERAL.—No deduction shall be allowed with respect to any contribution described in subparagraph (B) unless the taxpayer includes with the return for the taxable year of the contribution a $500 filing fee.

''(B) CONTRIBUTION DESCRIBED.—A contribution is described in this subparagraph if such contribution is a qualified conservation contribution (as defined in subsection (h)) which is a restriction with respect to the exterior of a building described in subsection (h)(4)(C)(ii) and for which a deduction is claimed in excess of the greater of—

''(i) 3 percent of the fair market value of the building (determined immediately before such contribution), or

''(ii) $10,000.

''(C) DEDICATION OF FEE.—Any fee collected under this paragraph shall be used for the enforcement of the provisions of subsection (h).''.

(d) EFFECTIVE DATE.—

(1) SPECIAL RULES FOR BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—The amendments made by subsection (a) shall apply to contributions made after November 15, 2005.

(2) DISALLOWANCE OF DEDUCTION FOR STRUCTURES AND LAND.—The amendments made by subsection (b) shall apply to contributions made after the date of the enactment of this Act.

(3) FILING FEE.—The amendment made by subsection (c) shall apply to contributions made 180 days after the date of the enactment of this Act.

**SEC. 215. CHARITABLE CONTRIBUTIONS OF TAXIDERMY PROPERTY.**

(a) IN GENERAL.—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph:

''(14) CONTRIBUTIONS OF TAXIDERMY PROPERTY.—

''(A) CONTRIBUTIONS OF MORE THAN $500.—In the case of any contribution of taxidermy property for which a deduction of more than $500 is claimed, no deduction shall be allowed under subsection (a) unless the donor includes with the return for the taxable year in which the contribution is made a photograph of the taxidermy property and data with respect to the sales prices of similar taxidermy property.

''(B) CONTRIBUTIONS OF MORE THAN $5,000.—In the case of any contribution of taxidermy property for which a deduction of more than $5,000 is claimed, no deduction shall be allowed under subsection (a) unless the donor—

''(i) notifies the Internal Revenue Service of such deduction, and

''(ii) includes with the return for the taxable year in which the contribution is made—

''(I) a statement of value from the Internal Revenue Service, or

''(II) a request for a statement of value from the Internal Revenue Service and a $500 fee.

''(C) TAXIDERMY PROPERTY.—For purposes of this section, the term 'taxidermy property' means a mounted work of art which contains any part of a dead animal.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after November 15, 2005.

**SEC. 216. RECAPTURE OF TAX BENEFIT FOR CHARITABLE CONTRIBUTIONS OF EXEMPT USE PROPERTY NOT USED FOR AN EXEMPT USE.**

(a) RECAPTURE OF DEDUCTION ON CERTAIN SALES OF EXEMPT USE PROPERTY.—

(1) IN GENERAL.—Clause (i) of section 170(e)(1)(B) (related to certain contributions of ordinary income and capital gain property) is amended to read as follows:

''(i) of tangible personal property—

''(I) if the use by the donee is unrelated to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection (c)), or

''(II) which is applicable property (as defined in paragraph (8)(C)) which is sold, exchanged, or otherwise disposed of by the donee before the last day of the taxable year in which the contribution was made and with respect to which the donee has not made a certification in accordance with paragraph (8)(D),''.

(2) DISPOSITIONS AFTER CLOSE OF TAXABLE YEAR.—Section 170(e), as amended by this Act, is amended by adding at the end the following new paragraph:

''(8) RECAPTURE OF DEDUCTION ON CERTAIN DISPOSITIONS OF EXEMPT USE PROPERTY.—

''(A) IN GENERAL.—In the case of an applicable disposition of applicable property, there shall be included in the income of the donor of such property for the taxable year of such donor in which the applicable disposition occurs an amount equal to the excess (if any) of—

''(i) the amount of the deduction allowed to the donor under this section with respect to such property, over

''(ii) the donor's basis in such property at the time such property was contributed.

''(B) APPLICABLE DISPOSITION.—For purposes of this paragraph, the term 'applicable disposition' means any sale, exchange, or other disposition by the donee of applicable property—

''(i) after the last day of the taxable year of the donor in which such property was contributed, and

''(ii) before the last day of the 3-year period beginning on the date of the contribution of such property,

unless the donee makes a certification in accordance with subparagraph (D).

''(C) APPLICABLE PROPERTY.—For purposes of this paragraph, the term 'applicable property' means charitable deduction property (as defined in section 6050L(a)(2)(A))—

''(i) which is tangible personal property the use of which is identified by the donee as related to the purpose or function constituting the basis of the donee's exemption under section 501, and

''(ii) for which a deduction in excess of the donor's basis is allowed.

''(D) CERTIFICATION.—A certification meets the requirements of this subparagraph if it is a written statement which is signed under penalty of perjury by an officer of the donee organization and—

''(i) which—

''(I) certifies that the use of the property by the donee was related to the purpose or function constituting the basis for the donee's exemption under section 501, and

''(II) describes how the property was used and how such use furthered such purpose or function, or

''(ii) which—

''(I) states the intended use of the property by the donee at the time of the contribution, and

''(II) certifies that such intended use has become impossible or infeasible to implement.''.

(b) REPORTING REQUIREMENTS.—Paragraph (1) of section 6050L(a) (relating to returns relating to certain dispositions of donated property) is amended—

(1) by striking ''2 years'' and inserting ''3 years'', and

(2) by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting at the end the following:

''(F) a description of the donee's use of the property, and

''(G) a statement indicating whether the use of the property was related to the purpose or function constituting the basis for the donee's exemption under section 501.

In any case in which the donee indicates that the use of applicable property (as defined in section 170(e)(1)(C)) was related to the purpose or function constituting the basis for the exemption of the donee under section 501 under subparagraph (G), the donee shall include with the return the certification described in section 170(e)(8)(D) if such certification is required under section 170(e)(8).''.

(c) PENALTY.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by this Act, is amended by inserting after section 6720B the following new section:

**''SEC. 6720C. FRAUDULENT IDENTIFICATION OF EXEMPT USE PROPERTY.**

''In addition to any criminal penalty provided by law, any person who identifies applicable property (as defined in section 170(e)(8)(C)) as having a use which is related to a purpose or function constituting the basis for the donee's exemption under section 501 and who knows that such property is not intended for such a use shall pay a penalty of $10,000.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by this Act, is amended by adding after the item relating to section 6720B the following new item:

''Sec. 6720C. Fraudulent identification of exempt use property.''.

(d) EFFECTIVE DATE.—

(1) RECAPTURE.—The amendments made by subsection (a) shall apply to contributions after June 1, 2006.

(2) REPORTING.—The amendments made by subsection (b) shall apply to returns filed after June 1, 2006.

(3) PENALTY.—The amendments made by subsection (c) shall apply to identifications made after the date of the enactment of this Act.

**SEC. 217. LIMITATION OF DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF CLOTHING AND HOUSEHOLD ITEMS.**

(a) IN GENERAL.—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph:

''(15) CONTRIBUTIONS OF CLOTHING AND HOUSEHOLD ITEMS.—

''(A) IN GENERAL.—In the case of an individual, partnership, or S corporation, the deduction allowed under subsection (a) for any contribution of clothing or household items with respect to which the donor has not obtained a qualified appraisal shall be—

''(i) in the case of an item which is in good used condition or better, no more than the amount assigned to such item under subparagraph (B) for such year,

''(ii) except as provided by clause (iii), in the case of an item which is not in good used condition or better, no more than 20 percent of the amount assigned to such item under subparagraph (B) for such year, and

''(iii) in the case of an item which is not functional with respect to the use for which it was designed, zero.

''(B) ASSIGNED VALUES.—Each year the Secretary shall publish an itemized list of clothing and household items and shall assign an amount with respect to each item on the list which represents the fair market value of such item in good used condition.

''(C) EXCEPTION FOR ITEMS SOLD BY THE DONEE.—Subparagraph (A) shall not apply to

any contribution of clothing or household items for which a deduction of more than $500 is claimed if—

''(i) the donee sells the clothing or household items before the earlier of—

''(I) the due date (including extensions) for filing the return of tax for the taxable year of the donor in which the contribution was made, or

''(II) the date on which such return was filed,

''(ii) the donee reports the sales price of the clothing or household items to the donor, and

''(iii) the amount claimed as a deduction with respect to such clothing or household items does not exceed the amount of the sales price reported to the donor.

''(D) HOUSEHOLD ITEMS.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'household items' includes furniture, furnishings, electronics, appliances, linens, and other similar items.

''(ii) EXCLUDED ITEMS.—Such term does not include—

''(I) food,

''(II) paintings, antiques, and other objects of art,

''(III) jewelry and gems, and

''(IV) collections.

''(E) SPECIAL RULE FOR PASS-THRU ENTITIES.—In the case of a partnership or S corporation, this paragraph shall be applied at the entity level, except that the deduction shall be denied at the partner or shareholder level.''.

(b) SUBSTANTIATION.—

(1) ITEMS OF $250 OR MORE.—Subparagraph (B) of section 170(f)(8) is amended by inserting after clause (iii) the following new clause:

''(iv) In the case of a contribution consisting of clothing or household items, the number of items contributed, an indication of the condition of each item, a description of the type of item contributed, and a copy of the list published under paragraph (15)(B) or an instruction on how to obtain such list.''.

(2) ITEMS OF $500 OR MORE.—Subparagraph (B) of section 170(f)(11) is amended by inserting '', the information contained in the acknowledgment required under paragraph (8) in the case of any contribution of clothing or household items,'' after ''a description of such property''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2006.

**SEC. 218. MODIFICATION OF RECORDKEEPING REQUIREMENTS FOR CERTAIN CHARITABLE CONTRIBUTIONS.**

(a) RECORDKEEPING REQUIREMENT.—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph:

''(16) RECORDKEEPING.—No deduction shall be allowed under subsection (a) for any contribution of a cash, check, or other monetary gift unless the donor maintains as a record of such contribution—

''(A) a cancelled check, or

''(B) a receipt or a letter or other written communication from the donee showing the name of the donee organization, the date of the contribution, and the amount of the contribution.''.

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

**SEC. 219. CONTRIBUTIONS OF FRACTIONAL INTERESTS IN TANGIBLE PERSONAL PROPERTY.**

(a) INCOME TAX.—Section 170 (relating to charitable, etc., contributions and gifts), as amended by this Act, is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) SPECIAL RULES FOR FRACTIONAL GIFTS.—

''(1) VALUATION OF SUBSEQUENT GIFTS.—

''(A) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

''(i) the fair market value of the property at the time of the initial fractional contribution, or

''(ii) the fair market value of the property at the time of the additional contribution.

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means any charitable contribution by the taxpayer of any interest in property with respect to which the taxpayer has previously made an initial fractional contribution.

''(ii) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any taxpayer, the first charitable contribution of an undivided portion of the taxpayer's entire interest in any tangible personal property.

''(2) RECAPTURE OF DEDUCTION IN CERTAIN CASES.—

''(A) IN GENERAL.—The Secretary shall provide for the recapture of an amount equal to the amount of any deduction allowed under this section (plus interest) with respect to any contribution of an undivided interest of a taxpayer's entire interest in property in any case where such property is not in the physical possession of the donee during any applicable period for a period of time which bears substantially the same ratio to 1 year as—

''(i) the percentage of the undivided interest of the donee in the property (determined on the day after such contribution was made), bears to

''(ii) 100 percent.

''(B) APPLICABLE PERIOD.—For purposes of subparagraph (A), the term 'applicable period' means any 1-year period which begins on—

''(i) in the year of the contribution, the date of the contribution, and

''(ii) in any subsequent calendar year, the date which corresponds to the date described in clause (i).

''(C) ANTI-ABUSE RULES.—The Secretary shall prescribe such regulations as necessary to prevent the avoidance of the purposes of this paragraph through the transfer of any such undivided interest to a third party controlled by the taxpayer.''.

(b) ESTATE TAX.—Section 2055 (relating to transfers for public, charitable, and religious uses) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) VALUATION OF SUBSEQUENT GIFTS.—

''(1) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

''(A) the fair market value of the property at the time of the initial fractional contribution, or

''(B) the fair market value of the property at the time of the additional contribution.

''(2) DEFINITIONS.—For purposes of this paragraph—

''(A) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means a bequest, legacy, devise, or transfer described in subsection (a) of any interest in a property with respect to which the decedent had previously made an initial fractional contribution.

''(B) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any decedent, any charitable contribution of an undivided portion of the decedent's entire interest in any tangible personal property for which a deduction was allowed under section 170.''.

(c) GIFT TAX.—Section 2522 (relating to charitable and similar gifts) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) SPECIAL RULES FOR FRACTIONAL GIFTS.—

''(1) VALUATION OF SUBSEQUENT GIFTS.—

''(A) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

''(i) the fair market value of the property at the time of the initial fractional contribution, or

''(ii) the fair market value of the property at the time of the additional contribution.

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means any gift for which a deduction is allowed under subsection (a) or (b) of any interest in a property with respect to which the donor has previously made an initial fractional contribution.

''(ii) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any donor, the first gift of an undivided portion of the donor's entire interest in any tangible personal property for which a deduction is allowed under subsection (a) or (b).

''(2) RECAPTURE OF DEDUCTION IN CERTAIN CASES.—

''(A) IN GENERAL.—The Secretary shall provide for the recapture of an amount equal to the amount of any deduction allowed under this section (plus interest) with respect to any contribution of an undivided interest of a donor's entire interest in property in any case where such property is not in the physical possession of the donee during any applicable period for a period of time which bears substantially the same ratio to 1 year as—

''(i) the percentage of the undivided interest of the donee in the property (determined on the day after such contribution was made), bears to

''(ii) 100 percent.

''(B) APPLICABLE PERIOD.—For purposes of subparagraph (A), the term 'applicable period' means any 1-year period which begins on—

''(i) in the year of the contribution, the date of the contribution, and

''(ii) in any subsequent calendar year, the date which corresponds to the date described in clause (i).

''(C) ANTI-ABUSE RULES.—The Secretary shall prescribe such regulations as necessary to prevent the avoidance of the purposes of this paragraph though the transfer of any such undivided interest to a third party controlled by the donor.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions, bequests, and gifts made after the date of the enactment of this Act.

**SEC. 220. PROVISIONS RELATING TO SUBSTANTIAL AND GROSS OVERSTATEMENTS OF VALUATIONS OF CHARITABLE DEDUCTION PROPERTY.**

(a) SUBSTANTIAL AND GROSS OVERSTATEMENTS OF VALUATIONS OF CHARITABLE DEDUCTION PROPERTY.—

(1) IN GENERAL.—Section 6662 (relating to imposition of accuracy-related penalties) is amended by adding at the end the following new subsection:

''(i) SPECIAL RULES FOR CHARITABLE DEDUCTION PROPERTY.—In the case of charitable deduction property (as defined in section 6664(c)(3)(A))—

''(1) the determination under subsection (e)(1)(A) as to whether there is a substantial valuation misstatement under chapter 1 with respect to the value of the property shall be made by substituting '150 percent' for '200 percent', and

''(2) the determination under subsection (h)(2)(A)(i) as to whether there is a gross valuation misstatement with respect to the value of the property shall be made by substituting '200 percent' for '400 percent' and by substituting '150 percent' for '200 percent' in applying subsection (e)(1)(A) for purposes of such determination.''.

(2) ELIMINATION OF REASONABLE CAUSE EXCEPTION FOR GROSS MISSTATEMENTS.—Section 6664(c)(2) (relating to reasonable cause exception for underpayments) is amended by striking ''paragraph (1) shall not apply unless'' and inserting ''paragraph (1) shall not apply. The preceding sentence shall not apply to a substantial valuation overstatement under chapter 1 if''.

(b) PENALTY ON APPRAISERS WHOSE APPRAISALS RESULT IN SUBSTANTIAL OR GROSS VALUATION MISSTATEMENTS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6695 the following new section:

**''SEC. 6695A. SUBSTANTIAL AND GROSS VALUATION MISSTATEMENTS ATTRIBUTABLE TO INCORRECT APPRAISALS.**

''(a) IMPOSITION OF PENALTY.—If—

''(1) a person prepares an appraisal of the value of property and such person knows, or reasonably should have known, that the appraisal would be used in connection with a return or a claim for refund, and

''(2) the claimed value of the property on a return or claim for refund which is based on such appraisal results in a substantial valuation misstatement under chapter 1 (within the meaning of section 6662(e)), or a gross valuation misstatement (within the meaning of section 6662(h)), with respect to such property,

then such person shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—The amount of the penalty imposed under subsection (a) on any person with respect to an appraisal shall be equal to the lesser of—

''(1) the greater of—

''(A) 10 percent of the amount of the underpayment (as defined in section 6664(a)) attributable to the misstatement described in subsection (a)(2), or

''(B) $1,000, or

''(2) 125 percent of the gross income received by the person described in subsection (a)(1) from the preparation of the appraisal.

''(c) EXCEPTION.—No penalty shall be imposed under subsection (a) if the person establishes to the satisfaction of the Secretary that the value established in the appraisal was more likely than not the proper value.''.

(2) RULES APPLICABLE TO PENALTY.—Section 6696 (relating to rules applicable with respect to sections 6694 and 6695) is amended—

(A) by striking ''6694 and 6695'' each place it appears in the text and heading thereof and inserting ''6694, 6695, and 6695A'', and

(B) by striking ''6694 or 6695'' each place it appears in the text and inserting ''6694, 6695, or 6695A''.

(3) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6696 and inserting the following new items:

''Sec. 6695A. Substantial and gross valuation misstatements attributable to incorrect appraisals.

''Sec. 6696. Rules applicable with respect to sections 6694, 6695, and 6695A.''.

(c) QUALIFIED APPRAISERS AND APPRAISALS.—

(1) IN GENERAL.—Subparagraph (E) of section 170(f)(11) is amended to read as follows:

''(E) QUALIFIED APPRAISAL AND APPRAISER.—For purposes of this paragraph—

''(i) QUALIFIED APPRAISAL.—The term 'qualified appraisal' means, with respect to any property, an appraisal of such property which—

''(I) is treated for purposes of this paragraph as a qualified appraisal under regulations or other guidance prescribed by the Secretary, and

''(II) is conducted by a qualified appraiser in accordance with generally accepted appraisal standards and any regulations or other guidance prescribed under subclause (I).

''(ii) QUALIFIED APPRAISER.—Except as provided in clause (iii), the term 'qualified appraiser' means an individual who—

''(I) has earned an appraisal designation from a recognized professional appraiser organization or has otherwise met minimum education and experience requirements set forth in regulations prescribed by the Secretary,

''(II) regularly performs appraisals for which the individual receives compensation, and

''(III) meets such other requirements as may be prescribed by the Secretary in regulations or other guidance.

''(iii) SPECIFIC APPRAISALS.—An individual shall not be treated as a qualified appraiser with respect to any specific appraisal unless—

''(I) the individual demonstrates verifiable education and experience in valuing the type of property subject to the appraisal, and

''(II) the individual has not been prohibited from practicing before the Internal Revenue Service by the Secretary under section 330(c) of title 31, United States Code, at any time during the 3-year period ending on the date of the appraisal.''.

(2) REASONABLE CAUSE EXCEPTION.—Subparagraphs (B) and (C) of section 6664(c)(3) are amended to read as follows:

''(B) QUALIFIED APPRAISAL.—The term 'qualified appraisal' has the meaning given such term by section 170(f)(11)(E)(i).

''(C) QUALIFIED APPRAISER.—The term 'qualified appraiser' has the meaning given such term by section 170(f)(11)(E)(ii).''.

(d) DISCIPLINARY ACTIONS AGAINST APPRAISERS.—Section 330(c) of title 31, United States Code, is amended by striking ''with respect to whom a penalty has been assessed under section 6701(a) of the Internal Revenue Code of 1986''.

(e) EFFECTIVE DATES.—

(1) MISSTATEMENT PENALTIES.—Except as provided in paragraph (3), the amendments made by subsection (a) shall apply to returns filed after the date of the enactment of this Act.

(2) APPRAISER PROVISIONS.—Except as provided in paragraph (3), the amendments made by subsections (b), (c), and (d) shall apply to appraisals prepared with respect to returns or submissions filed after the date of the enactment of this Act.

(3) SPECIAL RULE FOR CERTAIN EASEMENTS.—In the case of a contribution of a qualified real property interest which is a restriction with respect to the exterior of a building described in section 170(h)(4)(C)(ii) of the Internal Revenue Code of 1986, and an appraisal with respect to the contribution, the amendments made by subsections (a) and (b) shall apply to returns filed after December 16, 2004.

**SEC. 221. ADDITIONAL STANDARDS FOR CREDIT COUNSELING ORGANIZATIONS.**

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

''(q) SPECIAL RULES FOR CREDIT COUNSELING ORGANIZATIONS.—

''(1) IN GENERAL.—An organization with respect to which the provision of credit counseling services is a substantial purpose shall not be exempt from tax under subsection (a) unless such organization is described in paragraph (3) or (4) of subsection (c) and such organization is organized and operated in accordance with the following requirements:

''(A) The organization—

''(i) provides credit counseling services tailored to the specific needs and circumstances of consumers,

''(ii) makes no loans to debtors and does not negotiate the making of loans on behalf of debtors, and

''(iii) does not promote, or charge any separate fee for, any service for the purpose of improving any consumer's credit record, credit history, or credit rating.

''(B) The organization does not refuse to provide credit counseling services to a consumer due to the inability of the consumer to pay, the ineligibility of the consumer for debt management plan enrollment, or the unwillingness of the consumer to enroll in a debt management plan.

''(C) The organization establishes and implements a fee policy which—

''(i) requires that any fees charged to a consumer for services are reasonable, and

''(ii) prohibits charging any fee based in whole or in part on a percentage of the consumer's debt, the consumer's payments to be made pursuant to a debt management plan, or the projected or actual savings to the consumer resulting from enrolling in a debt management plan.

''(D) At all times the organization has a board of directors or other governing body—

''(i) which is controlled by persons who represent the broad interests of the public, such as public officials acting in their capacities as such, persons having special knowledge or expertise in credit or financial education, and community leaders,

''(ii) not more than 20 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees or the repayment of consumer debt to creditors other than the credit counseling organization or its affiliates), and

''(iii) not more than 49 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees).

''(E) The organization does not own more than 35 percent of—

''(i) the total combined voting power of a corporation which is in the business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services,

''(ii) the profits interest of a partnership which is in the business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services, and

''(iii) the beneficial interest of a trust or estate which is in the business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services.

''(F) The organization receives no amount for providing referrals to others for financial

services (including debt management services) or credit counseling services to be provided to consumers, and pays no amount to others for obtaining referrals of consumers.

''(2) REQUIREMENTS UNDER SUBSECTION (c)(3).—In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (3) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization is organized and operated in accordance with the following requirements:

''(A) The organization—

''(i) charges no fees (other than nominal fees) for debt management plan services or credit counseling services and waives any fees if the consumer is unable to pay such fees, and

''(ii) does not solicit contributions from consumers during the initial counseling process or while the consumer is receiving services from the organization.

''(B) The activities of the organization related to debt management plan services (in the aggregate) do not exceed 25 percent of the total activities of the organization activities measured by any of the following:

''(i) The time spent on activities.

''(ii) The resources dedicated to activities.

''(iii) The effort expended by the organization with respect to activities.

''(iv) The sources of revenue of the organization.

''(v) Any other measures prescribed by the Secretary.

''(3) REQUIREMENTS UNDER SUBSECTION (c)(4).—In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (4) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization—

''(A) is organized and operated such that it charges no fees (other than nominal fees) for credit counseling services and waives any fees if the consumer is unable to pay such fees, and

''(B) notifies the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition as a credit counseling organization.

''(4) SECRETARIAL AUTHORITY.—The Secretary may require any organization described in paragraph (1) to submit such information as the Secretary requires to verify that such organization meets the requirements of this section.

''(5) CREDIT COUNSELING SERVICES; DEBT MANAGEMENT PLAN SERVICES.—For purposes of this subsection—

''(A) CREDIT COUNSELING SERVICES.—The term 'credit counseling services' means—

''(i) the providing of educational information to the general public on budgeting, personal finance, financial literacy, saving and spending practices, and the sound use of consumer credit,

''(ii) the assisting of individuals and families with financial problems by providing them with counseling, or

''(iii) a combination of the activities described in clauses (i) and (ii).

''(B) DEBT MANAGEMENT PLAN SERVICES.—The term 'debt management plan services' means services related to the repayment, consolidation, or restructuring of a consumer's debt, and includes the negotiation with creditors of lower interest rates, the waiver or reduction of fees, and the marketing and processing of debt management plans.''.

(b) DEBT MANAGEMENT PLAN SERVICES TREATED AS AN UNRELATED BUSINESS.—Section 513 (relating to unrelated trade or business) is amended by adding at the end the following:

''(j) DEBT MANAGEMENT PLAN SERVICES.—The term 'unrelated trade or business' includes—

''(1) the provision of debt management plan services (as defined in section 501(q)(4)(B)) by an organization described in section 501(q) to the extent such services are not substantially related to the provision of credit counseling services (as defined in section 501(q)(4)(A)) to a consumer, and

''(2) the provision of debt management plan services (as so defined) by any organization other than an organization which meets the requirements of section 501(q).''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) TRANSITION RULE FOR EXISTING ORGANIZATIONS.—In the case of any organization described in paragraph (3) or (4) section 501(c) of the Internal Revenue Code of 1986 and with respect to which the provision of credit counseling services is a substantial purpose on the date of the enactment of this Act, the amendments made by this section shall apply to taxable years beginning after the date which is 1 year after the date of the enactment of this Act.

**SEC. 222. EXPANSION OF THE BASE OF TAX ON PRIVATE FOUNDATION NET INVESTMENT INCOME.**

(a) GROSS INVESTMENT INCOME.—

(1) IN GENERAL.—Paragraph (2) of section 4940(c) (relating to gross investment income) is amended by adding at the end the following new sentence: ''Such term shall also include income from sources similar to those in the preceding sentence.''.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 509 (relating to gross investment income) is amended by adding at the end the following new sentence: ''Such term shall also include income from sources similar to those in the preceding sentence.''.

(b) CAPITAL GAIN NET INCOME.—Paragraph (4) of section 4940(c) (relating to capital gains and losses) is amended—

(1) in subparagraph (A), by striking ''used for the production of interest, dividends, rents, and royalties'' and inserting ''used for the production of gross investment income (as defined in paragraph (2))'', and

(2) in subparagraph (C), by inserting ''or carrybacks'' after ''carryovers''.

(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. 223. DEFINITION OF CONVENTION OR ASSOCIATION OF CHURCHES.**

Section 7701 (relating to definitions) is amended by redesignating subsection(o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) CONVENTION OR ASSOCIATION OF CHURCHES.—For purposes of this title, any organization which is otherwise a convention or association of churches shall not fail to so qualify merely because the membership of such organization includes individuals as well as churches or because individuals have voting rights in such organization.''.

**SEC. 224. NOTIFICATION REQUIREMENT FOR ENTITIES NOT CURRENTLY REQUIRED TO FILE.**

(a) IN GENERAL.—Section 6033 (relating to returns by exempt organizations) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) ADDITIONAL NOTIFICATION REQUIREMENTS.—Any organization the gross receipts of which in any taxable year result in such organization being referred to in subsection (a)(3)(A)(ii) or (a)(3)(B)—

''(1) shall furnish annually, at such time and in such manner as the Secretary may by forms or regulations prescribe, information setting forth—

''(A) the legal name of the organization,

''(B) any name under which such organization operates or does business,

''(C) the organization's mailing address and Internet web site address (if any),

''(D) the organization's taxpayer identification number,

''(E) the name and address of a principal officer, and

''(F) evidence of the continuing basis for the organization's exemption from the filing requirements under subsection (a)(1), and

''(2) upon the termination of the existence of the organization, shall furnish notice of such termination.''.

(b) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—Section 6033 (relating to returns by exempt organizations), as amended by subsection (a), is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—

''(1) IN GENERAL.—If an organization described in subsection (a)(1) or (k) fails to file an annual return or notice required under either subsection for 3 consecutive years, such organization's status as an organization exempt from tax under section 501(a) shall be considered revoked on and after the date set by the Secretary for the filing of the third annual return or notice. The Secretary shall publish and maintain a list of any organization the status of which is so revoked.

''(2) APPLICATION NECESSARY FOR REINSTATEMENT.—Any organization the tax-exempt status of which is revoked under paragraph (1) must apply in order to obtain reinstatement of such status regardless of whether such organization was originally required to make such an application.

''(3) RETROACTIVE REINSTATEMENT IF REASONABLE CAUSE SHOWN FOR FAILURE.—If upon application for reinstatement of status as an organization exempt from tax under section 501(a), an organization described in paragraph (1) can show to the satisfaction of the Secretary evidence of reasonable cause for the failure described in such paragraph, the organization's exempt status may, in the discretion of the Secretary, be reinstated effective from the date of the revocation under such paragraph.''.

(c) NO DECLARATORY JUDGMENT RELIEF.—Section 7428(b) (relating to limitations) is amended by adding at the end the following new paragraph:

''(4) NONAPPLICATION FOR CERTAIN REVOCATIONS.—No action may be brought under this section with respect to any revocation of status described in section 6033(i)(1).''.

(d) NO INSPECTION REQUIREMENT.—Section 6104(b) (relating to inspection of annual information returns), as amended by this Act, is amended by inserting ''(other than subsection (h) thereof)'' after ''6033''.

(e) NO DISCLOSURE REQUIREMENT.—Section 6104(d)(3) (relating to exceptions from disclosure requirements) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) NONDISCLOSURE OF ANNUAL NOTICES.—Paragraph (1) shall not require the disclosure of any notice required under section 6033(h).''.

(f) NO MONETARY PENALTY FOR FAILURE TO NOTIFY.—Section 6652(c)(1) (relating to annual returns under section 6033 or 6012(a)(6)) is amended by adding at the end the following new subparagraph:

''(E) NO PENALTY FOR CERTAIN ANNUAL NOTICES.—This paragraph shall not apply with respect to any notice required under section 6033(h).''.

(g) SECRETARIAL OUTREACH REQUIREMENTS.—

(1) NOTICE REQUIREMENT.—The Secretary of the Treasury shall notify in a timely manner every organization described in section 6033(h) of the Internal Revenue Code of 1986 (as added by this section) of the requirement under such section 6033(h) and of the penalty established under section 6033(i) of such Code—

(A) by mail, in the case of any organization the identity and address of which is included in the list of exempt organizations maintained by the Secretary, and

(B) by Internet or other means of outreach, in the case of any other organization.

(2) LOSS OF STATUS PENALTY FOR FAILURE TO FILE RETURN.—The Secretary of the Treasury shall publicize in a timely manner in appropriate forms and instructions and through other appropriate means, the penalty established under section 6033(i) of such Code for the failure to file a return under section 6033(a)(1) of such Code.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to notices and returns with respect to annual periods beginning after 2005.

**SEC. 225. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO EXEMPT ORGANIZATIONS.**

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) DISCLOSURE OF PROPOSED ACTIONS RELATED TO CHARITABLE ORGANIZATIONS.—

''(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

''(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

''(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

''(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

''(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

''(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

''(i) upon written request by an appropriate State officer, and

''(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

''(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of Federal or State issues relating to the tax-exempt status of such organization.

''(3) DISCLOSURE WITH RESPECT TO CERTAIN OTHER EXEMPT ORGANIZATIONS.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of an organization described in paragraph (2), (4), (6), (7), (8), (10), or (13) of section 501(c) for the purpose of, and to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

''(4) USE IN CIVIL JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

''(5) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

''(6) DEFINITIONS.—For purposes of this subsection—

''(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

''(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

''(i) the State attorney general,

''(ii) the State tax officer,

''(iii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

''(iv) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6103(p)(3) is amended by inserting ''an section 6104(c)'' after ''section'' in the first sentence.

(2) Paragraph (4) of section 6103(p) is amended—

(A) in the matter preceding subparagraph (A), by inserting '', or any appropriate State officer (as defined in section 6104(c)),'' before ''or any other person'',

(B) in subparagraph (F)(i), by inserting ''or any appropriate State officer (as defined in section 6104(c)),'' before ''or any other person'', and

(C) in the matter following subparagraph (F), by inserting '', an appropriate State officer (as defined in section 6104(c)),'' after ''including an agency'' each place it appears.

(3) The heading for paragraph (1) of section 6104(c) is amended by inserting ''FOR CHARITABLE ORGANIZATIONS'' after ''RULE''.

(4) Paragraph (2) of section 7213(a) is amended by inserting ''or under section 6104(c)'' after ''6103''.

(5) Paragraph (2) of section 7213A(a) is amended by inserting ''or 6104(c)'' after ''6103''.

(6) Paragraph (2) of section 7431(a) is amended by inserting ''(including any disclosure in violation of section 6014(c)'' after ''6103''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

## PART II—IMPROVED ACCOUNTABILITY OF DONOR ADVISED FUNDS

**SEC. 231. EXCISE TAX ON SPONSORING ORGANIZATIONS OF DONOR ADVISED FUNDS FOR FAILURE TO MEET DISTRIBUTION REQUIREMENTS.**

(a) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations), as amended by this Act, is amended by adding at the end the following new subchapter:

**''Subchapter G—Donor Advised Funds**



**''SEC. 4967. TAXES ON SPONSORING ORGANIZATIONS OF DONOR ADVISED FUNDS FOR FAILURE TO MEET DISTRIBUTION REQUIREMENTS.**

''(a) INITIAL TAX.—There is hereby imposed on any sponsoring organization a tax equal to 30 percent of each of the following amounts:

''(1) The organization level undistributed amount of such sponsoring organization (other than any organization subject to tax under section 4942) for any taxable year which has not been distributed before the first day of the second (or any succeeding) taxable year following such taxable year (if such first day falls within the taxable period).

''(2) The fund level undistributed amount of any donor advised fund of such sponsoring organization for any taxable year which has not been distributed before the 181st day of the first (or any succeeding) taxable year following the applicable period (if such 181st day falls within the taxable period).

''(3) The illiquid fund undistributed amount of any illiquid asset donor advised fund of such sponsoring organization for any taxable year which has not been distributed before the 181st day of the second (or any succeeding) taxable year following such taxable year (if such 181st day falls within the taxable period).

''(b) ADDITIONAL TAX.—In any case in which an initial tax is imposed under subsection (a) on any amount, if any portion of such amount remains undistributed at the close of the taxable period, there is hereby imposed a tax equal to 100 percent of the amount remaining undistributed at such time.

''(c) ORGANIZATION LEVEL UNDISTRIBUTED AMOUNT; FUND LEVEL UNDISTRIBUTED AMOUNT; ILLIQUID FUND UNDISTRIBUTED AMOUNT.—For purposes of this section—

''(1) ORGANIZATION LEVEL UNDISTRIBUTED AMOUNT.—The term 'organization level undistributed amount' means, with respect to any sponsoring organization for any taxable year, the amount by which—

''(A) the organization level distributable amount for such taxable year, exceeds

''(B) the qualifying distributions made during such taxable year and designated for the purpose of reducing such amount.

''(2) FUND LEVEL UNDISTRIBUTED AMOUNT.—The term 'fund level undistributed amount' means, with respect to any donor advised fund of a sponsoring organization for any applicable period, the amount by which—

''(A) the fund level distributable amount for such applicable period, exceeds

''(B) the qualifying distributions made during such applicable period and designated for the purpose of reducing such amount.

''(3) ILLIQUID FUND UNDISTRIBUTED AMOUNT.—

''(A) IN GENERAL.—The term 'illiquid fund undistributed amount' means, with respect to any illiquid asset donor advised fund of a sponsoring organization for any taxable year, the amount by which—

''(i) the illiquid fund distributable amount for such taxable year, exceeds

''(ii) the qualifying distributions made during such taxable year and designated for the purpose of reducing such amount.

''(B) ILLIQUID ASSET DONOR ADVISED FUND.—The term 'illiquid asset donor advised fund' means for any taxable year a donor advised fund the value of the illiquid assets of which (as of the end of the preceding taxable year) exceeds 10 percent of the value of the total assets of such fund.

''(C) ILLIQUID ASSET.—The term 'illiquid asset' means for any taxable year any asset other than cash and marketable securities the value of which is held for the entire taxable year as such asset or any other illiquid asset.

''(d) ORGANIZATION LEVEL DISTRIBUTABLE AMOUNT; FUND LEVEL DISTRIBUTABLE AMOUNT; ILLIQUID FUND DISTRIBUTABLE AMOUNT.—For purposes of this section—

''(1) ORGANIZATION LEVEL DISTRIBUTABLE AMOUNT.—The term 'organization level distributable amount' means, with respect to any sponsoring organization for any taxable year, an amount equal to the applicable percentage of the fair market value of the aggregate assets of all donor advised funds maintained by such organization as determined on the last day of the preceding taxable year (other than such funds which have been in existence for less than 1 year as so determined).

''(2) FUND LEVEL DISTRIBUTABLE AMOUNT.—The term 'fund level distributable amount' means, with respect to any donor advised fund of any sponsoring organization for any applicable 3-consecutive taxable year period, an amount equal to the greater of—

''(A) $250, or

''(B) 2.5 percent of the greater of—

''(i) the average of the sponsoring organization's required minimum initial contribution amount for such period, or

''(ii) the average of the sponsoring organization's required minimum balance for such period,

for the type of donor with respect to such donor advised fund.

''(3) ILLIQUID FUND DISTRIBUTABLE AMOUNT.—The term 'illiquid fund distributable amount' means, with respect to any illiquid asset donor advised fund of any sponsoring organization for any taxable year, an amount equal to the applicable percentage of the value of the assets in such fund as determined at the end of the preceding taxable year.

''(4) APPLICABLE PERCENTAGE.—For purposes of paragraphs (1) and (3), the applicable percentage is—

''(A) 3 percent for the first taxable year beginning after the date of the enactment of this section,

''(B) 4 percent for the second taxable year beginning after such date, and

''(C) 5 percent for any taxable year beginning after the second taxable year beginning after such date.

''(e) QUALIFYING DISTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying distribution' means—

''(A) any amount paid by the sponsoring organization from a donor advised fund—

''(i) to any organization described in section 170(b)(1)(A) (other than any organization described in section 509(a)(3) or any sponsoring organization if such amount is for maintenance in a donor advised fund), and

''(ii) notwithstanding clause (i), to any organization described section 170(f)(17)(B)(ii), but only to the extent not prohibited by regulations, and

''(B) any amount set aside in such donor advised fund for purposes, and under procedures similar to those, described in section 4942(g)(2).

Such term shall also include any amount paid during any taxable year for reasonable and necessary administrative expenses charged to a donor advised fund by a sponsoring organization.

''(2) DISTRIBUTIONS TO SPONSORING ORGANIZATIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), such term shall include any distribution to a sponsoring organization.

''(B) ORGANIZATION LEVEL DISTRIBUTIONS.—For purposes of subsection (c)(1)(B), such term shall not include any distribution to a sponsoring organization unless such distribution is designated for use in connection with a charitable program of such organization.

''(3) PURPOSE OF DISTRIBUTION.—Each qualifying distribution shall be taken into account in determining whether each of the requirements of paragraphs (1), (2), and (3) of subsection (a) are met, except that only qualifying distributions from a donor advised fund shall be taken into account in determining whether the requirements of paragraphs (2) and (3) of subsection (a) are met with respect to the fund.

''(4) DESIGNATION OF TAXABLE YEAR.—

''(A) IN GENERAL.—A sponsoring organization shall designate the taxable years or applicable periods with respect to which any qualifying distribution shall be applied for purposes of satisfying the distribution requirements of such taxable year or applicable period.

''(B) CARRYOVER OF EXCESS DISTRIBUTION DESIGNATIONS.—If a sponsoring organization designates an amount of qualifying distributions in excess of the amount necessary to meet the distribution requirements for all taxable years and all applicable periods, the sponsoring organization may designate such excess as a carryover distribution which may be applied for purposes of satisfying the distribution requirements of the succeeding 5 taxable years.

''(f) VALUATION RULES.—For purposes of determining the value of any asset held by a donor advised fund, the following rules shall apply:

''(1) Securities for which market quotations are readily available shall be valued at fair market value determined on a monthly basis.

''(2) Cash shall be determined on an average monthly basis.

''(3) Any illiquid asset transferred by a donor to a sponsoring organization for maintenance in such donor advised fund shall be valued in an amount equal to the sum of—

''(A) the value of such asset claimed by the donor for purposes of determining the donor's deduction under section 170, 2055, or 2522 with respect to such transfer and reported by the donor to the sponsoring organization (in any manner specified by the Secretary), and

''(B) an assumed annual rate of return of 5 percent of such value.

''(4) Any illiquid asset purchased by such fund shall be valued in an amount equal to—

''(A) the purchase price paid for such asset by such fund, and

''(B) an assumed annual rate of return of 5 percent of such value.

''(g) SPONSORING ORGANIZATION; DONOR ADVISED FUND.—For purposes of this subchapter—

''(1) SPONSORING ORGANIZATION.—The term 'sponsoring organization' means any organization which—

''(A) is described in section 170(c) (other than in paragraph (1) thereof, and without regard to paragraph (2)(A) thereof), and

''(B) maintains 1 or more donor advised funds.

''(2) DONOR ADVISED FUND.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'donor advised fund' means a fund or account—

''(i) which is separately identified by reference to contributions of a donor or donors,

''(ii) which is owned and controlled by a sponsoring organization, and

''(iii) with respect to which a donor or any person appointed or designated by such person) has, or reasonably expects to have, advisory privileges with respect to the distribution or investment of amounts held in such fund or account by reason of the donor's status as a donor.

''(B) EXCEPTION.—The term 'donor advised fund' shall not include any fund or account with respect to which a person described in subparagraph (A)(iii) advises as to which individuals receive grants for travel, study, or other similar purposes, but only if—

''(i) such person's advisory privileges are performed exclusively by such person in the person's capacity as a member of a committee appointed by the sponsoring organization,

''(ii) no combination of persons described in subparagraph (A)(iii) (or persons related to such persons) control, directly or indirectly, such committee, and

''(iii) all grants from such fund or account satisfy requirements similar to those described in section 4945(g) (concerning grants to individuals by private foundations).

''(C) SECRETARIAL AUTHORITY.—The Secretary may exempt a fund or account from treatment as a donor advised fund which—

''(i) is advised by committee not directly or indirectly controlled by the donor or advisor (and any related parties), or

''(ii) will benefit a single identified organization or governmental entity or a single identified charitable purpose.

''(h) OTHER DEFINITIONS.—For purposes of this section—

''(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to the undistributed amount for any taxable year, the period beginning with the first day of the taxable year and ending on the earlier of—

''(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212, or

''(B) the date on which the tax imposed by subsection (a) is assessed.

''(2) APPLICABLE PERIOD.—The term 'applicable period' means, with respect to any donor advised fund of any sponsoring organization, a 3-consecutive taxable year period determined under the following rules:

''(A) The first applicable 3-consecutive taxable year period for any donor advised fund shall begin on the first day of the first taxable year of the sponsoring organization beginning after the date such fund has been in existence for 1 year.

''(B) Any applicable 3-consecutive taxable year period after the first such period shall begin on the day after the termination of any preceding applicable 3-consecutive taxable year period with respect to such donor advised fund.

''(i) REGULATIONS.—The Secretary may issue such regulations as are necessary to carry out the purposes of this section, including regulations regarding—

''(1) the acceptable methods for calculating the organization level undistributed amount for sponsoring organizations,

''(2) the allowable adjustments in the determination of the value of any illiquid asset where the asset value has declined significantly after a contribution to, or purchase by, the donor advised fund, and

''(3) the treatment or disregard of transactions designed to avoid the application of the illiquid asset rules, such as through exchanges of illiquid assets for other assets.

**''SEC. 4968. TAXES ON PROHIBITED DISTRIBUTIONS.**

''(a) IMPOSITION OF TAXES.—

''(1) ON THE DONOR OR DONOR ADVISOR.—There is hereby imposed on the advice of any person described in section 4967(g)(2)(A)(iii) to have a sponsoring organization of a donor advised fund make a taxable distribution from such fund a tax equal to 20 percent of the amount thereof. The tax imposed by this paragraph shall be paid by such person who advised the sponsoring organization of the donor advised fund to make the distribution.

''(2) ON THE FUND MANAGEMENT.—There is hereby imposed on the agreement of any fund manager to the making of a distribution, knowing that it is a taxable distribution, a tax equal to 5 percent of the amount thereof, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any fund manager who agreed to the making of the distribution.

''(b) JOINT AND SEVERAL LIABILITY.—For purposes of subsection (a), if more than one person is liable under subsection (a)(1) or (a)(2) with respect to the making of a taxable distribution, all such persons shall be jointly and severally liable under such paragraph with respect to such distribution.

''(c) TAXABLE DISTRIBUTION.—For purposes of this subsection—

''(1) IN GENERAL.—The term 'taxable distribution' means any distribution from a donor advised fund to any person other than the sponsoring organization's non donor advised funds or accounts or organizations described in section 170(b)(1)(A) (other than any organization described in section 509(a)(3) or any sponsoring organization if such amount is for maintenance in a donor advised fund).

''(2) EXCEPTION.—Notwithstanding paragraph (1), such term shall not include any distribution from a donor advised fund to any organization described in section 170(f)(17)(B)(ii) to the extent such distribution is not prohibited under regulations.

''(d) FUND MANAGER.—For purposes of this subchapter, the term 'fund manager' means, with respect to any sponsoring organization of a donor advised fund—

''(1) an officer, director, or trustee of such sponsoring organization (or an individual having powers or responsibilities similar to those of officers, directors, or trustees of the sponsoring organization), and

''(2) with respect to any act (or failure to act), the employees of the sponsoring organization having authority or responsibility with respect to such act (or failure to act).

**''SEC. 4969. TAXES ON PROHIBITED BENEFITS.**

''(a) IMPOSITION OF TAXES.—

''(1) ON THE DONOR, DONOR ADVISOR, OR RELATED PERSON.—There is hereby imposed on the advice of any person described in subsection (c) to have a sponsoring organization of a donor advised fund make a distribution from such fund which results in such a person receiving, directly or indirectly, a more than incidental benefit as a result of such distribution, a tax equal to 25 percent of the amount of such distribution. The tax imposed by this paragraph shall be paid by such person who advised the sponsoring organization of the donor advised fund to make the distribution.

''(2) ON THE RECIPIENT OF THE BENEFIT.—There is hereby imposed on any person described in subsection (c) who receives a benefit described in paragraph (1), a tax equal to 25 percent of the amount of the distribution described in paragraph (1).

''(3) ON THE FUND MANAGEMENT.—There is hereby imposed on the agreement of any fund manager to the making of a distribution, knowing that such distribution would confer a benefit described in paragraph (1), a tax equal to 10 percent of the amount of such distribution, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any fund manager who agreed to the making of the distribution.

''(b) JOINT AND SEVERAL LIABILITY.—For purposes of subsection (a), if more than one person is liable under subsection (a)(1), (a)(2), or (a)(3) with respect to the making of a distribution described in subsection (a), all such persons shall be jointly and severally liable under such paragraph with respect to such distribution.

''(c) DONOR, DONOR ADVISOR, OR RELATED PERSON.—A person is described in this subsection if such person is described in section 4958(f)(1)(D) (determined without regard to any investment advisor).''.

(b) ABATEMENT OF TAXES ALLOWED.—Section 4963 is amended—

(1) by inserting ''4967, 4968, 4969,'' after ''4958,'' each place it appears in subsections (a) and (c),

(2) by inserting ''4967,'' after ''4958,'' in subsection (b),

(3) in subsection (d)(2), by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) in the case of the second tier tax imposed by section 4967(b), reducing the amount of the undistributed amount to zero.'', and

(4) in subsection (e)(2), by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (B) the following new subparagraphs:

''(C) in the case of section 4967(a)(1), on the first day of the taxable year for which there was a failure to distribute,

''(D) in the case of paragraph (2) or (3) of section 4967(a), on the 181st day of the taxable year for which there was a failure to distribute,''.

(c) CONFORMING AMENDMENTS.—

(1) The table of subchapters for chapter 42, as amended by this Act, is amended by adding at the end the following new item:

''SUBCHAPTER G. DONOR ADVISED FUNDS.''.

(2) Section 6213(e) is amended by inserting ''4967 (relating to taxes on sponsoring organizations of donor advised funds for failure to meet distribution requirements),'' after ''benefit),''.

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

**SEC. 232. PROHIBITED TRANSACTIONS.**

(a) DISQUALIFIED PERSONS.—

(1) IN GENERAL.—Paragraph (1) of section 4958(f) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding after subparagraph (C) the following new subparagraph:

''(D) any person who is described in paragraph (7) with respect to any sponsoring organization (as defined in section 4967(g)(1)).''.

(2) DONORS, DONOR ADVISORS, AND INVESTMENT ADVISORS TREATED AS DISQUALIFIED PERSONS.—Section 4958(f) is amended by adding at the end the following new paragraph:

''(7) DONORS, DONOR ADVISORS, AND INVESTMENT ADVISORS WITH RESPECT TO SPONSORING ORGANIZATIONS.—For purposes of paragraph (1)(D)—

''(A) IN GENERAL.—A person is described in this paragraph if such person—

''(i) is described in section 4967(g)(2)(A)(iii),

''(ii) is an investment advisor,

''(iii) is a member of the family of an individual described in clause (i) or (ii), or

''(iv) is a 35-percent controlled entity (as defined in paragraph (3) by substituting 'persons described in clause (i), (ii), or (iii) of paragraph (7)(A)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

''(B) INVESTMENT ADVISOR.—The term 'investment advisor' means, with respect to any sponsoring organization (as defined in section 4967(g)(1)), any person (other than an employee of such organization) compensated by such organization for managing the investment of, or providing investment advice with respect to, assets maintained in donor advised funds (as defined in section 4967(g)(2)) owned by such organization.''.

(3) DONORS, DONOR ADVISORS, AND INVESTMENT ADVISORS TREATED AS DISQUALIFIED PERSONS WITH RESPECT TO A SPONSORING ORGANIZATION WHICH IS A PRIVATE FOUNDATION.—Section 4946(a)(1) is amended by striking ''and'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', and'', and by adding at the end the following new subparagraph:

''(J) a person described in section 4958(f)(1)(D).''.

(b) CERTAIN TRANSACTIONS TREATED AS EXCESS BENEFIT TRANSACTIONS.—

(1) IN GENERAL.—Section 4958(c) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) SPECIAL RULES FOR DONOR ADVISED FUNDS OWNED BY SPONSORING ORGANIZATIONS.—In the case of any donor advised fund (as defined in section 4967(g)(2)) of a sponsoring organization (as defined in section 4967(g)(1))—

''(A) the term 'excess benefit transaction' includes any grant, loan, compensation, or other payment from such fund to a person described in subsection (f)(1)(D) (determined without regard to any investment advisor) with respect to such fund, and

''(B) the term 'excess benefit' includes, with respect to any transaction described in subparagraph (A), the amount of any such grant, loan, compensation, or other payment.

Notwithstanding the last sentence of subsection (e), a sponsoring organization shall be treated as an applicable tax-exempt organization to the extent necessary to carry out this paragraph.''.

(2) SPECIAL RULE FOR CORRECTION OF TRANSACTION.—Section 4958(f)(6) is amended by inserting '', except that in the case of any correction of an excess benefit transaction described in subsection (c)(2), no amount repaid in a manner prescribed by the Secretary may be held in, or credited to, any donor advised fund'' after ''standards''.

(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. 233. TREATMENT OF CHARITABLE CONTRIBUTION DEDUCTIONS TO DONOR ADVISED FUNDS.**

(a) INCOME.—Section 170(f) (relating to disallowance of deduction in certain cases and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(17) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

''(A) IN GENERAL.—A deduction otherwise allowed under subsection (a) for any contribution to a sponsoring organization (as defined in section 4967(g)(1)) to be maintained in any donor advised fund (as defined in section 4967(g)(2)) of such organization shall only be allowed if—

''(i) such sponsoring organization is not described in paragraph (3), (4), or (5) of subsection (c) or section 509(a)(3), and

''(ii) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of paragraph (8)(C) from the sponsoring organization that such organization has exclusive legal control over the assets contributed.

''(B) CONTRIBUTIONS TO TYPE I OR TYPE II SUPPORTING ORGANIZATIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a contribution to a sponsoring organization (as so defined) described in clause (ii) to be maintained in any donor advised fund (as so defined) of such organization shall be allowed to the extent not prohibited by regulations.

''(ii) ORGANIZATION DESCRIBED.—An organization is described in this clause if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

''(I) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

''(II) supervised or controlled in connection with one or more such organizations.''.

(b) ESTATE.—Section 2055(e) is amended by adding at the end the following new paragraph:

''(5) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

''(A) IN GENERAL.—A deduction otherwise allowed under subsection (a) for any contribution to a sponsoring organization (as defined in section 4967(g)(1)) to be maintained in any donor advised fund (as defined in section 4967(g)(2)) of such organization shall only be allowed if—

''(i) such sponsoring organization is not described in paragraph (3) or (4) of subsection (a) or section 509(a)(3), and

''(ii) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of section 170(f)(8)(C)) from the sponsoring organization that such organization has exclusive legal control over the assets contributed.

''(B) CONTRIBUTIONS TO TYPE I OR TYPE II SUPPORTING ORGANIZATIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a contribution to a sponsoring organization (as so defined) described in clause (ii) to be maintained in any donor advised fund (as so defined) of such organization shall be allowed to the extent not prohibited by regulations.

''(ii) ORGANIZATION DESCRIBED.—An organization is described in this clause if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

''(I) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

''(II) supervised or controlled in connection with one or more such organizations.''.

(c) GIFT.—Section 2522(c) is amended by adding at the end the following new paragraph:

''(13) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

''(A) IN GENERAL.—A deduction otherwise allowed under subsection (a) for any contribution to a sponsoring organization (as defined in section 4967(g)(1)) to be maintained in any donor advised fund (as defined in section 4967(g)(2)) of such organization shall only be allowed if—

''(i) such sponsoring organization is not described in paragraph (3) or (4) of subsection (a) or section 509(a)(3), and

''(ii) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of section 170(f)(8)(C)) from the sponsoring organization that such organization has exclusive legal control over the assets contributed.

''(B) CONTRIBUTIONS TO TYPE I OR TYPE II SUPPORTING ORGANIZATIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a contribution to a sponsoring organization (as so defined) described in clause (ii) to be maintained in any donor advised fund (as so defined) of such organization shall be allowed to the extent not prohibited by regulations.

''(ii) ORGANIZATION DESCRIBED.—An organization is described in this clause if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

''(I) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

''(II) supervised or controlled in connection with one or more such organizations.''.

(d) REGULATIONS.—The regulations prescribed under sections 170(f)(17)(B)(i), 2055(e)(5)(B)(i), 2522(c)(13)(B)(i), 4967(e)(i)(A)(ii), and 4968(c)(2) of the Internal Revenue Code of 1986 shall deny a deduction for contributions to sponsoring organizations (as defined in section 4967(g)(1) of such Code) which are described in section 170(f)(17)(B)(ii) of such Code and shall apply excise taxes to distributions from donor advised funds (as defined in section 4967(g)(2) of such Code) and sponsoring organizations (as so defined) to organizations so described in cases where the donor of the contributions or the donor or donor advisor of the amounts distributed directly or indirectly controls a supported organization (as defined in section 509(f)(3) of such Code) of such organization.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date which is 180 days after the date of the enactment of this Act.

**SEC. 234. RETURNS OF, AND APPLICATIONS FOR RECOGNITION BY, SPONSORING ORGANIZATIONS.**

(a) MATTERS INCLUDED ON RETURNS.—

(1) IN GENERAL.—Section 6033, as amended by this Act, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—Every organization described in section 4967(g)(1) shall, on the return required under subsection (a) for the taxable year—

''(1) list the total number of donor advised funds (as defined in section 4967(g)(2)) it owns at the end of such taxable year,

''(2) indicate the aggregate value of assets held in such funds at the end of such taxable year, and

''(3) indicate the aggregate contributions to and grants made from such funds during such taxable year.''.

(2) EXTENSION OF STATUTE OF LIMITATIONS.—Section 6501(c) is amended by adding at the end the following new paragraph:

''(11) DONOR ADVISED FUNDS.—If a sponsoring organization (as defined in section 4967(g)(1)) fails to include on any return for any taxable year any information with respect to any donor advised fund of such organization which is required under section 6033(j) to be included with such return, the time for assessment of any tax imposed under subchapter G of chapter 42 with respect to any distribution from such donor advised fund shall not expire before the date which is 3 years after the date on which the secretary is furnished the information so required.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to returns filed for taxable years ending after the date of the enactment of this Act.

(b) MATTERS INCLUDED ON EXEMPT STATUS APPLICATION.—

(1) IN GENERAL.—Section 508 is amended by adding at the end the following new subsection:

''(f) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—A sponsoring organization (as defined in section 4967(g)(1)) shall give notice to the Secretary (in such manner as the Secretary may provide) whether such organization maintains or intends to maintain donor advised funds (as defined in section 4967(g)(2)) and the manner in which such organization plans to operate such funds.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to organizations applying for tax-exempt status after the date of the enactment of this Act.

## PART III—IMPROVED ACCOUNTABILITY OF SUPPORTING ORGANIZATIONS

**SEC. 241. REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.**

(a) TYPES OF SUPPORTING ORGANIZATIONS.—Subparagraph (B) of section 509(a)(3) is amended to read as follows:

''(B) is—

''(i) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2),

''(ii) supervised or controlled in connection with one or more such organizations, or

''(iii) operated in connection with one or more such organizations, and''.

(b) REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.—Section 509 (relating to private foundation defined) is amended by adding at the end the following new subsection:

''(f) REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.—

''(1) TYPE III SUPPORTING ORGANIZATIONS.—For purposes of subsection (a)(3)(B)(iii), an organization shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of subsection (a) unless such organization meets the following requirements:

''(A) APPLICATION REQUIREMENT.—The organization provides to the Secretary, as a part of any notification filed under section 508(a) after the date of the enactment of this subsection, a letter from each supported organization acknowledging that the supported organization has been designated by such organization as a supported organization.

''(B) RESPONSIVENESS.—For each taxable year beginning after the date of the enactment of this subsection, the organization provides to each supported organization such information as the Secretary may require to ensure that such organization is responsive to the needs or demands of the supported organization.

''(C) SUPPORTED ORGANIZATIONS.—

''(i) IN GENERAL.—The organization—

''(I) is not operated in connection with more than 5 supported organizations, and

''(II) is not operated in connection with any supported organization that is not organized in the United States on any date after the date which is 180 days after the date of the enactment of this subsection.

''(ii) SPECIAL RULE FOR EXISTING ORGANIZATIONS.—If the organization is operated in connection with more than 5 supported organizations on the date of the enactment of this subsection—

''(I) clause (i)(I) shall not apply, and

''(II) the organization may not be operated in connection with any other organization after such date unless the total number of supported organizations is 5 or less.

''(D) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—The organization makes no contributions to or for the use of any donor advised fund (as defined in section 4967(g)(2)).

''(2) ORGANIZATIONS CONTROLLED BY DONORS.—

''(A) IN GENERAL.—For purposes of subsection (a)(3)(B), an organization shall not be considered to be—

''(i) operated, supervised, or controlled by any organization described in paragraph (1) or (2) of subsection (a), or

''(ii) operated in connection with any organization described in paragraph (1) or (2) of subsection (a),

if such organization accepts any gift or contribution from any person described in subparagraph (B).

''(B) PERSON DESCRIBED.—A person is described in this subparagraph if such person is—

''(i) a person (other than an organization described in paragraph (1), (2), or (4) of section 509(a)) who controls, directly or indirectly, either alone or together with persons described in clauses (ii) and (iii), the governing body of a supported organization,

''(ii) a member of the family (determined under section 4958(f)(4)) of an individual described in clause (i), or

''(iii) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 509(f)(2)(B)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

''(3) SUPPORTED ORGANIZATION.—For purposes of this subsection, the term 'supported organization' means, with respect to an organization described in subsection (a)(3), an organization described in paragraph (1) or (2) of subsection (a)—

''(A) for whose benefit the organization described in subsection (a)(3) is organized and operated, or

''(B) with respect to which the organization performs the functions of, or carries out the purposes of.''.

(c) CHARITABLE TRUSTS WHICH ARE TYPE III SUPPORTING ORGANIZATIONS.—For purposes of section 509(a)(3)(B)(iii) of the Internal Revenue Code of 1986, an organization which is a trust shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of section 509(a) of such Code solely because—

(1) it is a charitable trust under State law,

(2) the supported organization (as defined in section 509(f)(3) of such Code) is a beneficiary of such trust, and

(3) the supported organization (as so defined) has the power to enforce the trust and compel an accounting.

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

**SEC. 242. EXCISE TAX ON SUPPORTING ORGANIZATIONS FOR FAILURE TO MEET DISTRIBUTION REQUIREMENTS.**

(a) IN GENERAL.—Subchapter D of chapter 42 (relating to failure by certain charitable organizations to meet certain qualification requirements) is amended by adding at the end the following new section:

**''SEC. 4959. TAXES ON CERTAIN SUPPORTING ORGANIZATIONS FAILING TO MEET DISTRIBUTION REQUIREMENTS.**

''(a) INITIAL TAX.—There is hereby imposed on the undistributed income of any type III supporting organization for any taxable year, which has not been distributed before the first day of the second (or any succeeding) taxable year following such taxable year (if such first day falls within the taxable period), a tax equal to 30 percent of the amount of such income remaining undistributed at the beginning of such second (or succeeding) taxable year.

''(b) ADDITIONAL TAX.—In any case in which an initial tax is imposed under subsection (a) on the undistributed income of a type III supporting organization for any taxable year, if any portion of such income remains undistributed at the close of the taxable period, there is hereby imposed a tax equal to 100 percent of the amount remaining undistributed at such time.

''(c) UNDISTRIBUTED INCOME.—For purposes of this section, the term 'undistributed income' means, with respect to any type III supporting organization for any taxable year as of any time, the amount by which—

''(1) the distributable amount for such taxable year, exceeds

''(2) the qualifying distributions made before such time out of such distributable amount.

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

''(1) IN GENERAL.—the term 'distributable amount' means, with respect to any type III supporting organization for any taxable year, an amount equal to the sum of—

''(A) the greater of—

''(i) 85 percent of the adjusted net income (as defined in section 4942(f)) of the type III supporting organization for the preceding taxable year, or

''(ii) the applicable percentage of the fair market value of the aggregate assets of such organization (other than assets used or held to perform the functions of, or carry out the purposes of, a supported organization) on the last day of the preceding taxable year, and

''(B) any amount received during the preceding taxable year which is a repayment of amounts paid by the organization in any prior taxable year to a supported organization exclusively for the benefit of such supported organization or to perform the functions of, or carry out the purposes of such supported organization.

''(2) INVESTMENT ASSETS.—For purposes of paragraph (1)(A)(ii), assets held for investment or for the operation of an unrelated trade or business shall not be considered as assets used or held to perform the functions of, or carry out the purposes of, a supported organization.

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)(A)(ii), the applicable percentage is—

''(A) 3 percent for the first taxable year beginning after the date of the enactment of this section,

''(B) 4 percent for the second taxable year beginning after such date, and

''(C) 5 percent for any taxable year beginning after the second taxable year beginning after such date.

''(e) QUALIFYING DISTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying distribution' means amounts paid by the type III supporting organization to or for the use of a supported organization.

''(2) ADMINISTRATIVE AND OPERATING EXPENSES.—Reasonable and necessary administrative expenses of a type III supporting organization shall be treated as a qualifying distribution to a supported organization.

''(f) TREATMENT OF QUALIFYING DISTRIBUTIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), any qualifying distribution made during a taxable year shall be treated as made—

''(A) first out of the undistributed income of the immediately preceding taxable year (if the type III supporting organization was subject to the tax imposed by this section for such preceding taxable year) to the extent thereof, and

''(B) second out of the undistributed income for the taxable year to the extent thereof.

For purposes of this paragraph, distributions shall be taken into account in the order of time in which made.

''(2) CORRECTION OF DEFICIENT DISTRIBUTIONS FOR PRIOR TAXABLE YEARS, ETC.—In the case of any qualifying distribution which (under paragraph (1)) is not treated as made out of the undistributed income of the immediately preceding taxable year, the type III supporting organization may elect to treat any portion of such distribution as made out of the undistributed income of a designated prior taxable year. The election shall be made by the type III supporting organization at such time and in such manner as the Secretary shall by regulations prescribe.

''(g) ADJUSTMENT OF DISTRIBUTABLE AMOUNT WHERE DISTRIBUTIONS DURING PRIOR YEARS HAVE EXCEEDED INCOME.—

''(1) IN GENERAL.—If, for the taxable years in the adjustment period for which an organization is a type III supporting organization—

''(A) the aggregate qualifying distributions treated (under subsection (f)) as made out of the undistributed income for such taxable years, exceeds

''(B) the distributable amounts for such taxable years (determined without regard to this subsection),

then, for purposes of this section (other than subsection (f)), the distributable amount for the taxable year shall be reduced by an amount equal to such excess.

''(2) TAXABLE YEARS IN ADJUSTMENT PERIOD.—For purposes of paragraph (1), with respect to any taxable year of a type III supporting organization, the taxable years in the adjustment period are the taxable years (not exceeding 5) beginning after the date of the enactment of this section and immediately preceding the taxable year.

''(h) OTHER DEFINITIONS.—For purposes of this section—

''(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to the undistributed income for any taxable year, the period beginning with the first day of the taxable year and ending on the earlier of—

''(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212, or

''(B) the date on which the tax imposed by subsection (a) is assessed.

''(2) TYPE III SUPPORTING ORGANIZATION.—The term 'type III supporting organization' means an organization which meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and which is operated in connection with one or more organizations described in paragraph (1) or (2) of section 509(a).

''(3) SUPPORTED ORGANIZATION.—The term 'supported organization' has the meaning given such term under section 509(f)(3).''.

(b) CONFORMING AMENDMENT.—The table of sections for subchapter D of chapter 42 is amended by inserting after the item relating to section 4958 the following new item:

''Sec. 4959. Taxes on certain supporting organizations failing to meet distribution requirements.''.

(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. 243. EXCESS BENEFIT TRANSACTIONS.**

(a) IN GENERAL.—Section 4958(c), as amended by this Act, is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR SUPPORTING ORGANIZATIONS.—

''(A) IN GENERAL.—In the case of any organization described in section 509(a)(3)—

''(i) the term 'excess benefit transaction' includes—

''(I) any grant, loan, compensation, or other payment provided by such organization to a person described in subparagraph (B), and

''(II) any loan provided by such organization to a disqualified person (other than an organization described in paragraph (1), (2), or (4) of section 509(a)), and

''(ii) the term 'excess benefit' includes, with respect to any transaction described in clause (i), the amount of any such grant, loan, compensation, or other payment.

''(B) PERSON DESCRIBED.—A person is described in this subparagraph if such person is—

''(i) a substantial contributor to such organization,

''(ii) a member of the family (determined under section 4958(f)(4)) of an individual described in clause (i), or

''(iii) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 4958(c)(3)(B)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

''(C) SUBSTANTIAL CONTRIBUTOR.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'substantial contributor' means any person who contributed or bequeathed an aggregate amount of more than $5,000 to the organization, if such amount is more than 2 percent of the total contributions and bequests received by the organization before the close of the taxable year of the organization in which the contribution or bequest is received by the organization from such person. In the case of a trust, such term also means the creator of the trust.

''(ii) EXCEPTION.—Such term shall not include any organization described in paragraph (1), (2), or (4) of section 509(a).''.

(b) DISQUALIFIED PERSONS.—Paragraph (1) of section 4958(f), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', and'', and by adding after subparagraph (D) the following new subparagraph:

''(E) any person who is described in subparagraph (A), (B), or (C) with respect to an organization described in section 509(a)(3) which is organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of the applicable tax-exempt organization.''.

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

**SEC. 244. EXCESS BUSINESS HOLDINGS OF SUPPORTING ORGANIZATIONS.**

(a) IN GENERAL.—Section 4943 is amended by adding at the end the following new subsection:

''(e) APPLICATION OF TAX TO SUPPORTING ORGANIZATIONS.—

''(1) IN GENERAL.—For purposes of this section, a qualified supporting organization shall be treated as a private foundation.

''(2) EXCEPTION.—The Secretary may exempt any qualified supporting organization from the application of this subsection if the Secretary determines that the excess business holdings of such organization are consistent with the purpose or function constituting the basis for its exemption under section 501.

''(3) QUALIFIED SUPPORTING ORGANIZATION.—For purposes of this subsection, the term 'qualified supporting organization' means any—

''(A) type III supporting organization (as defined in section 4959(h)(2)), or

''(B) organization which meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and which is supervised or controlled in connection with or one or more organizations described in paragraph (1) or (2) of section 509(a), but only if such organization accepts any gift or contribution from any person described in section 509(f)(2)(B).

''(4) DISQUALIFIED PERSON.—

''(A) IN GENERAL.—In applying this section to any organization described in section 509(a)(3), the term 'disqualified person' means, with respect to the organization—

''(i) any person who was, at any time during the 5-year period ending on date described in subsection (a)(2)(A), in a position to exercise substantial influence over the affairs of the organization,

''(ii) any member of the family (determined under section 4958(f)(4)) of an individual described in clause (i),

''(iii) any 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 4943(e)(2)(A)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof),

''(iv) any person described in section 4958(c)(3)(B), and

''(v) any organization—

''(I) which is effectively controlled (directly or indirectly) by the same person or persons who control the organization in question, or

''(II) substantially all of the contributions to which were made (directly or indirectly) by the same person or persons described in subparagraph (B) or a member of their family (within the meaning of section 4946(d)) who made (directly or indirectly) substantially all of the contributions to the organization in question.

''(B) PERSONS DESCRIBED.—A person is described in this subparagraph if such person is—

''(i) a substantial contributor to the organization (as defined in section 4958(c)(3)(C)),

''(ii) an officer, director, or trustee of the organization (or an individual having powers or responsibilities similar to those officers, directors, or trustees of the organization), or

''(iii) an owner of more than 20 percent of—

''(I) the total combined voting power of a corporation,

''(II) the profits interest of a partnership, or

''(III) the beneficial interest of a trust or unincorporated enterprise,

which is a substantial contributor (as so defined) to the organization.

''(5) SPECIAL RULE FOR CERTAIN HOLDINGS OF TYPE III SUPPORTING ORGANIZATIONS.—For purposes of this subsection, the term 'excess business holdings' shall not include any holdings of a type III supporting organization (as defined in section 4959(h)(2)) in any business enterprise if the holdings are held for the benefit of the community pursuant to the direction of a State attorney general or a State official with jurisdiction over the type III supporting organization.

''(6) PRESENT HOLDINGS.—For purposes of this subsection, rules similar to the rules of paragraphs (4), (5), and (6) of subsection (c) shall apply to organizations described in section 509(a)(3), except that—

''(A) 'the date of the enactment of this subsection' shall be substituted for 'May 26, 1969' each place it appears in paragraphs (4), (5), and (6), and

''(B) 'January 1, 2007' shall be substituted for 'January 1, 1970' in paragraph (4)(E).''.

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

**SEC. 245. TREATMENT OF AMOUNTS PAID TO SUPPORTING ORGANIZATIONS BY PRIVATE FOUNDATIONS.**

(a) QUALIFYING DISTRIBUTIONS.—Paragraph (4) of section 4942(g) is amended to read as follows:

''(4) LIMITATION ON DISTRIBUTIONS BY NONOPERATING PRIVATE FOUNDATIONS TO SUPPORTING ORGANIZATIONS.—For purposes of this section, the term 'qualifying distribution' shall not include any amount paid by a private foundation which is not an operating foundation to an organization described in section 509(a)(3).''.

(b) TAXABLE EXPENDITURES.—

(1) IN GENERAL.—Subsection (d) of section 4945 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) to an organization described in section 509(a)(3),''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4945(d)(5), as redesignated by subparagraph (A), is amended—

(i) by striking ''a grant to an organization'' and inserting ''a grant to any other organization'', and

(ii) by striking ''paragraph (1), (2), or (3) of section 509(a)'' in subparagraph (A) and inserting ''paragraph (1) or (2) of section 509(a)''.

(B) Section 4945(f) is amended by striking ''Subsection (d)(4)'' in the last sentence thereof and inserting ''Subsection (d)(5)''.

(C) Section 4945(h) is amended by striking ''subsection (d)(4)'' and inserting ''subsection (d)(5)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions and expenditures after the date of the enactment of this Act.

**SEC. 246. RETURNS OF SUPPORTING ORGANIZATIONS.**

(a) REQUIREMENT TO FILE RETURN.—Subparagraph (B) of section 6033(a)(3), as redesignated by this Act, is amended by inserting ''(other than an organization described in section 509(a)(3))'' after ''paragraph (1)''.

(b) MATTERS INCLUDED ON RETURNS.—Section 6033, as amended by this Act, is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) ADDITIONAL PROVISIONS RELATING TO SUPPORTING ORGANIZATIONS.—

''(1) IN GENERAL.—Every organization described in section 509(a)(3) shall, on the return required under subsection (a)—

''(A) list the organizations described in section 509(a)(3)(A) with respect to which such organization provides support,

''(B) indicate whether the organization meets the requirements of clause (i), (ii), or (iii) of section 509(a)(3)(B), and

''(C) certify that the organization meets the requirements of section 509(a)(3)(C).

''(2) TYPE III SUPPORTING ORGANIZATIONS.—Every type III supporting organization (as defined in section 4959(h)(2)) shall indicate on the return required under subsection (a) for the taxable year whether the organization has received a letter from each supported organization (as defined in section 509(f)(3)) during the taxable year which—

''(A) acknowledges that the supporting organization has designated such organization as a supported organization,

''(B) details the type of support provided by the supporting organization, and

''(C) explains how such support furthers the charitable purpose of the supported organization.''.

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

## TITLE III—MISCELLANEOUS PROVISIONS

### SEC. 301. RESTRUCTURING OF NEW YORK LIBERTY ZONE TAX CREDITS.

(a) IN GENERAL.—Subchapter Y of chapter 1 is amended by adding at the end the following new section:

**''SEC. 1400M. NEW YORK LIBERTY ZONE TAX CREDITS.**

''(a) IN GENERAL.—There shall be allowed as a credit against any taxes imposed by this title (other than by section 3111(a), section 3403, or subtitle D) paid or incurred by any governmental unit of the State of New York and the City of New York, New York (including any agency or instrumentality thereof) for any calendar year an amount equal to the lesser of—

''(1) the total expenditures during such year by such governmental unit for qualifying projects, or

''(2) the amount allocated to such governmental unit for such calendar year under subsection (b)(2).

''(b) QUALIFYING PROJECT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying project' means any transportation infrastructure project, including highways, mass transit systems, railroads, airports, ports, and waterways, in or connecting with the New York Liberty Zone (as defined in section 1400L(h)), which is designated as a qualifying project under this section jointly by the Governor of the State of New York and the Mayor of the City of New York, New York.

''(2) DOLLAR LIMITATION.—

''(A) IN GENERAL.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly allocate to a governmental unit the amount of expenditures which may be taken into account under subsection (a) for any calendar year in the credit period with respect to a qualifying project.

''(B) AGGREGATE LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for all calendar years in the credit period shall not exceed $2,000,000,000.

''(C) ANNUAL LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for any calendar year in the credit period shall not exceed the sum of—

''(i) $200,000,000, plus

''(ii) the aggregate amount authorized to be allocated under this paragraph for all preceding calendar years in the credit period which was not so allocated.

''(D) UNALLOCATED AMOUNTS AT END OF CREDIT PERIOD.—If, as of the close of the credit period, the amount under subparagraph (B) exceeds the aggregate amount allocated under subparagraph (A) for all calendar years in the credit period, the Governor of the State of New York and the Mayor of the City of New York, New York, may jointly allocate for any calendar year following the credit period for expenditures with respect to qualifying projects which may be taken into account under subsection (a) an amount equal to such excess, reduced by the aggregate amount allocated under this subparagraph for all preceding calendar years.

''(c) CARRYOVER OF UNUSED ALLOCATIONS.—

''(1) IN GENERAL.—If the amount allocated under subsection (b)(2) to a governmental unit for any calendar year exceeds the total expenditures for such year by such governmental unit for qualifying projects, the allocation of such governmental unit for the succeeding calendar year shall be increased by the amount of such excess.

''(2) REALLOCATION.—If a governmental unit does not use an amount allocated to it under subsection (b)(2) within the time prescribed by the Governor of the State of New York and the Mayor of the City of New York, New York, then such amount shall after such time be treated for purposes of subsection (b)(2) in the same manner as if it had never been allocated.

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

''(1) CREDIT PERIOD.—The term 'credit period' means the 10-year period beginning on January 1, 2006.

''(2) TREATMENT OF FUNDS.—Any expenditure for a qualifying project taken into account for purposes of the credit under this section shall be considered State and local funds for the purpose of any Federal program.

''(e) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to ensure compliance with the purposes of this section.''.

(b) TERMINATION OF CERTAIN NEW YORK LIBERTY ZONE BENEFITS.—

(1) SPECIAL ALLOWANCE AND EXPENSING.—Section 1400L(b)(2)(A)(v) is amended by striking ''the termination date'' and inserting ''the date of the enactment of the Tax Relief Act of 2005 or the termination date if pursuant to a binding contract in effect on such enactment date''.

(2) LEASEHOLD.—Section 1400L(c)(2)(B) is amended by striking ''before January 1, 2007'' and inserting ''on or before the date of the enactment of the Tax Relief Act of 2005 or before January 1, 2007, if pursuant to a binding contract in effect on such enactment date''.

### SEC. 302. MODIFICATION TO S CORPORATION PASSIVE INVESTMENT INCOME RULES.

(a) INCREASED PERCENTAGE LIMIT.—Paragraph (2) of section 1375(a) is amended by striking ''25 percent'' and inserting ''60 percent''.

(b) OTHER PROVISIONS.—

(1) REPEAL OF EXCESSIVE PASSIVE INCOME AS A TERMINATION EVENT.—Section 1362(d) is amended by striking paragraph (3).

(2) CAPITAL GAIN NOT TREATED AS PASSIVE INVESTMENT INCOME.—Subsection (b) of section 1375 is amended by striking paragraphs (3) and (4) and inserting the following new paragraph:

''(3) PASSIVE INVESTMENT INCOME DEFINED.—

''(A) Except as otherwise provided in this paragraph, the term 'passive investment income' means gross receipts derived from royalties, rents, dividends, interest, and annuities.

''(B) EXCEPTION FOR INTEREST ON NOTES FROM SALES OF INVENTORY.—The term 'passive investment income' shall not include interest on any obligation acquired in the ordinary course of the corporation's trade or business from its sale of property described in section 1221(a)(1).

''(C) TREATMENT OF CERTAIN LENDING OR FINANCE COMPANIES.—If the S corporation meets the requirements of section 542(c)(6) for the taxable year, the term 'passive investment income' shall not include gross receipts for the taxable year which are derived directly from the active and regular conduct of a lending or finance business (as defined in section 542(d)(1)).

''(D) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.

''(E) EXCEPTION FOR BANKS, ETC.—In the case of a bank (as defined in section 581) or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)), 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.

''(F) COORDINATION WITH SECTION 1374.—The amount of passive investment income shall be determined by not taking into account any recognized built-in gain or loss of the S corporation for any taxable year in the recognition period. Terms used in the preceding sentence shall have the same respective meanings as when used in section 1374.''.

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (J) of section 26(b)(2) is amended by striking ''25 percent'' and inserting ''60 percent''.

(2) Clause (i) of section 1042(c)(4)(A) is amended by striking ''section 1362(d)(3)(C)'' and inserting ''section 1375(b)(3)''.

(3) Subparagraph (B) of section 1362(f)(1) is amended by striking ''or (3)''.

(4) Clause (i) of section 1375(b)(1)(A) is amended by striking ''25 PERCENT'' and inserting ''60 PERCENT''.

(5) The heading for section 1375 is amended by striking ''25 PERCENT'' and inserting ''60 PERCENT''.

(6) The item relating to section 1375 in the table of sections for part III of subchapter S of chapter 1 is amended by striking ''25 percent'' and inserting ''60 percent''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006 and before October 2, 2009.

### SEC. 303. MODIFICATION OF EFFECTIVE DATE OF DISREGARD OF CERTAIN CAPITAL EXPENDITURES FOR PURPOSES OF QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Section 144(a)(4)(G) is amended by striking ''September 30, 2009'' and inserting ''December 31, 2006''.

(b) CONFORMING AMENDMENT.—Section 144(a)(4)(F) is amended by striking ''September 30, 2009'' and inserting ''December 31, 2006''.

### SEC. 304. PREMIUMS FOR MORTGAGE INSURANCE.

(a) IN GENERAL.—Section 163(h)(3) (relating to qualified residence interest) is amended by adding at the end the following new subparagraph:

''(E) MORTGAGE INSURANCE PREMIUMS TREATED AS INTEREST.—

''(i) IN GENERAL.—Premiums paid or accrued for qualified mortgage insurance by a taxpayer during the taxable year in connection with acquisition indebtedness with respect to a qualified residence of the taxpayer shall be treated for purposes of this section as interest which is qualified residence interest.

''(ii) PHASEOUT.—The amount otherwise treated as interest under clause (i) shall be reduced (but not below zero) by 10 percent of such amount for each $1,000 ($500 in the case of a married individual filing a separate return) (or fraction thereof) that the taxpayer's adjusted gross income for the taxable year exceeds $100,000 ($50,000 in the case of a married individual filing a separate return).''.

(b) DEFINITION AND SPECIAL RULES.—Section 163(h)(4) (relating to other definitions and special rules) is amended by adding at the end the following new subparagraphs:

''(E) QUALIFIED MORTGAGE INSURANCE.—The term 'qualified mortgage insurance' means—

''(i) mortgage insurance provided by the Veterans Administration, the Federal Housing Administration, or the Rural Housing Administration, and

''(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subparagraph).

''(F) SPECIAL RULES FOR PREPAID QUALIFIED MORTGAGE INSURANCE.—Any amount paid by the taxpayer for qualified mortgage insurance that is properly allocable to any mortgage the payment of which extends to periods that are after the close of the taxable year in which such amount is paid shall be chargeable to capital account and shall be treated as paid in such periods to which so allocated. No deduction shall be allowed for the unamortized balance of such account if such mortgage is satisfied before the end of its term. The preceding sentences shall not apply to amounts paid for qualified mortgage insurance provided by the Veterans Administration or the Rural Housing Administration.''.

(c) INFORMATION RETURNS RELATING TO MORTGAGE INSURANCE.—Section 6050H (relating to returns relating to mortgage interest received in trade or business from individuals) is amended by adding at the end the following new subsection:

''(h) RETURNS RELATING TO MORTGAGE INSURANCE PREMIUMS.—

''(1) IN GENERAL.—The Secretary may prescribe, by regulations, that any person who, in the course of a trade or business, receives from any individual premiums for mortgage insurance aggregating $600 or more for any calendar year, shall make a return with respect to each such individual. Such return shall be in such form, shall be made at such time, and shall contain such information as the Secretary may prescribe.

''(2) STATEMENT TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under paragraph (1) shall furnish to each individual with respect to whom a return is made a written statement showing such information as the Secretary may prescribe. Such written statement shall be furnished on or before January 31 of the year following the calendar year for which the return under paragraph (1) was required to be made.

''(3) SPECIAL RULES.—For purposes of this subsection—

''(A) rules similar to the rules of subsection (c) shall apply, and

''(B) the term 'mortgage insurance' means—

''(i) mortgage insurance provided by the Veterans Administration, the Federal Housing Administration, or the Rural Housing Administration, and

''(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subsection).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued during the period beginning after December 31, 2006, and before January 1, 2008, and properly allocable to such period, with respect to mortgage insurance contracts issued after December 31, 2006.

**SEC. 305. SENSE OF THE SENATE ON USE OF NO-BID CONTRACTING BY FEDERAL EMERGENCY MANAGEMENT AGENCY.**

(a) FINDINGS.—The Senate finds that—

(1) on September 8, 2005, the Federal Emergency Management Agency announced that it had awarded 4 contracts for emergency housing relief following Hurricane Katrina to The Shaw Group of Baton Rouge, Louisiana, Fluor Corporation of Aliso Viejo, California, Bechtel National of San Francisco, California, and CH2M Hill of Denver, Colorado;

(2) these contracts were awarded with no competition from other capable firms, and up to $100,000,000 in taxpayer funds were authorized for each of these contracts;

(3) in the midst of concerns about abusive and irresponsible spending of taxpayer funds, the Federal Emergency Management Agency pledged to re-bid these noncompetitive contracts, with Acting Under Secretary of Emergency Preparedness and Response, R. David Paulison, stating before the Committee on Homeland Security and Government Affairs of the Senate that ''[a]ll of these no-bid contracts, we are going to go back and re-bid'';

(4) the Federal Emergency Management Agency has yet to reopen these 4 contracts to competitive bidding, and declared on November 11, 2005, that these contracts would not be reopened for bidding until February 2006;

(5) by February 2006, the majority of the contracts will have been completed and the majority of taxpayer funds will have been spent;

(6) large and politically-connected firms continue to benefit from no-bid and limited-competition contracts, and contracts are not being awarded to capable, local companies;

(7) according to an analysis in the Washington Post, companies outside the States most affected by Hurricane Katrina have received more than 90 percent of the Federal contracts for recovery and reconstruction;

(8) the monitoring of Federal contracting practices remains difficult, with a report by the San Jose Mercury News stating ''The database of contracts is incomplete. Information released by Federal agencies is spotty and sporadic. And disclosure of many no-bid contracts isn't required by law''; and

(9)(A) there is currently no Chief Financial Officer charged with monitoring the flow of all funds to the affected areas; and

(B) the task of financial management is spread across disparate Federal departments and agencies with inadequate oversight of taxpayer funds.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Federal Emergency Management Agency should—

(1) immediately rebid noncompetitive contracts entered into following Hurricane Katrina, consistent with the commitment of the Agency made on October 6, 2005, before millions of taxpayer dollars are wasted on irresponsible and inefficient spending;

(2)(A) immediately implement the planned competitive contracting strategy of the Agency for recovery work in all current and future reconstruction efforts; and

(B) in carrying out that strategy, should prioritize local and small disadvantaged businesses in the contracting and subcontracting process; and

(3) immediately after the awarding of a contract, publicly disclose the amount and competitive or noncompetitive nature of the contract.

**SEC. 306. SENSE OF CONGRESS REGARDING DOHA ROUND.**

(a) FINDINGS.—The Congress makes the following findings:

(1) Members of the World Trade Organization (WTO) are currently engaged in a round of trade negotiations known as the Doha Development Agenda (Doha Round).

(2) The Doha Round includes negotiations aimed at clarifying and improving disciplines under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Antidumping Agreement) and the Agreement on Subsidies and Countervailing Measures (Subsidies Agreement).

(3) The WTO Ministerial Declaration adopted on November 14, 2001 (WTO Paper No. WT/MIN(01)/DEC/1) specifically provides that the Doha Round negotiations are to preserve the ''basic concepts, principles and effectiveness'' of the Antidumping Agreement and the Subsidies Agreement.

(4) In section 2102(b)(14)(A) of the Bipartisan Trade Promotion Authority Act of 2002, the Congress mandated that the principal negotiating objective of the United States with respect to trade remedy laws was to ''preserve the ability of the United States to enforce rigorously its trade laws . . . and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies''.

(5) The countries that have been the most persistent and egregious violators of international fair trade rules are engaged in an aggressive effort to significantly weaken the disciplines provided in the Antidumping Agreement and the Subsidies Agreement and undermine the ability of the United States to effectively enforce its trade remedy laws.

(6) Chronic violators of fair trade disciplines have put forward proposals that would substantially weaken United States trade remedy laws and practices, including mandating that unfair trade orders terminate after a set number of years even if unfair trade and injury are likely to recur, mandating that trade remedy duties reflect less than the full margin of dumping or subsidization, mandating higher de minimis levels of unfair trade, making cumulation of the effects of imports from multiple countries more difficult in unfair trade investigations, outlawing the critical practice of ''zeroing'' in antidumping investigations, mandating the weighing of causes, and mandating other provisions that make it more difficult to prove injury.

(7) United States trade remedy laws have already been significantly weakened by numerous unjust and activist WTO dispute settlement decisions which have created new obligations to which the United States never agreed.

(8) Trade remedy laws remain a critical resource for American manufacturers, agricultural producers, and aquacultural producers in responding to closed foreign markets, subsidized imports, and other forms of unfair trade, particularly in the context of the challenges currently faced by these vital sectors of the United States economy.

(9) The United States had a current account trade deficit of approximately $668,000,000,000 in 2004, including a trade deficit of almost $162,000,000,000 with China alone, as well as a trade deficit of $40,000,000,000 in advanced technology.

(10) United States manufacturers have lost over 3,000,000 jobs since June 2000, and United States manufacturing employment is currently at its lowest level since 1950.

(11) Many industries critical to United States national security are at severe risk from unfair foreign competition.

(12) The Congress strongly believes that the proposals put forward by countries seeking to undermine trade remedy disciplines in the Doha Round would result in serious harm to the United States economy, including significant job losses and trade disadvantages.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should not be a signatory to any agreement or protocol with respect to the Doha Development Round of the World Trade Organization negotiations, or any other bilateral or multilateral trade negotiations, that—

(A) adopts any proposal to lessen the effectiveness of domestic and international disciplines on unfair trade or safeguard provisions, including proposals—

(i) mandating that unfair trade orders terminate after a set number of years even if unfair trade and injury are likely to recur;

(ii) mandating that trade remedy duties reflect less than the full margin of dumping or subsidization;

(iii) mandating higher de minimis levels of unfair trade;

(iv) making cumulation of the effects of imports from multiple countries more difficult in unfair trade investigations;

(v) outlawing the critical practice of ''zeroing'' in antidumping investigations; or

(vi) mandating the weighing of causes or other provisions making it more difficult to prove injury in unfair trade cases; and

(B) would lessen in any manner the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws;

(2) the United States trade laws and international rules appropriately serve the public interest by offsetting injurious unfair trade, and that further ''balancing modifications'' or other similar provisions are unnecessary and would add to the complexity and difficulty of achieving relief against injurious unfair trade practices; and

(3) the United States should ensure that any new agreement relating to international disciplines on unfair trade or safeguard provisions fully rectifies and corrects decisions by WTO dispute settlement panels or the Appellate Body that have unjustifiably and negatively impacted, or threaten to negatively impact, United States law or practice, including a law or practice with respect to foreign dumping or subsidization.

**SEC. 307. MODIFICATION OF BOND RULE.**

In the case of bonds issued after the date of the enactment of this Act and before August 31, 2009—

(1) the requirement of paragraph (1) of section 648 of the Deficit Reduction Act of 1984 (98 Stat. 941) shall be treated as met with respect to the securities or obligations referred to in such section if such securities or obligations are held in a fund the annual distributions from which cannot exceed 7 percent of the average fair market value of the assets held in such fund except to the extent distributions are necessary to pay debt service on the bond issue,

(2) paragraph (3) of such section shall be applied by substituting ''distributions from'' for ''the investment earnings of'' both places it appears, and

(3) Paragraph (4) of such section shall be applied by substituting ''March 1, 1985'' for ''October 9, 1969''.

**SEC. 308. TREATMENT OF CERTAIN STOCK OPTION PLANS UNDER NONQUALIFIED DEFERRED COMPENSATION RULES.**

(a) IN GENERAL.—The Secretary of the Treasury shall modify the regulations under section 409A of the Internal Revenue Code of 1986 to extend to applicable foreign option plans the exception under such section for incentive stock options under section 422 of such Code and options granted under an employee stock purchase plan meeting the requirements of section 423 of such Code. Such extension shall be subject to such terms and conditions as may be prescribed in such regulations.

(b) APPLICABLE FOREIGN OPTION PLANS.—For purposes of subsection (a)—

(1) IN GENERAL.—The term ''applicable foreign option plan'' means a plan providing for the issuance of employee stock options—

(A) which is established under the laws of a foreign jurisdiction, and

(B) which, under such laws or the terms of the plan (or both), is subject to requirements substantially similar to the requirements under section 422 or 423 of such Code.

(2) SUBSTANTIALLY SIMILAR.—A plan shall not be treated as subject to substantially similar requirements under paragraph (1)(B) unless—

(A) the plan is required to cover substantially all employees,

(B) in the case of an option under an employee stock purchase plan, the plan is required to provide an option price which is not less than the amount specified in section 423(b)(6) of such Code, except that such section shall be applied by substituting ''80 percent'' for ''85 percent'' each place it appears,

(C) the plan is required to provide coverage of individuals who, but for the exception of the application of section 409A of such Code by reason of this section, would be subject to tax under such section with respect to the plan, and

(D) the plan meets such other requirements as the Secretary of the Treasury prescribes in the regulations under subsection (a).

**SEC. 309. SENSE OF THE SENATE REGARDING THE DEDICATION OF EXCESS FUNDS.**

It is the sense of the Senate that any increases in revenues to the Treasury as a result of this Act and the amendments made by this Act that exceed the amounts specified in the reconciliation instructions shall be dedicated to the Low-Income Home Energy Assistance Program, in an amount not to exceed the amount which is $2,900,000,000 more than the funding levels established for such Program for fiscal year 2005.

**SEC. 310. MODIFICATION OF TREATMENT OF LOANS TO QUALIFIED CONTINUING CARE FACILITIES.**

(a) IN GENERAL.—Subsection (g) of section 7872 is amended to read as follows:

''(g) EXCEPTION FOR LOANS TO QUALIFIED CONTINUING CARE FACILITIES.—

''(1) IN GENERAL.—This section shall not apply for any calendar year to any below-market loan owed by a facility which on the last day of such year is a continuing care facility, if such loan was made pursuant to a continuing care contract and if the lender (or the lender's spouse) attains age 62 before the close of such year.

''(2) CONTINUING CARE CONTRACT.—For purposes of this section, the term 'continuing care contract' means a written contract between an individual and a qualified continuing care facility under which—

''(A) the individual or individual's spouse may use a qualified continuing care facility for their life or lives,

''(B) the individual or individual's spouse will be provided with housing in an independent living unit (which has additional available facilities outside such unit for the provision of meals and other personal care), an assisted living facility or a nursing facility, as is available in the continuing care facility, as appropriate for the health of such individual or individual's spouse, and

''(C) the individual or individual's spouse will be provided assisted living or nursing care as the health of such individual or individual's spouse requires, and as is available in the continuing care facility.

''(3) QUALIFIED CONTINUING CARE FACILITY.—

''(A) IN GENERAL.—For purposes of this section, the term 'qualified continuing care facility' means 1 or more facilities—

''(i) which are designed to provide services under continuing care contracts,

''(ii) that include an independent living unit, plus an assisted living or nursing facility, or both, and

''(iii) substantially all of the independent living unit residents of which are covered by continuing care contracts.

''(B) NURSING HOMES EXCLUDED.—The term 'qualified continuing care facility' shall not include any facility which is of a type which is traditionally considered a nursing home.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to loans made after December 31, 2005.

**SEC. 311. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY CERTAIN EMPLOYEES OF THE INTELLIGENCE COMMUNITY.**

(a) IN GENERAL.—Subparagraph (A) of section 121(d)(9) (relating to exclusion of gain from sale of principal residence) is amended by striking ''duty'' and all that follows and inserting ''duty—

''(i) as a member of the uniformed services,

''(ii) as a member of the Foreign Service of the United States, or

''(iii) as an employee of the intelligence community.''.

(b) EMPLOYEE OF INTELLIGENCE COMMUNITY DEFINED.—Subparagraph (C) of section 121(d)(9) is amended by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

''(iv) EMPLOYEE OF INTELLIGENCE COMMUNITY.—The term 'employee of the intelligence community' means an employee (as defined by section 2105 of title 5, United States Code) of—

''(I) the Office of the Director of National Intelligence,

''(II) the Central Intelligence Agency,

''(III) the National Security Agency,

''(IV) the Defense Intelligence Agency,

''(V) the National Geospatial-Intelligence Agency,

''(VI) the National Reconnaissance Office,

''(VII) any other office within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs,

''(VIII) any of the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of Treasury, the Department of Energy, and the Coast Guard,

''(IX) the Bureau of Intelligence and Research of the Department of State, or

''(X) any of the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information.''.

(c) SPECIAL RULE.—Subparagraph (C) of section 121(d)(9), as amended by subsection (b), is amended by adding at the end the following new clause:

''(vi) SPECIAL RULE RELATING TO INTELLIGENCE COMMUNITY.—An employee of the intelligence community shall not be treated as serving on qualified extended duty unless—

''(I) for purposes of such duty such employee has moved from 1 duty station to another, and

''(II) at least 1 of such duty stations is located outside of the Washington, District of Columbia, and Baltimore metropolitan statistical areas (as defined by the Secretary of Commerce).''.

(d) CONFORMING AMENDMENT.—The heading for section 121(d)(9) is amended by striking ''MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE'' and inserting ''UNIFORMED SERVICES, FOREIGN SERVICE, AND INTELLIGENCE COMMUNITY''.

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

## TITLE IV—REVENUE OFFSET PROVISIONS

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

**SEC. 401. 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 thereof 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. 402. 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. 403. 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 be 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 considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) CONFORMING AMENDMENT.—Section 6700(a) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the activities described in paragraphs (1) and (2) of section 6700(a) of the Internal Revenue Code of 1986 and after the date of the enactment of this Act.

**SEC. 404. 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 '', or tax liability reflected in,'' after ''the preparation or presentation of'' 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 be 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 considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and 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 the activities described in section 6701(a) of the Internal Revenue Code of 1986 after the date of the enactment of this Act.

**Subtitle B—Economic Substance Doctrine**

**SEC. 411. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.**

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) 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. 412. 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(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(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) and (3) 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) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

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

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting ''and noneconomic substance transaction understatements'' after ''reportable transaction understatements'' both places it appears,

(B) in paragraph (2)(A), by inserting ''and a noneconomic substance transaction understatement'' after ''reportable transaction understatement'',

(C) in paragraph (2)(B), by inserting ''6662B or'' before ''6663'',

(D) in paragraph (2)(C)(i), by inserting ''or section 6662B'' before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting ''and section 6662B'' after ''This section'',

(F) in paragraph (3), by inserting ''or noneconomic substance transaction understatement'' after ''reportable transaction understatement'', and

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

''(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).''.

(3) Subsection (e) of section 6707A is amended—

(A) by striking ''or'' at the end of subparagraph (B), and

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

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

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

(c) 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.''.

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

**SEC. 413. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.**

(a) IN GENERAL.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking ''attributable'' and all that follows and inserting the following: ''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)).'', and

(2) by inserting ''AND NONECONOMIC SUBSTANCE TRANSACTIONS'' in the heading thereof after ''TRANSACTIONS''.

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

## Subtitle C—Improvements in Efficiency and Safeguards in Internal Revenue Service Collection

**SEC. 421. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.**

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

''(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date which is 180 days after the date of the enactment of this Act.

**SEC. 422. TERMINATION OF INSTALLMENT AGREEMENTS.**

(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

''(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

''(D) to file a return of tax imposed under this title by its due date (including extensions), or''.

(b) CONFORMING AMENDMENT.—The heading for section 6159(b)(4) is amended by striking ''FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION'' and inserting ''FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

**SEC. 423. PARTIAL PAYMENTS REQUIRED WITH SUBMISSION OF OFFERS-IN-COMPROMISE.**

(a) IN GENERAL.—Section 7122 (relating to compromises), as amended by this Act, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) RULES FOR SUBMISSION OF OFFERS-IN-COMPROMISE.—

''(1) PARTIAL PAYMENT REQUIRED WITH SUBMISSION.—

''(A) LUMP-SUM OFFERS.—

''(i) IN GENERAL.—The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of amount of such offer.

''(ii) LUMP-SUM OFFER-IN-COMPROMISE.—For purposes of this section, the term 'lump-sum offer-in-compromise' means any offer of payments made in 5 or fewer installments.

''(B) PERIODIC PAYMENT OFFERS.—The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment and each proposed installment due during the period such offer is being evaluated for acceptance and has not been rejected by the Secretary. Any failure to make a payment required under the preceding sentence shall be deemed a withdrawal of the offer-in-compromise.

''(2) RULES OF APPLICATION.—

''(A) USE OF PAYMENT.—The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

''(B) NO USER FEE IMPOSED.—Any user fee which would otherwise be imposed under this section shall not be imposed on any offer-in-compromise accompanied by a payment required under this subsection.

''(C) WAIVER AUTHORITY.—The Secretary may issue regulations waiving any payment required under paragraph (1) in a manner consistent with the practices established in accordance with the requirements under subsection (d)(3).''.

(b) ADDITIONAL RULES RELATING TO TREATMENT OF OFFERS.—

(1) UNPROCESSABLE OFFER IF PAYMENT REQUIREMENTS ARE NOT MET.—Paragraph (3) of section 7122(d) (relating to standards for evaluation of offers), as redesignated by subsection (a), is amended by striking ''; and'' at the end of subparagraph (A) and inserting a comma, by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any offer-in-compromise which does not meet the requirements of subsection (c) shall be returned to the taxpayer as unprocessable.''.

(2) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Section 7122, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(g) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer. For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken in to account in determining the expiration of the 24-month period.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted on and after the date which is 60 days after the date of the enactment of this Act.

## Subtitle D—Penalties and Fines

**SEC. 431. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.**

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking ''Any person who—'' and inserting ''(a) IN GENERAL.—Any person who—'', and

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

''(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.''.

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''5 years'' and inserting ''10 years''.

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking ''Any person'' and inserting the following:

''(a) IN GENERAL.—Any person'', and

(ii) by striking ''$25,000'' and inserting ''$50,000'',

(B) in the third sentence, by striking ''section'' and inserting ''subsection'', and

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

''(b) AGGRAVATED FAILURE TO FILE.—

''(1) IN GENERAL.—In the case of any failure described in paragraph (2), the first sentence of subsection (a) shall be applied by substituting—

''(A) 'felony' for 'misdemeanor',

''(B) '$500,000 ($1,000,000' for '$25,000 ($100,000', and

''(C) '10 years' for '1 year'.

''(2) FAILURE DESCRIBED.—A failure described in this paragraph is a failure to make a return described in subsection (a) for a period of 3 or more consecutive taxable years.''.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''3 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions, and failures to act, occurring after the date of the enactment of this Act.

**SEC. 432. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.**

(a) DETERMINATION OF PENALTY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) APPLICABLE TAXPAYER.—For purposes of this subsection—

(A) IN GENERAL.—The term ''applicable taxpayer'' means a taxpayer which—

(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of offshore payment mechanisms (including credit, debit, or charge cards) issued by banks or other entities in foreign jurisdictions, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has neither signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003–11 nor voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.

(B) AUTHORITY TO WAIVE.—The Secretary of the Treasury or the Secretary's delegate may waive the application of paragraph (1) to any taxpayer if the Secretary or the Secretary's delegate determines that the use of such offshore payment mechanisms is incidental to the transaction and, in addition, in the case of a trade or business, such use is conducted in the ordinary course of the type of trade or business of the taxpayer.

(C) ISSUES RAISED.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

(i) communicates to the taxpayer knowledge about the specific item, or

(ii) has made a request to the taxpayer for information and the taxpayer could not make a complete response to that request without giving the examiner knowledge of the specific item.

(b) APPLICABLE PENALTY.—For purposes of this section, the term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if, as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

**SEC. 433. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.**

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

Identification pursuant to subparagraph (B) alone shall not satisfy the requirement under subparagraph (A). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.''.

(b) REPORTING OF DEDUCTIBLE AMOUNTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61, as amended by this Act, is amended by inserting after section 6050U the following new section:

**''SEC. 6050V. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.**

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61, as amended by this Act, is amended by inserting after the item relating to section 6050U the following new item:

''Sec. 6050V. Information with respect to certain fines, penalties, and other amounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

**SEC. 434. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.**

(a) DISALLOWANCE OF DEDUCTION.—

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

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

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

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

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

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

**''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.**

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

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

''(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

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

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

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

**SEC. 435. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.**

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking ''$750'' and inserting ''$2,000'', and

(2) by striking ''$15'' and inserting ''$40''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

**Subtitle E—Provisions to Discourage Expatriation**

**SEC. 441. TAX TREATMENT OF INVERTED ENTITIES.**

(a) IN GENERAL.—Section 7874 is amended—

(1) by striking ''March 4, 2003'' in subsection (a)(2)(B)(i) and in the matter following subsection (a)(2)(B)(iii) and inserting ''March 20, 2002'',

(2) by striking ''at least 60 percent'' in subsection (a)(2)(B)(ii) and inserting ''more than 50 percent'',

(3) by striking ''80 percent'' in subsection (b) and inserting ''at least 80 percent'',

(4) by striking ''60 percent'' in subsection (b) and inserting ''more than 50 percent'',

(5) by adding at the end of subsection (a)(2) the following new sentence: ''Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (B) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.'', and

(6) by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) SPECIAL RULES APPLICABLE TO EXPATRIATED ENTITIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an expatriated entity—

''(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

''(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an expatriated entity, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after March 20, 2002.

**SEC. 442. REVISION OF TAX RULES ON EXPATRIATION OF INDIVIDUALS.**

(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 2005, 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 2004' 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:

''(49) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation) is inadmissible.''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(21) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(3) EFFECTIVE DATES.—The amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(h) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after 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:

''(C) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4) Section 6039G(a) is amended by inserting ''or 877A'' after ''section 877(b)''.

(5) The second sentence of section 6039G(d) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''section 877(a))''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after 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 on or 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 F—Miscellaneous Provisions

### SEC. 451. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.

(a) IN GENERAL.—Section 1275(d) (relating to regulation authority) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'', and

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

''(2) TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT.—

''(A) IN GENERAL.—In the case of a debt instrument which—

''(i) is convertible into stock of the issuing corporation, into stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1)), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

''(ii) provides for contingent payments,

any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed-rate debt instrument shall be applied as if the regulations require that such comparable yield be determined by reference to a noncontingent fixed-rate debt instrument which is convertible into stock.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.''.

(b) CROSS REFERENCE.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

''For the treatment of contingent payment convertible debt, see section 1275(d)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued on or after the date of the enactment of this Act.

### SEC. 452. GRANT OF TREASURY REGULATORY AUTHORITY TO ADDRESS FOREIGN TAX CREDIT TRANSACTIONS INVOLVING INAPPROPRIATE SEPARATION OF FOREIGN TAXES FROM RELATED FOREIGN INCOME.

(a) IN GENERAL.—Section 901 (relating to taxes of foreign countries and of possessions of United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) REGULATIONS.—The Secretary may prescribe regulations disallowing a credit under subsection (a) for all or a portion of any foreign tax, or allocating a foreign tax among 2 or more persons, in cases where the foreign tax is imposed on any person in respect of income of another person or in other cases involving the inappropriate separation of the foreign tax from the related foreign income.''.

(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. 453. REPEAL OF SPECIAL PROPERTY EXCEPTION TO LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.

(a) IN GENERAL.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by striking paragraphs (1) and (2), by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

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

''(3) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2005, with respect to leases entered into on or before March 12, 2004.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

### SEC. 454. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE CORPORATIONS.

(a) IN GENERAL.—Section 163(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) TREATMENT OF CORPORATE PARTNERS.—Except to the extent provided by regulations, in applying this subsection to a corporation which owns (directly or indirectly) an interest in a partnership—

''(A) such corporation's distributive share of interest income paid or accrued to such partnership shall be treated as interest income paid or accrued to such corporation,

''(B) such corporation's distributive share of interest paid or accrued by such partnership shall be treated as interest paid or accrued by such corporation, and

''(C) such corporation's share of the liabilities of such partnership shall be treated as liabilities of such corporation.''.

(b) ADDITIONAL REGULATORY AUTHORITY.—Section 163(j)(9) (relating to regulations), as redesignated by subsection (a), is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) regulations providing for the reallocation of shares of partnership indebtedness, or distributive shares of the partnership's interest income or interest expense, as may be appropriate to carry out the purposes of this subsection.''.

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

### SEC. 455. LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 274(e) (relating to expenses treated as compensation) is amended to read as follows:

''(2) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities, to the extent that the expenses do not exceed the amount of the expenses which are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to an employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).''.

(b) PERSONS NOT EMPLOYEES.—Paragraph (9) of section 274(e) is amended by striking ''to the extent that the expenses are includible in the gross income'' and inserting ''to the extent that the expenses do not exceed the amount of the expenses which are includible in the gross income''.

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

### SEC. 456. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.

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

(b) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—Section 1(g)(4) (relating to net unearned income) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—For purposes of this subsection, in the case of any child who is a beneficiary of a qualified disability trust (as defined in section 642(b)(2)(C)(ii)), any amount included in the income of such child under sections 652 and 662 during a taxable year shall be considered earned income of such child for such taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

### SEC. 457. LOAN AND REDEMPTION REQUIREMENTS ON POOLED FINANCING REQUIREMENTS.

(a) STRENGTHENED REASONABLE EXPECTATION REQUIREMENT.—Subparagraph (A) of section 149(f)(2) (relating to reasonable expectation requirement) is amended to read as follows:

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to an issue if the issuer reasonably expects that—

''(i) as of the close of the 1-year period beginning on the date of issuance of the issue, at least 50 percent of the net proceeds of the issue (as of the close of such period) will have been used directly or indirectly to make or finance loans to ultimate borrowers, and

''(ii) as of the close of the 3-year period beginning on such date of issuance, at least 95 percent of the net proceeds of the issue (as of the close of such period) will have been so used.''.

(b) WRITTEN LOAN COMMITMENT AND REDEMPTION REQUIREMENTS.—Section 149(f) (relating to treatment of certain pooled financing bonds) is amended by redesignating paragraphs (4) and (5) as paragraphs (6) and (7),

respectively, and by inserting after paragraph (3) the following new paragraphs:

''(4) WRITTEN LOAN COMMITMENT REQUIREMENT.—

''(A) IN GENERAL.—The requirement of this paragraph is met with respect to an issue if the issuer receives prior to issuance written loan commitments identifying the ultimate potential borrowers of at least 50 percent of the net proceeds of such issue.

''(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any issuer which is a State (or an integral part of a State) issuing pooled financing bonds to make or finance loans to subordinate governmental units of such State or to State-created entities providing financing for water-infrastructure projects through the federally-sponsored State revolving fund program.

''(5) REDEMPTION REQUIREMENT.—The requirement of this paragraph is met if to the extent that less than the percentage of the proceeds of an issue required to be used under clause (i) or (ii) of paragraph (2)(A) is used by the close of the period identified in such clause, the issuer uses an amount of proceeds equal to the excess of—

''(A) the amount required to be used under such clause, over

''(B) the amount actually used by the close of such period,

''to redeem outstanding bonds within 90 days after the end of such period.''.

(c) ELIMINATION OF DISREGARD OF POOLED BONDS IN DETERMINING ELIGIBILITY FOR SMALL ISSUER EXCEPTION TO ARBITRAGE REBATE.—Section 148(f)(4)(D)(ii) (relating to aggregation of issuers) is amended by striking subclause (II) and by redesignating subclauses (III) and (IV) as subclauses (II) and (III), respectively.

(d) CONFORMING AMENDMENTS.—

(1) Section 149(f)(1) is amended by striking ''paragraphs (2) and (3)'' and inserting ''paragraphs (2), (3), (4), and (5)''.

(2) Section 149(f)(7)(B), as redesignated by subsection (b), is amended by striking ''paragraph (4)(A)'' and inserting ''paragraph (6)(A)''.

(3) Section 54(1)(2) is amended by striking ''section 149(f)(4)(A)'' and inserting ''section 149(f)(6)(A)''.

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

**SEC. 458. REPORTING OF INTEREST ON TAX-EXEMPT BONDS.**

(a) IN GENERAL.—Section 6049(b)(2) (relating to exceptions) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) CONFORMING AMENDMENT.—Section 6049(b)(2)(C), as redesignated by subsection (a), is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest earned after December 31, 2005.

**SEC. 459. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.**

(a) TAXABLE YEARS ENDING BEFORE 2006.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 29(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 29(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005.—Section 29(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar year 2005 and the amount in effect under subsection (a) for sales in such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(b) TAXABLE YEARS ENDING AFTER 2005.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 45K(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 45K(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005, 2006, AND 2007.—Section 45K(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar years 2005, 2006, and 2007 and the amount in effect under subsection (a) for sales in each such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(3) TREATMENT OF COKE AND COKE GAS.—

(A) NONAPPLICATION OF PHASEOUT.—Section 45K(g)(2) is amended by adding at the end the following new subparagraph:

''(D) NONAPPLICATION OF PHASEOUT.—Subsection (b)(1) shall not apply.''.

(B) APPLICATION OF INFLATION ADJUSTMENT.—Section 45K(g)(2)(B) is amended by inserting ''and the last sentence of subsection (b)(2) shall not apply.''.

(C) CLARIFICATION OF QUALIFYING FACILITY.—Section 45K(g)(1) is amended by inserting ''(other than from petroleum based products)'' after ''coke or coke gas''.

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

**SEC. 460. MODIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR.**

(a) IN GENERAL.—Clause (i) of section 6654(d)(1)(C) is amended by striking ''substituting'' and all that follows through ''1997.'' and inserting ''substituting '110 percent (120 percent if the preceding taxable year begins in 2005)' for '100 percent'.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 2005.

**SEC. 461. REVALUATION OF LIFO INVENTORIES OF LARGE INTEGRATED OIL COMPANIES.**

(a) GENERAL RULE.—Notwithstanding any other provision of law, if a taxpayer is an applicable integrated oil company for its last taxable year ending in calendar year 2005, the taxpayer shall—

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

(2) decrease its cost of goods sold for such taxable year by the aggregate amount of the increases under paragraph (1).

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

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

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

(A) $18.75, and

(B) the number of barrels of crude oil (or in the case of natural gas or other petroleum products, the number of barrel-of-oil equivalents) represented by the layer.

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

(c) APPLICATION OF REQUIREMENT.—

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

(2) UNDERPAYMENTS OF ESTIMATED TAX.—o addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1986 (relating to failure by corporation to pay estimated tax) with respect to any underpayment of an installment required to be paid with respect to the taxable year described in subsection (a) to the extent such underpayment was created or increased by this section.

(d) APPLICABLE INTEGRATED OIL COMPANY.—For purposes of this section, the term ''applicable integrated oil company'' means an integrated oil company (as defined in section 291(b)(4) of the Internal Revenue Code of 1986) which has an average daily worldwide production of crude oil of at least 500,000 barrels for the taxable year and which had gross receipts in excess of $1,000,000,000 for its last taxable year ending during calendar year 2005. For purposes of this subsection all persons treated as a single employer under subsections (a) and (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as 1 person and, in the case of a short taxable year, the rule under section 448(c)(3)(B) shall apply.

**SEC. 462. ELIMINATION OF AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR MAJOR INTEGRATED OIL COMPANIES.**

(a) IN GENERAL.—Section 167(h) is amended by adding at the end the following new paragraph:

''(5) NONAPPLICATION TO MAJOR INTEGRATED OIL COMPANIES.—This subsection shall not apply with respect to any expenses paid or incurred for any taxable year by any integrated oil company (as defined in section 291(b)(4)) which has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 1329(a) of the Energy Policy Act of 2005.

**SEC. 463. VALUATION OF EMPLOYEE PERSONAL USE OF NONCOMMERCIAL AIRCRAFT.**

(a) IN GENERAL.—For purposes of Federal income tax inclusion, the value of any employee personal use of noncommercial aircraft shall equal the excess (if any) of—

(1) greater of—

(A) the fair market value of such use, or

(B) the actual cost of such use (including all fixed and variable costs), over

(2) any amount paid by or on behalf of such employee for such use.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to use after the date of the enactment of this Act.

**SEC. 464. APPLICATION OF FIRPTA TO REGULATED INVESTMENT COMPANIES.**

(a) IN GENERAL.—Subclause (II) of section 897(h)(4)(A)(i) (defining qualified investment entity) is amended by inserting ''which is a United States real property holding corporation or which would be a United States real property holding corporation if the exceptions provided in subsections (c)(3) and (h)(2) did not apply to interests in any real estate investment trust or regulated investment

company'' after ''regulated investment company''.

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

**SEC. 465. TREATMENT OF DISTRIBUTIONS ATTRIBUTABLE TO FIRPTA GAINS.**

(a) QUALIFIED INVESTMENT ENTITY.—

(1) IN GENERAL.—Section 897(h)(1) is amended—

(A) by striking ''a nonresident alien individual or a foreign corporation'' in the first sentence and inserting ''a nonresident alien individual, a foreign corporation, or other qualified investment entity'',

(B) by striking ''such nonresident alien individual or foreign corporation'' in the first sentence and inserting ''such nonresident alien individual, foreign corporation, or other qualified investment entity'', and

(C) by striking the second sentence and inserting the following new sentence: ''Notwithstanding the preceding sentence, any distribution by a qualified investment entity to a nonresident alien, a foreign corporation, or other qualified investment entity with respect to any class of stock which is regularly traded on an established securities market located in the United States shall not be treated as gain recognized from the sale or exchange of a United States real property interest if the shareholder did not own more than 5 percent of such class of stock at any time during the 1 year period ending on the date of such distribution.''.

(2) APPLICATION AFTER 2007.—Clause (ii) of section 897(h)(4)(A) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, an entity described in clause (i)(II) shall be treated as a qualified investment entity for purposes of applying paragraph (1) in any case in which a real estate investment trust makes a distribution to an entity described in clause (i)(II).''.

(b) TREATMENT OF CERTAIN DISTRIBUTIONS AS DIVIDENDS.—

(1) IN GENERAL.—Section 852(b)(3) (relating to capital gains) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN DISTRIBUTIONS.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount of such distribution which would be included in computing long-term capital gains for the shareholder under subparagraph (B) or (D) (without regard to this subparagraph)—

''(i) shall not be included in computing such shareholder's long-term capital gains, and

''(ii) shall be included in such shareholder's gross income as a dividend from the regulated investment company.''.

(2) CONFORMING AMENDMENT.—Section 871(k)(2) (relating to short-term capital gain dividends) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN DISTRIBUTIONS.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount which would be treated as a short-term capital gain dividend to the shareholder (without regard to this subparagraph)—

''(i) shall not be treated as a short-term capital gain dividend, and

''(ii) shall be included in such shareholder's gross income as a dividend from the regulated investment company.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of qualified investment entities beginning after the date of the enactment of this Act.

(2) DIVIDENDS.—The amendments made by subsection (b) shall apply to dividends with respect to taxable years of regulated investment companies beginning after December 31, 2004.

**SEC. 466. PREVENTION OF AVOIDANCE OF TAX ON INVESTMENTS OF FOREIGN PERSONS IN UNITED STATES REAL PROPERTY THROUGH WASH SALE TRANSACTIONS.**

(a) IN GENERAL.—Section 897(h) of the Internal Revenue Code of 1986 (relating to special rules in certain investment entities) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) TREATMENT OF CERTAIN WASH SALE TRANSACTIONS.—

''(A) IN GENERAL.—If an interest in a domestically controlled qualified investment entity is disposed of in an applicable wash sale transaction, the taxpayer shall, for purposes of this section, be treated as having gain from the sale or exchange of a United States real property interest in an amount equal to the portion of the distribution described in subparagraph (B) with respect to such interest which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1).

''(B) APPLICABLE WASH SALES TRANSACTION.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable wash sales transaction' means any transaction (or series of transactions) under which a nonresident alien individual or foreign corporation—

''(I) disposes of an interest in a domestically controlled qualified investment entity during the 30-day period preceding a distribution which is to be made with respect to the interest and any portion of which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1), and

''(II) acquires an identical interest in such entity during the 60-day period beginning with the 1st day of the 30-day period described in subclause (I).

For purposes of subclause (II), a nonresident alien individual or foreign corporation shall be treated as having acquired any interest acquired by a person related (within the meaning of section 465(b)(3)(C)) to the individual or corporation.

''(ii) EXCEPTION WHERE DISTRIBUTION ACTUALLY RECEIVED.—A transaction shall not be treated as an applicable wash sales transaction if the nonresident alien individual or foreign corporation receives the distribution described in clause (i)(I) with respect to either the interest which was disposed of, or acquired, in the transaction.

''(iii) EXCEPTION FOR CERTAIN PUBLICLY TRADED STOCK.—A transaction shall not be treated as an applicable wash sales transaction if it involves the disposition of any class of stock in a qualified investment entity which is regularly traded on an established securities market within the United States but only if the nonresident alien individual or foreign corporation did not own more than 5 percent of such class of stock at any time during the 1-year period ending on the date of the distribution described in clause (i)(I).''.

(b) NO WITHHOLDING REQUIRED.—Section 1445(b) of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following new paragraph:

''(8) APPLICABLE WASH SALES TRANSACTIONS.—No person shall be required to deduct and withhold any amount under subsection (a) with respect to a disposition which is treated as a disposition of a United States real property interest solely by reason of section 897(h)(4).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after December 31, 2005, in taxable years ending after such date.

**SEC. 467. MODIFICATIONS TO RULES RELATING TO TAXATION OF DISTRIBUTIONS OF STOCK AND SECURITIES OF A CONTROLLED CORPORATION.**

(a) MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355.—

(1) IN GENERAL.—Section 355(b) (defining active conduct of a trade or business) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES RELATING TO ACTIVE BUSINESS REQUIREMENT.—

''(A) IN GENERAL.—For purposes of determining whether a corporation meets the requirement of paragraph (2)(A), all members of such corporation's separate affiliated group shall be treated as 1 corporation. For purposes of the preceding sentence, the term 'separate affiliated group' means, with respect to any corporation, the affiliated group which would be determined under section 1504(a) if such corporation were the common parent and section 1504(b) did not apply.

''(B) CONTROL.—For purposes of paragraph (2)(D), all distributee corporations which are members of the same affiliated group (as defined in section 1504(a) without regard to section 1504(b)) shall be treated as 1 distributee corporation.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 355(b)(2) is amended to read as follows:

''(A) it is engaged in the active conduct of a trade or business,''.

(B) Section 355(b)(2) of such Code is amended by striking the last sentence.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply—

(i) to distributions after the date of the enactment of this Act, and before January 1, 2010, and

(ii) for purposes of determining the continued qualification under section 355(b)(2)(A) of the Internal Revenue Code of 1986 (as amended by paragraph (2)(A)) of distributions made before such date, as a result of an acquisition, disposition, or other restructuring after such date and before January 1, 2010.

(B) TRANSITION RULE.—The amendments made by this subsection shall not apply to any distribution pursuant to a transaction which is—

(i) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(C) ELECTIONS.—

(i) OUT OF TRANSITION RELIEF.—Subparagraph (B) shall not apply if the distributing corporation elects not to have such subparagraph apply to distributions of such corporation. Any such election, once made, shall be irrevocable.

(ii) APPLICATION TO PRIOR DISTRIBUTIONS.—Subparagraph (A)(ii) shall not apply to a distributing or controlled corporation if the corporation elects not to have such subparagraph apply to such corporation. Any such election, once made, shall be irrevocable.

(b) SECTION 355 NOT TO APPLY TO DISTRIBUTIONS IF THE DISTRIBUTING OR CONTROLLED CORPORATION IS A DISQUALIFIED INVESTMENT CORPORATION.—

(1) IN GENERAL.—Section 355 (relating to distributions of stock and securities of a controlled corporation) is amended by adding at the end the following new subsection:

''(g) SECTION NOT TO APPLY TO DISTRIBUTIONS INVOLVING DISQUALIFIED INVESTMENT CORPORATIONS.—

''(1) IN GENERAL.—This section (and so much of section 356 as relates to this section) shall not apply to any distribution which is part of a transaction if—

''(A) either the distributing corporation or controlled corporation is, immediately after the transaction, a disqualified investment corporation, and

''(B) any person holds, immediately after the transaction, a 50-percent or greater interest in any disqualified investment corporation, but only if such person did not hold such an interest in such corporation immediately before the transaction.

''(2) DISQUALIFIED INVESTMENT CORPORATION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'disqualified investment corporation' means any distributing or controlled corporation if the fair market value of the investment assets of the corporation is 75 percent or more of the fair market value of all assets of the corporation.

''(B) INVESTMENT ASSETS.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'investment assets' means—

''(I) cash,

''(II) any stock or securities in a corporation,

''(III) any interest in a partnership,

''(IV) any debt instrument or other evidence of indebtedness,

''(V) any option, forward or futures contract, notional principal contract, or derivative,

''(VI) foreign currency, or

''(VII) any similar asset.

''(ii) EXCEPTION FOR ASSETS USED IN ACTIVE CONDUCT OF CERTAIN FINANCIAL TRADES OR BUSINESSES.—Such term shall not include any asset which is held for use in the active and regular conduct of—

''(I) a lending or finance business (within the meaning of section 954(h)(4)),

''(II) a banking business through a bank (as defined in section 581), a domestic building and loan association (within the meaning of section 7701(a)(19)), or any similar institution specified by the Secretary, or

''(III) an insurance business if the conduct of the business is licensed, authorized, or regulated by an applicable insurance regulatory body.

This clause shall only apply with respect to any business if substantially all of the income of the business is derived from persons who are not related (within the meaning of section 267(b) or 707(b)(1)) to the person conducting the business.

''(iii) EXCEPTION FOR SECURITIES MARKED TO MARKET.—Such term shall not include any security (as defined in section 475(c)(2)) which is held by a dealer in securities and to which section 475(a) applies.

''(iv) STOCK OR SECURITIES IN A 25-PERCENT CONTROLLED ENTITY.—

''(I) IN GENERAL.—Such term shall not include any stock and securities in, or any asset described in subclause (IV) or (V) of clause (i) issued by, a corporation which is a 25-percent controlled entity with respect to the distributing or controlled corporation.

''(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any 25-percent controlled entity.

''(III) 25-PERCENT CONTROLLED ENTITY.—For purposes of this clause, the term '25-percent controlled entity' means, with respect to any distributing or controlled corporation, any corporation with respect to which the distributing or controlled corporation owns directly or indirectly stock meeting the requirements of section 1504(a)(2), except that such section shall be applied by substituting '25 percent' for '80 percent' and without regard to stock described in section 1504(a)(4).

''(v) INTERESTS IN CERTAIN PARTNERSHIPS.—

''(I) IN GENERAL.—Such term shall not include any interest in a partnership, or any debt instrument or other evidence of indebtedness, issued by the partnership, if 1 or more of the trades or businesses of the partnership are (or, without regard to the 5-year requirement under subsection (b)(2)(B), would be) taken into account by the distributing or controlled corporation, as the case may be, in determining whether the requirements of subsection (b) are met with respect to the distribution.

''(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any partnership described in subclause (I).

''(3) 50-PERCENT OR GREATER INTEREST.—For purposes of this subsection—

''(A) IN GENERAL.—The term '50-percent or greater interest' has the meaning given such term by subsection (d)(4).

''(B) ATTRIBUTION RULES.—The rules of section 318 shall apply for purposes of determining ownership of stock for purposes of this paragraph.

''(4) TRANSACTION.—For purposes of this subsection, the term 'transaction' includes a series of transactions.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out, or prevent the avoidance of, the purposes of this subsection, including regulations—

''(A) to carry out, or prevent the avoidance of, the purposes of this subsection in cases involving—

''(i) the use of related persons, intermediaries, pass-thru entities, options, or other arrangements, and

''(ii) the treatment of assets unrelated to the trade or business of a corporation as investment assets if, prior to the distribution, investment assets were used to acquire such unrelated assets,

''(B) which in appropriate cases exclude from the application of this subsection a distribution which does not have the character of a redemption which would be treated as a sale or exchange under section 302, and

''(C) which modify the application of the attribution rules applied for purposes of this subsection.''.

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to distributions after the date of the enactment of this Act.

(B) TRANSITION RULE.—The amendments made by this subsection shall not apply to any distribution pursuant to a transaction which is—

(i) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

**SEC. 468. AMORTIZATION OF EXPENSES INCURRED IN CREATING OR ACQUIRING MUSIC OR MUSIC COPYRIGHTS.**

(a) IN GENERAL.—Section 263A (relating to capitalization and inclusion in inventory costs of certain expenses) is amended by redesignating subsection (i) as subsection (j) and by adding after subsection (h) the following new subsection:

''(i) SPECIAL RULES FOR CERTAIN MUSICAL WORKS AND COPYRIGHTS.—

''(1) IN GENERAL.—If—

''(A) any expense is paid or incurred by the taxpayer in creating or acquiring any musical composition (including any accompanying words) or any copyright with respect to a musical composition, and

''(B) such expense is required to be capitalized under this section,

then, notwithstanding section 167(g), the amount capitalized shall be amortized ratably over the 5-year period beginning with the month in which the composition or copyright was acquired (or, in the case of expenses paid or incurred in connection with the creation of a musical composition, the 5-taxable-year period beginning with the taxable year in which the expenses were paid or incurred).

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any expense—

''(A) which is a qualified creative expense under subsection (h),

''(B) to which a simplified procedure established under subsection (j)(2) applies,

''(C) which is an amortizable section 197 intangible (as defined in section 197(c)), or

''(D) which, without regard to this section, would not be allowable as a deduction.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after December 31, 2005, in taxable years ending after such date.

**SEC. 469. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.**

(a) IN GENERAL.—Subpart H of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new section:

**''SEC. 54A. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.**

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a rural renaissance bond on a credit allowance date of such bond, which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a rural renaissance bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any rural renaissance bond is the product of—

''(A) the credit rate determined by the Secretary under paragraph (3) for the day on which such bond was sold, multiplied by

''(B) the outstanding face amount of the bond.

''(3) DETERMINATION.—For purposes of paragraph (2), with respect to any rural renaissance bond, the Secretary shall determine daily or caused to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary's designee estimates will permit the issuance of rural renaissance bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer.

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term also includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under this part (other than subpart C).

''(d) RURAL RENAISSANCE BOND.—For purposes of this section—

''(1) IN GENERAL.—The term 'rural renaissance bond' means any bond issued as part of an issue if—

''(A) the bond is issued by a qualified issuer,

''(B) 95 percent or more of the proceeds from the sale of such issue are to be used for capital expenditures incurred for 1 or more qualified projects,

''(C) the qualified issuer designates such bond for purposes of this section and the bond is in registered form, and

''(D) the issue meets the requirements of subsections (e) and (h).

''(2) QUALIFIED PROJECT; SPECIAL USE RULES.—

''(A) IN GENERAL.—The term 'qualified project' means 1 or more projects described in subparagraph (B) located in a rural area.

''(B) PROJECTS DESCRIBED.—A project described in this subparagraph is—

''(i) a water or waste treatment project,

''(ii) an affordable housing project,

''(iii) a community facility project, including hospitals, fire and police stations, and nursing and assisted-living facilities,

''(iv) a value-added agriculture or renewable energy facility project for agricultural producers or farmer-owned entities, including any project to promote the production, processing, or retail sale of ethanol (including fuel at least 85 percent of the volume of which consists of ethanol), biodiesel, animal waste, biomass, raw commodities, or wind as a fuel,

''(v) a distance learning or telemedicine project,

''(vi) a rural utility infrastructure project, including any electric or telephone system,

''(vii) a project to expand broadband technology,

''(viii) a rural teleworks project, and

''(ix) any project described in any preceding clause carried out by the Delta Regional Authority.

''(C) SPECIAL RULES.—For purposes of this paragraph—

''(i) any project described in subparagraph (B)(iv) for a farmer-owned entity may be considered a qualified project if such entity is located in a rural area, or in the case of a farmer-owned entity the headquarters of which are located in a nonrural area, if the project is located in a rural area, and

''(ii) any project for a farmer-owned entity which is a facility described in subparagraph (B)(iv) for agricultural producers may be considered a qualified project regardless of whether the facility is located in a rural or nonrural area.

''(3) SPECIAL USE RULES.—

''(A) REFINANCING RULES.—For purposes of paragraph (1)(B), a qualified project may be refinanced with proceeds of a rural renaissance bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred after the date of the enactment of this section.

''(B) REIMBURSEMENT.—For purposes of paragraph (1)(B), a rural renaissance bond may be issued to reimburse a borrower for amounts paid after the date of the enactment of this section with respect to a qualified project, but only if—

''(i) prior to the payment of the original expenditure, the borrower declared its intent to reimburse such expenditure with the proceeds of a rural renaissance bond,

''(ii) not later than 60 days after payment of the original expenditure, the qualified issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

''(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

''(C) TREATMENT OF CHANGES IN USE.—For purposes of paragraph (1)(B), the proceeds of an issue shall not be treated as used for a qualified project to the extent that a borrower takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a rural renaissance bond.

''(e) MATURITY LIMITATIONS.—

''(1) DURATION OF TERM.—A bond shall not be treated as a rural renaissance bond if the maturity of such bond exceeds the maximum term determined by the Secretary under paragraph (2) with respect to such bond.

''(2) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined without regard to the requirements of subsection (f)(3) and using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

''(3) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a rural renaissance bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each calendar year that the issue is outstanding.

''(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) NATIONAL LIMITATION.—There is a rural renaissance bond limitation of $200,000,000.

''(2) ALLOCATION BY SECRETARY.—The Secretary shall allocate the amount described in paragraph (1) among qualified projects in such manner as the Secretary determines appropriate.

''(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(h) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the qualified issuer reasonably expects—

''(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified projects within the 5-year period beginning on the date of issuance of the rural renaissance bond,

''(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the rural renaissance bond or, in the case of a rural renaissance bond, the proceeds of which are to be loaned to 2 or more borrowers, such binding commitment will be incurred within the 6-month period beginning on the date of the loan of such proceeds to a borrower, and

''(C) such projects will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the qualified issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related projects will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the qualified issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(i) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a rural renaissance bond unless, with respect to the issue of which the bond is a part, the qualified issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

''(j) QUALIFIED ISSUER.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified issuer' means any not-for-profit cooperative lender which has as of the date of the enactment of this section received a guarantee under section 306 of the Rural Electrification Act and which meets the requirement of paragraph (2).

''(2) USER FEE REQUIREMENT.—The requirement of this paragraph is met if the issuer of any rural renaissance bond makes grants for qualified projects as defined under subsection (d)(2) on a semi-annual basis every year that such bond is outstanding in an annual amount equal to one-half of the rate on United States Treasury Bills of the same maturity multiplied by the outstanding principle balance of rural renaissance bonds issued by such issuer.

''(k) SPECIAL RULES RELATING TO POOL BONDS.—No portion of a pooled financing bond may be allocable to loan unless the borrower has entered into a written loan commitment for such portion prior to the issue date of such issue.

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

''(1) BOND.—The term 'bond' includes any obligation.

''(2) POOLED FINANCING BOND.—The term 'pooled financing bond' shall have the meaning given such term by section 149(f)(4)(A).

''(3) RURAL AREA.—The term 'rural area' means any area other than—

''(A) a city or town which has a population of greater than 50,000 inhabitants, or

''(B) the urbanized area contiguous and adjacent to such a city or town.

''(4) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—

''(A) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(B) NO BASIS ADJUSTMENT.—In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(l) shall apply.

''(5) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any rural renaissance bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(6) REPORTING.—Issuers of rural renaissance bonds shall submit reports similar to the reports required under section 149(e).''.

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(9) REPORTING OF CREDIT ON RURAL RENAISSANCE BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart H of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54A. Credit to holders of rural renaissance bonds.''.

(2) Section 54(c)(2) is amended by inserting '', section 54A,'' after ''subpart C''.

(d) ISSUANCE OF REGULATIONS.—The Secretary of Treasury shall issue regulations required under section 54A of the Internal Revenue Code of 1986 (as added by this section) not later than 120 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act and before January 1, 2010.

**SEC. 470. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO LARGE INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.**

(a) IN GENERAL.—Section 901 (relating to credit for taxes of foreign countries and of possessions of the United States), as amended by this Act, is amended by redesignating subsections (m) and (n) as subsections (n) and (o), respectively, and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULES RELATING TO LARGE INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer which is a large integrated oil company to a foreign country or possession of the United States for any period shall not be considered a tax—

''(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

''(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

''(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

''(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

''(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

''(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

''(i) persons who are not dual capacity taxpayers, and

''(ii) persons who are citizens or residents of the foreign country or possession.

''(4) LARGE INTEGRATED OIL COMPANY.—For purposes of this subsection, the term 'large integrated oil company' means, with respect to any taxable year, an integrated oil company (as defined in section 291(b)(4)) which—

''(A) had gross receipts in excess of $1,000,000,000 for such taxable year, and

''(B) has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

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

**SEC. 471. DISABILITY PREFERENCE PROGRAM FOR TAX COLLECTION CONTRACTS.**

(a) IN GENERAL.—The Secretary of the Treasury shall not enter into any qualified tax collection contract after April 1, 2006, until the Secretary implements a disability preference program that meets the requirements of subsection (b).

(b) DISABILITY PREFERENCE PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—A disability preference program meets the requirements of this subsection if such program requires that not less than 10 percent of the accounts of each dollar value category are awarded to persons described in paragraph (2).

(2) PERSON DESCRIBED.—For purposes of paragraph (1), a person is described in this paragraph if—

(A) as of the date any qualified tax collection contract is awarded—

(i) such person employs not less than 50 severely disabled individuals within the United States; or

(ii) not less than 30 percent of the employees of such person within the United States are severely disabled individuals;

(B) such person agrees as a condition of the qualified tax collection contract that not more than 90 days after the date such contract is awarded, not less than 35 percent of the employees of such person employed in connection with providing services under such contract shall—

(i) be hired after the date such contract is awarded; and

(ii) be severely disabled individuals; and

(C) such person is otherwise qualified to perform the services required.

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

(1) QUALIFIED TAX COLLECTION CONTRACT.—The term ''qualified tax collection contract'' shall have the meaning given such term under section 6306(b) of the Internal Revenue Code of 1986.

(2) DOLLAR VALUE CATEGORY.—The term ''dollar value category'' means the dollar ranges of accounts for collection as determined and assigned by the Secretary under section 6306(b)(1)(B) of the Internal Revenue Code of 1986 with respect to a qualified tax collection contract.

(3) SEVERELY DISABLED INDIVIDUAL.—The term ''severely disabled individual'' means—

(A) a veteran of the United States armed forces with a disability of 50 percent or greater—

(i) determined by the Secretary of Veterans Affairs to be service-connected; or

(ii) deemed by law to be service-connected; or

(B) any individual who is a disabled beneficiary (as defined in section 1148(k)(2) of the Social Security Act (42 U.S.C. 1320b–19(k)(2))) or who would be considered to be such a disabled beneficiary but for having income or resources in excess of the income or resources eligibility limits established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), respectively.

**TITLE V—COMPLIANCE WITH CONGRESSIONAL BUDGET ACT**

**SEC. 501. SUNSET OF CERTAIN PROVISIONS AND AMENDMENTS.**

The provisions of, and amendments made by, title I, subtitle A of title II, and title III shall not apply to taxable years beginning after September 30, 2010, and the Internal Revenue Code of 1986 shall be applied and administered to such years as if such provisions and amendments had never been enacted.

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**SA 2709.** Mr. FRIST proposed an amendment to amendment SA 2708 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of the amendment add the following:

''This section shall become effective 1 day after enactment.''

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**SA 2710.** Mr. FRIST (for himself, Mr. GRASSLEY and Mr. BAUCUS) proposed an amendment to the bill H.R. 4297, to provide for reconciliation pursuant to

section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

Strike all after the enacting clause and insert the following:

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

(a) SHORT TITLE.—This Act may be cited as the ''Tax Relief Act of 2005''.

(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 for this Act is as follows:

## TITLE I—EXTENSION OF EXPIRING PROVISIONS

### SEC. 101. EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESS.

Section 179 is amended by striking ''2008'' each place it appears and inserting ''2010''.

### SEC. 102. CREDIT FOR ELECTIVE DEFERRALS AND IRA CONTRIBUTIONS.

Section 25B(h) is amended by striking ''2006'' and inserting ''2009''.

### SEC. 103. ABOVE-THE-LINE DEDUCTION FOR HIGHER EDUCATION.

(a) IN GENERAL.—Section 222(e) is amended by striking ''2005''and inserting ''2009''.

(b) CONFORMING AMENDMENTS.—Section 222(b)(2)(B) is amended—

(1) by striking ''a taxable year beginning in 2004 or 2005'' and inserting ''any taxable year beginning after 2003'', and

(2) by striking ''2004 AND 2005'' and inserting ''AFTER 2003''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

### SEC. 104. EXTENSION AND MODIFICATION OF NEW MARKETS TAX CREDIT.

(a) EXTENSION.—Section 45D(f)(1)(D) is amended by striking ''and 2007'' and inserting '', 2007, and 2008''.

(b) REGULATIONS REGARDING NON-METROPOLITAN COUNTIES.—Section 45D(i) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end by the following new paragraph:

''(6) which ensure that non-metropolitan counties receive a proportional allocation of qualified equity investments.''.

### SEC. 105. ELECTION TO DEDUCT STATE AND LOCAL GENERAL SALES TAXES.

(a) IN GENERAL.—Section 164(b)(5)(I) is amended by striking ''2006'' and inserting ''2008''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

### SEC. 106. EXTENSION AND INCREASE IN MINIMUM TAX RELIEF TO INDIVIDUALS.

(a) IN GENERAL.—Section 55(d)(1) is amended—

(1) by striking ''$58,000'' and all that follows through ''2005'' in subparagraph (A) and inserting ''$62,550 in the case of taxable years beginning in 2006'', and

(2) by striking ''$40,250'' and all that follows through ''2005'' in subparagraph (B) and inserting ''$42,500 in the case of taxable years beginning in 2006''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

### SEC. 107. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX LIABILITY.

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

(1) by striking ''2005'' in the heading thereof and inserting ''2007'', and

(2) by striking ''or 2005'' and inserting ''2005, 2006, or 2007''.

(b) CONFORMING PROVISIONS.—

(1) Section 30B(g) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR 2006 AND 2007.—For purposes of any taxable year beginning during 2006 or 2007, the credit allowed under subsection (a) (after the application of paragraph (1)) shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under subpart A and this subpart (other than this section and section 30C).''.

(2) Section 30C(d) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR 2006 AND 2007.—For purposes of any taxable year beginning during 2006 or 2007, the credit allowed under subsection (a) (after the application of paragraph (1)) shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under subpart A and this subpart (other than this section).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

### SEC. 108. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h)(1)(B) is amended by striking ''2005'' and inserting ''2007''.

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking ''2005'' and inserting ''2007''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2005.

(b) INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.—Subparagraph (A) of section 41(c)(4) (relating to election of alternative incremental credit) is amended—

(1) by striking ''2.65 percent'' and inserting ''3 percent'',

(2) by striking ''3.2 percent'' and inserting ''4 percent'', and

(3) by striking ''3.75 percent'' and inserting ''5 percent''.

(c) ALTERNATIVE SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH EXPENSES.—

(1) IN GENERAL.—Subsection (c) of section 41 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

''(5) ELECTION OF ALTERNATIVE SIMPLIFIED CREDIT.—

''(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

''(B) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE YEARS.—

''(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any 1 of the 3 taxable years preceding the taxable year for which the credit is being determined.

''(ii) CREDIT RATE.—The credit determined under this subparagraph shall be equal to 6 percent of the qualified research expenses for the taxable year.

''(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies.''.

(2) COORDINATION WITH ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

(A) IN GENERAL.—Section 41(c)(4)(B) (relating to election) is amended by adding at the end the following: ''An election under this paragraph may not be made for any taxable year to which an election under paragraph (5) applies.''.

(B) TRANSITION RULE.—In the case of an election under section 41(c)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes the date of the enactment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by subsection (a)) for such year.

(d) EXPANSION OF CREDIT TO EXPENSES OF GENERAL COLLABORATIVE RESEARCH CONSORTIA.—Section 41 is amended—

(1) by striking ''an energy research consortium'' in subsections (a)(3) and (b)(3)(C)(i) and inserting ''a research consortium'',

(2) by striking ''energy'' each place it appears in subsection (f)(6)(A),

(3) by inserting ''or 501(c)(6)'' after ''section 501(c)(3)'' in subsection (f)(6)(A)(i)(I), and

(4) by striking ''ENERGY RESEARCH'' in the heading for subsection (f)(6) and inserting ''RESEARCH''.

(e) EFFECTIVE DATE.—Except as provided in subsection (a)(3), the amendments made by this section shall apply to taxable years ending after December 31, 2005.

**SEC. 109. WORK OPPORTUNITY TAX CREDIT AND WELFARE-TO-WORK CREDIT.**

(a) IN GENERAL.—Section 51(c)(4)(B) is amended by striking ''2005'' and inserting ''2007''.

(b) ELIGIBILITY OF EX-FELONS DETERMINED WITHOUT REGARD TO FAMILY INCOME.—Paragraph (4) of section 51(d) is amended by adding ''and'' at the end of subparagraph (A), by striking '', and'' at the end of subparagraph (B) and inserting a period, and by striking all that follows subparagraph (B).

(c) INCREASE IN MAXIMUM AGE FOR ELIGIBILITY OF FOOD STAMP RECIPIENTS.—Clause (i) of section 51(d)(8)(A) is amended by striking ''25'' and inserting ''40''.

(d) INCREASE IN MAXIMUM AGE FOR DESIGNATED COMMUNITY RESIDENTS.—

(1) IN GENERAL.—Paragraph (5) of section 51(d) is amended to read as follows:

''(5) DESIGNATED COMMUNITY RESIDENTS.—

''(A) IN GENERAL.—The term 'designated community resident' means any individual who is certified by the designated local agency—

''(i) as having attained age 18 but not age 40 on the hiring date, and

''(ii) as having his principal place of abode within an empowerment zone, enterprise community, or renewal community.

''(B) INDIVIDUAL MUST CONTINUE TO RESIDE IN ZONE OR COMMUNITY.—In the case of a designated community resident, the term 'qualified wages' shall not include wages paid or incurred for services performed while the individual's principal place of abode is outside an empowerment zone, enterprise community, or renewal community.''

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 51(d)(1) is amended to read as follows:

''(D) a designated community resident,''.

(e) CONSOLIDATION OF WORK OPPORTUNITY CREDIT WITH WELFARE-TO-WORK CREDIT.—

(1) IN GENERAL.—Paragraph (1) of section 51(d) is amended by striking ''or'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', or'', and by adding at the end the following new subparagraph:

''(I) a long-term family assistance recipient.''

(2) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—Subsection (d) of section 51 is amended by redesignating paragraphs (10) through (12) as paragraphs (11) through (13), respectively, and by inserting after paragraph (9) the following new paragraph:

''(10) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—The term 'long-term family assistance recipient' means any individual who is certified by the designated local agency—

''(A) as being a member of a family receiving assistance under a IV–A program (as defined in paragraph (2)(B)) for at least the 18-month period ending on the hiring date,

''(B)(i) as being a member of a family receiving such assistance for 18 months beginning after August 5, 1997, and

''(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

''(C)(i) as being a member of a family which ceased to be eligible for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

''(ii) as having a hiring date which is not more than 2 years after the date of such cessation.''

(3) INCREASED CREDIT FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Section 51 is amended by inserting after subsection (d) the following new subsection:

''(e) CREDIT FOR SECOND-YEAR WAGES FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—

''(1) IN GENERAL.—With respect to the employment of a long-term family assistance recipient—

''(A) the amount of the work opportunity credit determined under this section for the taxable year shall include 50 percent of the qualified second-year wages for such year, and

''(B) in lieu of applying subsection (b)(3), the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to such a recipient shall not exceed $10,000 per year.

''(2) QUALIFIED SECOND-YEAR WAGES.—For purposes of this subsection, the term 'qualified second-year wages' means qualified wages—

''(A) which are paid to a long-term family assistance recipient, and

''(B) which are attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such recipient determined under subsection (b)(2).

''(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—If such recipient is an employee to whom subparagraph (A) or (B) of subsection (h)(1) applies, rules similar to the rules of such subparagraphs shall apply except that—

''(A) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000', and

''(B) such subparagraph (B) shall be applied by substituting '$833.33' for '$500'.''

(4) REPEAL OF SEPARATE WELFARE-TO-WORK CREDIT.—

(A) IN GENERAL.—Section 51A is hereby repealed.

(B) CLERICAL AMENDMENT.—The table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 51A.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2005.

**SEC. 110. QUALIFIED ZONE ACADEMY BONDS.**

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking ''and 2005'' and inserting ''2005, 2006, and 2007''.

(b) FORM OF PRIVATE BUSINESS CONTRIBUTIONS.—Section 1397E(d)(2)(B) is amended by striking ''any contribution'' and all that follows and inserting ''any cash or cash equivalent contribution''.

(c) SPECIAL RULES RELATING TO AMORTIZATION, EXPENDITURES, ARBITRAGE, AND REPORTING.—

(1) IN GENERAL.—Section 1397E is amended—

(A) in subsection (d)(1), by striking ''and'' at the end of subparagraph (C)(iii), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) the issue meets the requirements of subsections (f), (g), (h), and (i).'', and

(B) by redesignating subsections (f), (g), (h), and (i) as subsection (j), (k), (l), and (m), respectively, and by inserting after subsection (e) the following new subsections:

''(f) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—An issue shall be treated as meeting the requirements of this subsection if such issue provides for an equal amount of principal to be paid by the issuer during each calendar year that the issue is outstanding.

''(g) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the issuer reasonably expects—

''(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified purposes with respect to qualified zone academies within the 5-year period beginning on the date of issuance of the qualified zone academy bond,

''(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the qualified zone academy bond, and

''(C) such purposes will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related purposes will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(h) SPECIAL RULES RELATING TO ARBITRAGE.—An issue shall be treated as meeting the requirements of this subsection if the issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

''(i) REPORTING.—Issuers of qualified academy zone bonds shall submit reports similar to the reports required under section 149(e).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1397E(d)(3) is amended by inserting ''without regard to the requirements of subsection (f) and'' after ''Such present value shall be determined''.

(B) Sections 54(l)(3)(B) and 1400N(l)(7)(B)(ii) are each amended by striking ''section 1397E(i)'' and inserting ''section 1397E(l)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2005.

**SEC. 111. DEDUCTION FOR CORPORATE DONATIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT.**

(a) IN GENERAL.—Section 170(e)(6)(G) is amended by striking ''2005'' and inserting ''2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 112. ABOVE-THE-LINE DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.**

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking ''or 2005'' and inserting ''2005, 2006, or 2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 113. EXPENSING OF BROWNFIELDS REMEDIATION COSTS.**

(a) EXTENSION.—Subsection (h) of section 198 is amended by striking ''2005'' and inserting ''2007''.

(b) EXPANSION.—Section 198(d)(1) (defining hazardous substance) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any petroleum product (as defined in section 4612(a)(3)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after December 31, 2005.

**SEC. 114. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.**

(a) DESIGNATION OF ZONE.—

(1) IN GENERAL.—Subsection (f) of section 1400 is amended by striking ''2005'' both places it appears and inserting ''2006''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods beginning after December 31, 2005.

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—

(1) IN GENERAL.—Subsection (b) of section 1400A is amended by striking ''2005'' and inserting ''2006''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to bonds issued after December 31, 2005.

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) IN GENERAL.—Subsection (b) of section 1400B is amended by striking ''2006'' each place it appears and inserting ''2007''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1400B(e)(2) is amended—

(i) by striking ''2010'' and inserting ''2011'', and

(ii) by striking ''2010'' in the heading thereof and inserting ''2011''.

(B) Section 1400B(g)(2) is amended by striking ''2010'' and inserting ''2011''.

(C) Section 1400F(d) is amended by striking ''2010'' and inserting ''2011''.

(3) EFFECTIVE DATES.—

(A) EXTENSION.—The amendments made by paragraph (1) shall apply to acquisitions after December 31, 2005.

(B) CONFORMING AMENDMENTS.—The amendments made by paragraph (2) shall take effect on the date of the enactment of this Act.

(d) FIRST-TIME HOMEBUYER CREDIT.—

(1) IN GENERAL.—Subsection (i) of section 1400C is amended by striking ''2006'' and inserting ''2007''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property purchased after December 31, 2005.

**SEC. 115. INDIAN EMPLOYMENT TAX CREDIT.**

(a) IN GENERAL.—Section 45A(f) is amended by striking ''2005'' and inserting ''2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 116. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATION.**

(a) IN GENERAL.—Section 168(j)(8) is amended by striking ''2005'' and inserting ''2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2005.

**SEC. 117. FIFTEEN-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT IMPROVEMENTS.**

(a) IN GENERAL.—Clauses (iv) and (v) of section 168(e)(3)(E) are each amended by striking ''2006'' and inserting ''2008''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2005.

**SEC. 118. EXTENSION OF FULL CREDIT FOR QUALIFIED ELECTRIC VEHICLES.**

(a) IN GENERAL.—Section 30(e) is amended by striking ''2006'' and inserting ''2007''.

(b) REPEAL OF PHASEOUT.—Section 30(b) (relating to limitations) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 119. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.**

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

## TITLE II—PROVISIONS RELATING TO CHARITABLE DONATIONS

### Subtitle A—Charitable Giving Incentives

**SEC. 201. CHARITABLE DEDUCTION FOR NON-ITEMIZERS.**

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) DEDUCTION FOR INDIVIDUALS NOT ITEMIZING DEDUCTIONS.—In the case of an individual who does not itemize deductions for any taxable year beginning after December 31, 2005, and before January 1, 2008, there shall be taken into account as a direct charitable deduction under section 63 an amount equal to the amount allowable under subsection (a) for the taxable year for cash contributions (determined without regard to any carryover).''.

(b) DIRECT CHARITABLE DEDUCTION.—

(1) IN GENERAL.—Subsection (b) of section 63 (defining taxable income) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) the direct charitable deduction.''.

(2) DEFINITION.—Section 63 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) DIRECT CHARITABLE DEDUCTION.—For purposes of this section, the term 'direct charitable deduction' means that portion of the amount allowable under section 170(a) which is taken as a direct charitable deduction for the taxable year under section 170(o).''.

(3) CONFORMING AMENDMENT.—Subsection (d) of section 63 is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) the direct charitable deduction.''.

(c) FLOOR ON CHARITABLE CONTRIBUTIONS BY INDIVIDUALS.—Section 170(a) is amended by adding at the end the following new paragraph:

''(4) DOLLAR FLOOR ON CHARITABLE CONTRIBUTIONS BY INDIVIDUALS.—In the case of an individual, for any taxable year beginning after December 31, 2005, and before January 1, 2008, the amount otherwise allowed as a deduction under paragraph (1) shall be allowed only to the extent that such amount exceeds $210 ($420 in the case of a joint return).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 202. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.**

(a) IN GENERAL.—Subsection (d) of section 408 (relating to individual retirement accounts) is amended by adding at the end the following new paragraph:

''(8) DISTRIBUTIONS FOR CHARITABLE PURPOSES.—

''(A) IN GENERAL.—No amount shall be includible in gross income by reason of a qualified charitable distribution.

''(B) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the term 'qualified charitable distribution' means any distribution from an individual retirement plan (other than a plan described in subsection (k) or (p))—

''(i) which is made directly by the trustee—

''(I) to an organization described in section 170(c), or

''(II) to a split-interest entity, and

''(ii) which is made on or after—

''(I) in the case of any distribution described in clause (i)(I), the date that the individual for whose benefit the plan is maintained has attained age 70½, and

''(II) in the case of any distribution described in clause (i)(II), the date that such individual has attained age 59½.

A distribution shall be treated as a qualified charitable distribution only to the extent that the distribution would be includible in gross income without regard to subparagraph (A) and, in the case of a distribution to a split-interest entity, only if no person holds an income interest in the amounts in the split-interest entity attributable to such distribution other than one or more of the following: the individual for whose benefit such plan is maintained, the spouse of such individual, or any organization described in section 170(c).

''(C) CONTRIBUTIONS MUST BE OTHERWISE DEDUCTIBLE.—For purposes of this paragraph—

''(i) DIRECT CONTRIBUTIONS.—A distribution to an organization described in section 170(c) shall be treated as a qualified charitable distribution only if a deduction for the entire distribution would be allowable under section 170 (determined without regard to subsections (a)(4) and (b) thereof and this paragraph).

''(ii) SPLIT-INTEREST GIFTS.—A distribution to a split-interest entity shall be treated as a qualified charitable distribution only if a deduction for the entire value of the interest in the distribution for the use of an organization described in section 170(c) would be allowable under section 170 (determined without regard to subsections (a)(4) and (b) thereof and this paragraph).

''(D) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which a distribution is a qualified charitable distribution, the entire amount of the distribution shall be treated as includible in gross income without regard to subparagraph (A) to the extent that such amount does not exceed the aggregate amount which would have been so includible if all amounts distributed from all individual retirement plans were treated as 1 contract under paragraph (2)(A) for purposes of determining the inclusion of such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

''(E) SPECIAL RULES FOR SPLIT-INTEREST ENTITIES.—

''(i) CHARITABLE REMAINDER TRUSTS.—Notwithstanding section 664(b), distributions made from a trust described in subparagraph (G)(i) shall be treated as ordinary income in the hands of the beneficiary to whom is paid the annuity described in section 664(d)(1)(A) or the payment described in section 664(d)(2)(A).

''(ii) POOLED INCOME FUNDS.—No amount shall be includible in the gross income of a pooled income fund (as defined in subparagraph (G)(ii)) by reason of a qualified charitable distribution to such fund, and all distributions from the fund which are attributable to qualified charitable distributions shall be treated as ordinary income to the beneficiary.

''(iii) CHARITABLE GIFT ANNUITIES.—Qualified charitable distributions made for a charitable gift annuity shall not be treated as an investment in the contract.

''(F) DENIAL OF DEDUCTION.—Qualified charitable distributions shall not be taken into account in determining the deduction under section 170.

''(G) SPLIT-INTEREST ENTITY DEFINED.—For purposes of this paragraph, the term 'split-interest entity' means—

''(i) a charitable remainder annuity trust or a charitable remainder unitrust (as such terms are defined in section 664(d)) which must be funded exclusively by qualified charitable distributions,

''(ii) a pooled income fund (as defined in section 642(c)(5)), but only if the fund accounts separately for amounts attributable to qualified charitable distributions, and

''(iii) a charitable gift annuity (as defined in section 501(m)(5)).

''(H) TERMINATION.—This paragraph shall not apply to distributions made in taxable years beginning after December 31, 2007.''.

(b) MODIFICATIONS RELATING TO INFORMATION RETURNS BY CERTAIN TRUSTS.—

(1) RETURNS.—Section 6034 (relating to returns by trusts described in section 4947(a)(2) or claiming charitable deductions under section 642(c)) is amended to read as follows:

**''SEC. 6034. RETURNS BY CERTAIN TRUSTS.**

''(a) SPLIT-INTEREST TRUSTS.—Every trust described in section 4947(a)(2) shall furnish such information with respect to the taxable year as the Secretary may by forms or regulations require.

''(b) TRUSTS CLAIMING CERTAIN CHARITABLE DEDUCTIONS.—

''(1) IN GENERAL.—Every trust not required to file a return under subsection (a) but claiming a deduction under section 642(c) for the taxable year shall furnish such information with respect to such taxable year as the Secretary may by forms or regulations prescribe, including—

''(A) the amount of the deduction taken under section 642(c) within such year,

''(B) the amount paid out within such year which represents amounts for which deductions under section 642(c) have been taken in prior years,

''(C) the amount for which such deductions have been taken in prior years but which has not been paid out at the beginning of such year,

''(D) the amount paid out of principal in the current and prior years for the purposes described in section 642(c),

''(E) the total income of the trust within such year and the expenses attributable thereto, and

''(F) a balance sheet showing the assets, liabilities, and net worth of the trust as of the beginning of such year.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to a trust for any taxable year if—

''(A) all the net income for such year, determined under the applicable principles of the law of trusts, is required to be distributed currently to the beneficiaries, or

''(B) the trust is described in section 4947(a)(1).''.

(2) INCREASE IN PENALTY RELATING TO FILING OF INFORMATION RETURN BY SPLIT-INTEREST TRUSTS.—Paragraph (2) of section 6652(c) (relating to returns by exempt organizations and by certain trusts) is amended by adding at the end the following new subparagraph:

''(C) SPLIT-INTEREST TRUSTS.—In the case of a trust which is required to file a return under section 6034(a), subparagraphs (A) and (B) of this paragraph shall not apply and paragraph (1) shall apply in the same manner as if such return were required under section 6033, except that—

''(i) the 5 percent limitation in the second sentence of paragraph (1)(A) shall not apply,

''(ii) in the case of any trust with gross income in excess of $250,000, the first sentence of paragraph (1)(A) shall be applied by substituting '$100' for '$20', and the second sentence thereof shall be applied by substituting '$50,000' for '$10,000', and

''(iii) the third sentence of paragraph (1)(A) shall be disregarded.

In addition to any penalty imposed on the trust pursuant to this subparagraph, if the person required to file such return knowingly fails to file the return, such penalty shall also be imposed on such person who shall be personally liable for such penalty.''.

(3) CONFIDENTIALITY OF NONCHARITABLE BENEFICIARIES.—Subsection (b) of section 6104 (relating to inspection of annual information returns) is amended by adding at the end the following new sentence: ''In the case of a trust which is required to file a return under section 6034(a), this subsection shall not apply to information regarding beneficiaries which are not organizations described in section 170(c).''.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to distributions made in taxable years beginning after December 31, 2005.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to returns for taxable years beginning after December 31, 2005.

**SEC. 203. MODIFICATION OF CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.**

(a) IN GENERAL.—Subparagraph (C) of section 170(e)(3) (relating to special rule for certain contributions of inventory and other property) is amended to read as follows:

''(C) SPECIAL RULE FOR CONTRIBUTIONS OF FOOD INVENTORY.—

''(i) GENERAL RULE.—In the case of a charitable contribution of food from any trade or business of the taxpayer, this paragraph shall be applied—

''(I) without regard to whether the contribution is made by a C corporation, and

''(II) only to food that is apparently wholesome food.

''(ii) LIMITATION.—In the case of a taxpayer other than a C corporation, the aggregate amount of such contributions for any taxable year which may be taken into account under this section shall not exceed 10 percent of the taxpayer's aggregate net income for such taxable year from all trades or businesses from which such contributions were made for such year, computed without regard to this section.

''(iii) LIMITATION ON REDUCTION.—In the case of any such contribution, notwithstanding subparagraph (B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of the apparently wholesome food exceeds twice the basis of such food.

''(iv) DETERMINATION OF BASIS.—If a taxpayer—

''(I) does not account for inventories under section 471, and

''(II) is not required to capitalize indirect costs under section 263A,

the taxpayer may elect, solely for purposes of subparagraph (B), to treat the basis of any apparently wholesome food as being equal to 25 percent of the fair market value of such food.

''(v) DETERMINATION OF FAIR MARKET VALUE.—In the case of any such contribution of apparently wholesome food which, solely by reason of internal standards of the taxpayer or lack of market, cannot or will not be sold, the fair market value of such contribution shall be determined—

''(I) without regard to such internal standards or such lack of market and

''(II) by taking into account the price at which the same or substantially the same food items (as to both type and quality) are sold by the taxpayer at the time of the contribution (or, if not so sold at such time, in the recent past).

''(vi) APPARENTLY WHOLESOME FOOD.—For purposes of this subparagraph, the term 'apparently wholesome food' has the meaning given to such term by section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(2)), as in effect on the date of the enactment of this subparagraph.

''(vii) TERMINATION.—This subparagraph shall not apply to contributions made after December 31, 2007.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2005.

**SEC. 204. BASIS ADJUSTMENT TO STOCK OF S CORPORATION CONTRIBUTING PROPERTY.**

(a) IN GENERAL.—Paragraph (2) of section 1367(a) (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new flush sentence:

''The decrease under subparagraph (B) by reason of a charitable contribution (as defined in section 170(c)) of property shall be the amount equal to the shareholder's pro rata share of the adjusted basis of such property. The preceding sentence shall not apply to contributions made in taxable years beginning after December 31, 2007.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

**SEC. 205. MODIFICATION OF CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORY.**

(a) IN GENERAL.—Subparagraph (D) of section 170(e)(3) (relating to special rule for certain contributions of inventory and other property) is amended to read as follows:

''(D) SPECIAL RULE FOR CONTRIBUTIONS OF BOOK INVENTORY FOR EDUCATIONAL PURPOSES.—

''(i) CONTRIBUTIONS OF BOOK INVENTORY.—In determining whether a qualified book contribution is a qualified contribution, subparagraph (A) shall be applied without regard to whether—

''(I) the donee is an organization described in the matter preceding clause (i) of subparagraph (A), and

''(II) the property is to be used by the donee solely for the care of the ill, the needy, or infants.

''(ii) AMOUNT OF REDUCTION.—Notwithstanding subparagraph (B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of the contributed property (as determined by the taxpayer using a bona fide published market price for such book) exceeds twice the basis of such property.

''(iii) QUALIFIED BOOK CONTRIBUTION.—For purposes of this paragraph, the term 'qualified book contribution' means a charitable contribution of books, but only if the requirements of clauses (iv) and (v) are met.

''(iv) IDENTITY OF DONEE.—The requirement of this clause is met if the contribution is to an organization—

''(I) described in subclause (I) or (III) of paragraph (6)(B)(i), or

''(II) described in section 501(c)(3) and exempt from tax under section 501(a) (other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j)(3)), which is organized primarily to make books available to the general public at no cost or to operate a literacy program.

''(v) CERTIFICATION BY DONEE.—The requirement of this clause is met if, in addition to the certifications required by subparagraph (A) (as modified by this subparagraph), the donee certifies in writing that—

''(I) the books are suitable, in terms of currency, content, and quantity, for use in the donee's educational programs, and

''(II) the donee will use the books in its educational programs.

''(vi) BONA FIDE PUBLISHED MARKET PRICE.—For purposes of this subparagraph, the term 'bona fide published market price' means, with respect to any book, a price—

''(I) determined using the same printing and edition,

''(II) determined in the usual market in which such a book has been customarily sold by the taxpayer, and

''(III) for which the taxpayer can demonstrate to the satisfaction of the Secretary that the taxpayer customarily sold such books in arm's length transactions within 7 years preceding the contribution of such a book.

''(vii) TERMINATION.—This subparagraph shall not apply to contributions made after December 31, 2007.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2005.

**SEC. 206. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS AND PUBLIC DISCLOSURE OF INFORMATION RELATING TO UNRELATED BUSINESS INCOME.**

(a) MODIFICATION OF SECTION 512(B)(13).—

(1) IN GENERAL.—Paragraph (13) of section 512(b) (relating to special rules for certain amounts received from controlled entities) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

''(E) PARAGRAPH TO APPLY ONLY TO EXCESS PAYMENTS.—

''(i) IN GENERAL.—Subparagraph (A) shall apply only to the portion of a specified payment received or accrued by the controlling organization that exceeds the amount which would have been paid or accrued if such payment met the requirements prescribed under section 482.

''(ii) ADDITION TO TAX FOR VALUATION MISSTATEMENTS.—The tax imposed by this chapter on the controlling organization shall be increased by an amount equal to 20 percent of the larger of—

''(I) such excess determined without regard to any amendment or supplement to a return of tax, or

''(II) such excess determined with regard to all such amendments and supplements.''.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by this subsection shall apply to payments received or accrued after December 31, 2000.

(B) PAYMENTS SUBJECT TO BINDING CONTRACT TRANSITION RULE.—If the amendments made by section 1041 of the Taxpayer Relief Act of 1997 did not apply to any amount received or accrued in the first 2 taxable years beginning on or after the date of the enactment of the Taxpayer Relief Act of 1997 under any contract described in subsection (b)(2) of such section, such amendments also shall not apply to amounts received or accrued under such contract before January 1, 2001.

(b) PUBLIC AVAILABILITY OF UNRELATED BUSINESS INCOME TAX RETURNS.—

(1) IN GENERAL.—Subparagraph (A) of section 6104(d)(1) is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following new clause:

''(ii) any annual return filed under section 6011 which relates to any tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations) by such organization, but only if such organization is described in section 501(c)(3),''.

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

(c) CERTIFICATION OF UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN ORGANIZATIONS.—

(1) IN GENERAL.—Section 6011 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) RETURNS OF CERTAIN ORGANIZATIONS RELATING TO UNRELATED BUSINESS TAXABLE INCOME.—

''(1) IN GENERAL.—Every applicable exempt organization shall include with the return under subsection (a) for the taxable year a statement by an independent auditor or an independent counsel which meets the requirements of paragraph (2).

''(2) STATEMENT.—A statement meets the requirement of this paragraph if the statement—

''(A) contains a certification that—

''(i) the information contained in the return—

''(I) has been reviewed by the auditor or counsel, and

''(II) to the best of the auditor's or counsel's knowledge, is accurate, and

''(ii) to the best of the auditor's or counsel's knowledge, the allocation of expenses between the unrelated trades and business of the organization and the activities related to the purpose or function constituting the basis of the organization's exemption under section 501 complies with the requirements set forth by the Secretary under section 512, and

''(B) indicates—

''(i) whether the auditor or counsel has provided a tax opinion to the organization regarding—

''(I) the classification of any trade or business of the organization as an unrelated trade or business, or

''(II) the treatment of any income as unrelated business taxable income, and

''(ii) a description of any material facts with respect to any such opinion.

''(3) APPLICABLE EXEMPT ORGANIZATION.—For purposes of this subsection, the term 'applicable exempt organization' means any organization which—

''(A) is described in section 501(c)(3),

''(B) has—

''(i) gross income and receipts of not less than $10,000,000 for the taxable year, or

''(ii) gross assets of not less than $10,000,000 on the last day of the taxable year, and

''(C) is subject to the tax imposed under section 511 for the taxable year.''.

(2) PENALTY.—

(A) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

**''SEC. 6720B. UNRELATED BUSINESS INCOME REQUIREMENTS.**

''(a) IN GENERAL.—Any applicable exempt organization (as defined in section 6011(g)(3)) which fails to file a statement required under section 6011(g) shall pay a penalty in an amount equal to ½ percent of the gross revenue amount of such organization for the taxable year to which such statement relates.

''(b) GROSS REVENUE AMOUNT.—For purposes of subsection (a), the term 'gross revenue amount' means, with respect to any taxable year, the gross income and receipts of the organization determined without regard to any contributions or grants received by the organization.

''(c) REASONABLE CAUSE.—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.''.

(B) CONFORMING AMENDMENT.—The table of sections of part I of subchapter B of chapter 68 is amended by adding after the item relating to section 6720A the following new item:

''Sec. 6720B. Unrelated business income requirements.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to returns for taxable years beginning after the date of the enactment of this Act.

**SEC. 207. ENCOURAGEMENT OF CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.**

(a) IN GENERAL.—

(1) INDIVIDUALS.—Paragraph (1) of subsection 170(b) (relating to percentage limitations) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

''(E) CONTRIBUTIONS OF QUALIFIED CONSERVATION CONTRIBUTIONS.—

''(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1)) to an organization described in subparagraph (A) shall be allowed to the extent the aggregate of such contributions does not exceed the excess of 50 percent of the taxpayer's contribution base over the amount of all other charitable contributions allowable under this paragraph.

''(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(1)) as a charitable contribution to which clause (i) applies in each of the 15 succeeding years in order of time.

''(iii) COORDINATION WITH OTHER SUBPARAGRAPHS.—For purposes of applying this subsection and subsection (d)(1), contributions described in clause (i) shall not be treated as described in subparagraph (A), (B), (C), or (D) and such subparagraphs shall apply without regard to such contributions.

''(iv) QUALIFIED FARMER OR RANCHER.—

''(I) IN GENERAL.—If the individual is a qualified farmer or rancher for the taxable year in which the contribution is made, clause (i) shall be applied by substituting '100 percent' for '50 percent'.

''(II) DEFINITION.—For purposes of subclause (I), the term 'qualified farmer or rancher' means a taxpayer whose gross income from the trade or business of farming (within the meaning of section 2032A(e)(5)) is greater than 50 percent of the taxpayer's gross income for the taxable year.

''(v) TERMINATION.—This subparagraph shall not apply to any contribution made in taxable years beginning after December 31, 2007.''.

(2) CORPORATIONS.—Paragraph (2) of section 170(b) is amended to read as follows:

''(2) CORPORATIONS.—In the case of a corporation—

''(A) IN GENERAL.—The total deductions under subsection (a) for any taxable year (other than for contributions to which subparagraph (B) applies) shall not exceed 10 percent of the taxpayer's taxable income.

''(B) QUALIFIED CONSERVATION CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—

''(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1)) made—

''(I) by a corporation which, for the taxable year during which the contribution is made,

is a qualified farmer or rancher (as defined in paragraph (1)(E)(iv)(II)) and the stock of which is not readily tradable on an established securities market at any time during such year, and

''(II) to an organization described in paragraph (1)(A),

shall be allowed to the extent the aggregate of such contributions does not exceed the excess of the taxpayer's taxable income over the amount of charitable contributions allowable under subparagraph (A).

''(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(2)) as a charitable contribution to which clause (i) applies in each of the 15 succeeding years in order of time.

''(iii) TERMINATION.—This subparagraph shall not apply to any contribution made in taxable years beginning after December 31, 2007.

''(C) TAXABLE INCOME.—For purposes of this paragraph, taxable income shall be computed without regard to—

''(i) this section,

''(ii) part VIII (except section 248),

''(iii) any net operating loss carrryback to the taxable year under section 172,

''(iv) section 199, and

''(v) any capital loss carryback to the taxable year under section 1212(a)(1).''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 170(d) is amended by striking ''subsection (b)(2)'' each place it appears and inserting ''subsection (b)(2)(A)''.

(2) Section 545(b)(2) is amended by striking ''and (D)'' and inserting ''(D), and (E)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

**SEC. 208. ENHANCED DEDUCTION FOR CHARITABLE CONTRIBUTION OF LITERARY, MUSICAL, ARTISTIC, AND SCHOLARLY COMPOSITIONS.**

(a) IN GENERAL.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL, ARTISTIC, OR SCHOLARLY COMPOSITIONS.—

''(A) IN GENERAL.—In the case of a qualified artistic charitable contribution—

''(i) the amount of such contribution taken into account under this section shall be the fair market value of the property contributed (determined at the time of such contribution), and

''(ii) no reduction in the amount of such contribution shall be made under paragraph (1).

''(B) QUALIFIED ARTISTIC CHARITABLE CONTRIBUTION.—For purposes of this paragraph, the term 'qualified artistic charitable contribution' means a charitable contribution of any literary, musical, artistic, or scholarly composition, or similar property, or the copyright thereon (or both), but only if—

''(i) such property was created by the personal efforts of the taxpayer making such contribution no less than 18 months prior to such contribution,

''(ii) the taxpayer—

''(I) has received a qualified appraisal of the fair market value of such property in accordance with the regulations under this section, and

''(II) attaches to the taxpayer's income tax return for the taxable year in which such contribution was made a copy of such appraisal,

''(iii) the donee is an organization described in subsection (b)(1)(A),

''(iv) the use of such property by the donee is related to the purpose or function constituting the basis for the donee's exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described under section 501(c)),

''(v) the taxpayer receives from the donee a written statement representing that the donee's use of the property will be in accordance with the provisions of clause (iv), and

''(vi) the written appraisal referred to in clause (ii) includes evidence of the extent (if any) to which property created by the personal efforts of the taxpayer and of the same type as the donated property is or has been—

''(I) owned, maintained, and displayed by organizations described in subsection (b)(1)(A), and

''(II) sold to or exchanged by persons other than the taxpayer, donee, or any related person (as defined in section 465(b)(3)(C)).

''(C) MAXIMUM DOLLAR LIMITATION; NO CARRYOVER OF INCREASED DEDUCTION.—

''(i) IN GENERAL.—Subsections (b) and (d) shall not apply to the amount by which any charitable contribution is increased by reason of this paragraph and such increased contribution shall not be taken into account for purposes of applying subparagraphs (A) through (D) of subsection (b)(1) and subsection (d).

''(ii) CONTRIBUTION BASE LIMITATION.—The increased contributions shall be allowed to the extent the aggregate of such contributions do not exceed the excess of 50 percent of the contribution base (as defined in subparagraph (F) of subsection (b)(1)) over the amount of all other charitable contributions allowable under subparagraphs (A) through (D) of subsection (b)(1).

''(iii) ARTISTIC ADJUSTED GROSS INCOME.—The aggregate increase in the charitable contributions by reason of this paragraph for any taxable year shall not exceed the artistic adjusted gross income of the taxpayer for such taxable year.

''(D) ARTISTIC ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'artistic adjusted gross income' means that portion of the adjusted gross income of the taxpayer for the taxable year attributable to—

''(i) income from the sale or use of property created by the personal efforts of the taxpayer which is of the same type as the donated property, and

''(ii) income from teaching, lecturing, performing, or similar activity with respect to property described in clause (i).

''(E) PARAGRAPH NOT TO APPLY TO CERTAIN CONTRIBUTIONS.—Subparagraph (A) shall not apply to any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while the individual is an officer or employee of any person (including any government agency or instrumentality) unless such letter, memorandum, or similar property is entirely personal.

''(F) COPYRIGHT TREATED AS SEPARATE PROPERTY FOR PARTIAL INTEREST RULE.—In the case of a qualified artistic charitable contribution, the tangible literary, musical, artistic, or scholarly composition, or similar property and the copyright on such work shall be treated as separate properties for purposes of this paragraph and subsection (f)(3).

''(G) TERMINATION.—This paragraph shall not apply to contributions made after December 31, 2007.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2005.

**SEC. 209. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.**

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by inserting after section 139A the following new section:

**''SEC. 139B. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS.**

''(a) IN GENERAL.—Gross income of an individual does not include amounts received, from an organization described in section 170(c), as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization. The preceding sentence shall apply only to the extent that the expenses which are reimbursed would be deductible under this chapter if section 274(d) were applied—

''(1) by using the standard business mileage rate established under such section, and

''(2) as if the individual were an employee of an organization not described in section 170(c).

''(b) APPLICATION TO VOLUNTEER SERVICES ONLY.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

''(c) NO DOUBLE BENEFIT.—A taxpayer may not claim a deduction or credit under any other provision of this title with respect to the expenses under subsection (a).

''(d) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).

''(e) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2007.''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 139A the following new item:

''Sec. 139B. Mileage reimbursements to charitable volunteers.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 210. ALTERNATIVE PERCENTAGE LIMITATION FOR CORPORATE CHARITABLE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.**

(a) IN GENERAL.—Section 170(b) (related to percentage limitations) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR CORPORATE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.—

''(A) IN GENERAL.—In the case of a corporation which makes an eligible mathematics and science contribution—

''(i) the limitation under paragraph (2) shall apply separately with respect to all such contributions and all other charitable contributions, and

''(ii) paragraph (2)(A) shall be applied by substituting for '10 percent of the taxpayer's taxable income' the following: 'the sum of (i) the lesser of all eligible mathematics and science contributions or 15 percent of the taxpayer's taxable income, plus (ii) the lesser of the contributions (other than eligible mathematics and science contributions and contributions to which subparagraph (B) applies) or 10 percent of the taxpayer's taxable income reduced by all eligible mathematics and science contributions'.

''(B) ELIGIBLE MATHEMATICS AND SCIENCE CONTRIBUTION.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'eligible mathematics and science contribution' means a charitable contribution (other than a contribution of used equipment) to a qualified partnership for the purpose of an activity described in section 2202(c) of the Elementary and Secondary Education Act of 1965.

''(ii) QUALIFIED PARTNERSHIP.—The term 'qualified partnership' means an eligible partnership (within the meaning of section 2201(b)(1) of the Elementary and Secondary Education Act of 1965), but only to the extent that such partnership does not include a person other than a person described in paragraph (1)(A).

''(C) TERMINATION.—This paragraph shall not apply to any contributions made in taxable years beginning after December 31, 2006.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

## Subtitle B—Reforming Charitable Organizations

## PART I—GENERAL REFORMS

### SEC. 211. TAX INVOLVEMENT BY EXEMPT ORGANIZATIONS IN TAX SHELTER TRANSACTIONS.

(a) IMPOSITION OF EXCISE TAX.—

(1) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations) is amended by adding at the end the following new subchapter:

**''Subchapter F—Tax Shelter Transactions**

''Sec. 4965. Excise tax on certain tax-exempt entities entering into prohibited tax shelter transactions

**''SEC. 4965. EXCISE TAX ON CERTAIN TAX-EXEMPT ENTITIES ENTERING INTO PROHIBITED TAX SHELTER TRANSACTIONS.**

''(a) PARTICIPATION IN AND APPROVAL OF PROHIBITED TRANSACTIONS.—

''(1) TAX-EXEMPT ENTITY.—

''(A) IN GENERAL.—If any tax-exempt entity (other than a tax-exempt entity described in paragraph (4), (5), (6), or (7) of subsection (c)) is a party to a prohibited tax shelter transaction at any time during the taxable year and knows or has reason to know such transaction is a prohibited tax shelter transaction, such entity shall pay a tax for such taxable year in the amount determined under subsection (b)(1)(A).

''(B) POST-TRANSACTION DETERMINATION.—If any tax-exempt entity (other than a tax-exempt entity described in paragraph (4), (5), (6), or (7) of subsection (c)) is a party to a subsequently listed transaction at any time during the taxable year, such entity shall pay a tax in the amount determined under subsection (b)(1)(B).

''(2) ENTITY MANAGER.—If any entity manager of a tax-exempt entity approves such entity as (or otherwise causes such entity to be) a party to a prohibited tax shelter transaction at any time during the taxable year and knows or has reason to know that the transaction is a prohibited tax shelter transaction, such manager shall pay a tax for such taxable year in the amount determined under subsection (b)(2).

''(3) REASONABLE CAUSE EXCEPTION.—No tax shall be imposed under paragraph (1)(A) or (2) if it is shown that the participation of the tax-exempt entity in the transaction was not willful and was due to reasonable cause.

''(b) AMOUNT OF TAX.—

''(1) ENTITY.—In the case of a tax-exempt entity—

''(A) IN GENERAL.—The amount of the tax imposed under subsection (a)(1)(A) on the entity with respect to a taxable year shall be the greater of—

''(i) 100 percent of the entity's net income (after taking into account any tax imposed by this subtitle with respect to the prohibited tax shelter transaction) for such taxable year which is attributable to the prohibited tax shelter transaction, or

''(ii) 75 percent of the proceeds received by the entity which are attributable to the prohibited tax shelter transaction.

''(B) POST-TRANSACTION DETERMINATION.—The amount of the tax imposed under subsection (a)(1)(B) on the entity with respect to any taxable year shall be an amount equal to the product of—

''(i) the highest rate of tax under section 11, and

''(ii) the greater of—

''(I) the entity's net income (after taking into account any tax imposed by this subtitle with respect to the subsequently listed transaction) for such taxable year which is attributable to the subsequently listed transaction and which is properly allocable to the period beginning on the later of the date such transaction is identified by guidance as a listed transaction by the Secretary or the first day of the taxable year, or

''(II) 75 percent of the proceeds received by the entity which are attributable to the subsequently listed transaction and which are properly allocable to the period beginning on the later of the date such transaction is identified by guidance as a listed transaction by the Secretary or the first day of the taxable year.

''(2) ENTITY MANAGER.—In the case of each entity manager to whom subsection (a)(2) applies, the amount of the tax under such subsection shall be $20,000 for each approval.

''(c) TAX-EXEMPT ENTITY.—For purposes of this section, the term 'tax-exempt entity' means an entity which is—

''(1) described in section 501(c) or 501(d),

''(2) described in section 170(c) (other than an agency or instrumentality of the United States) to which paragraph (1) of this subsection does not apply,

''(3) an Indian tribal government (within the meaning of section 7701(a)(40)),

''(4) described in paragraph (1), (2), or (3) of section 4979(e),

''(5) a program described in section 529,

''(6) an eligible deferred compensation plan described in section 457(b) which is maintained by an employer described in section 4457(e)(1)(A), or

''(7) an arrangement described in section 4973(a).

''(d) ENTITY MANAGER.—For purposes of this section, the term 'entity manager' means—

''(1) with respect to a tax-exempt entity described in paragraph (3) or (4) of section 501(c)—

''(A) in the case of an entity other than a private foundation, an organization manager (as defined in section 4958(f)(2)), and

''(B) in the case of a private foundation, a foundation manager (as defined in section 4946(b)), and

''(2) in all other cases, the person with authority or responsibility similar to that exercised by an officer, director, or trustee of an organization.

''(e) PROHIBITED TAX SHELTER TRANSACTION; SUBSEQUENTLY LISTED TRANSACTION.—For purposes of this section—

''(1) PROHIBITED TAX SHELTER TRANSACTION.—

''(A) IN GENERAL.—The term 'prohibited tax shelter transaction' means—

''(i) any listed transaction, or

''(ii) any prohibited reportable transaction if the tax-exempt entity knows or has reason to know that such transaction is a reportable transaction.

''(B) LISTED TRANSACTION.—The term 'listed transaction' has the meaning given such term by section 6707A(c)(2).

''(C) PROHIBITED REPORTABLE TRANSACTION.—The term 'prohibited reportable transaction' means any confidential transaction or any transaction with contractual protection (as defined under regulations prescribed by the Secretary) which is a reportable transaction (as defined in section 6707A(c)(1)).

''(2) SUBSEQUENTLY LISTED TRANSACTION.—The term 'subsequently listed transaction' means any transaction to which a tax-exempt entity is a party and which is determined by the Secretary to be a listed transaction at any time after the entity has entered into the transaction.

''(f) REGULATORY AUTHORITY.—The Secretary is authorized to promulgate regulations which provide guidance regarding the determination of the allocation of net income of a tax-exempt entity attributable to a transaction to various periods, including before and after the listing of the transaction or the date which is 90 days after the date of the enactment of this section.

''(g) COORDINATION WITH OTHER TAXES AND PENALTIES.—The tax imposed by this section is in addition to any other tax, addition to tax, or penalty imposed under this title.''.

(2) CONFORMING AMENDMENT.—The table of subchapters for chapter 42 is amended by adding at the end the following new item:

''SUBCHAPTER F. TAX SHELTER TRANSACTIONS.''.

(b) DISCLOSURE REQUIREMENTS.—

(1) DISCLOSURE BY ORGANIZATION TO THE INTERNAL REVENUE SERVICE.—

(A) IN GENERAL.—Section 6033(a) (relating to organizations required to file) is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) PARTICIPATION IN CERTAIN REPORTABLE TRANSACTIONS.—Every tax-exempt entity described in section 4965(c) shall file (in such form and manner and at such time as determined by the Secretary) a disclosure of—

''(A) such entity's participation in any prohibited tax shelter transaction (as defined in section 4965(e)), and

''(B) the identity of any other party participating in such transaction which is known by such tax-exempt entity.''.

(B) CONFORMING AMENDMENT.—Section 6033(a)(1) is amended by striking ''paragraph (2)'' and inserting ''paragraph (3)''.

(2) DISCLOSURE BY OTHER TAXPAYERS TO THE TAX-EXEMPT ENTITY.—Section 6011 (relating to general requirement of return, statement, or list), as amended by this Act, is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) DISCLOSURE OF REPORTABLE TRANSACTION TO TAX-EXEMPT ENTITY.—Any taxable party to a prohibited tax shelter transaction (as defined in section 4965(e)(1)) shall by statement disclose to any tax-exempt entity (as defined in section 4965(c)) which is a party to such transaction that such transaction is such a prohibited tax shelter transaction.''.

(c) PENALTY FOR NONDISCLOSURE.—

(1) IN GENERAL.—Section 6652(c) (relating to returns by exempt organizations and by certain trusts), as amended by this Act, is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) DISCLOSURE UNDER SECTION 6033.—

''(A) PENALTY ON ORGANIZATIONS.—In the case of a failure to file a disclosure required under section 6033(a)(2), there shall be paid by the tax-exempt entity (the entity manager in the case of a tax-exempt entity described in paragraph (4), (5), (6), or (7) of section 4965(c)) $100 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 disclosure shall not exceed $50,000.

''(B) PERSONS.—

''(i) IN GENERAL.—The Secretary may make a written demand on any tax-exempt entity subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the disclosure shall be filed for purposes of this subparagraph.

''(ii) FAILURE TO COMPLY WITH DEMAND.—If any person fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by such person failing to so comply $100 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all tax-exempt entities for failures with respect to any 1 disclosure shall not exceed $10,000.

''(C) DEFINITIONS.—Any term used in this section which is also used in section 4965 shall have the meaning given such term under section 4965.''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 6652(c)(1) of such Code is amended by striking ''6033'' each place it appears in the text and heading thereof and inserting ''6033(a)(1)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions after the date of the enactment of this Act, except that no tax under section 4965(a) of the Internal Revenue Code of 1986 (as added by this section) shall apply with respect to income that is properly allocable to any period on or before the date which is 90 days after such date of enactment.

(2) DISCLOSURE.—The amendments made by subsections (b) and (c) shall apply to disclosures the due date for which are after the date of the enactment of this Act.

**SEC. 212. EXCISE TAX ON CERTAIN ACQUISITIONS OF INTERESTS IN INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD AN INTEREST.**

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—Subchapter F of chapter 42 (relating to tax shelter transactions), as added by this Act, is amended by adding at the end the following new section:

**''SEC. 4966. EXCISE TAX ON ACQUISITION OF INTERESTS IN INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD AN INTEREST.**

''(a) IMPOSITION OF TAX.—If there is a taxable acquisition of any interest in an applicable insurance contract, there is hereby imposed on the person acquiring the interest a tax equal to 100 percent of the acquisition costs of the interest.

''(b) TAXABLE ACQUISITION.—For purposes of this section—

''(1) IN GENERAL.—The term 'taxable acquisition' means the acquisition of any direct or indirect interest in an applicable insurance contract by—

''(A) an applicable exempt organization, or

''(B) a person other than an applicable exempt organization if such interest in the hands of such person is not an interest described in clause (i), (ii), (iii), or (iv) of paragraph (2)(B).

''(2) APPLICABLE INSURANCE CONTRACT.—

''(A) IN GENERAL.—The term 'applicable insurance contract' means any life insurance, annuity, or endowment contract with respect to which both an applicable exempt organization and a person other than an applicable exempt organization have directly or indirectly held an interest in the contract (whether or not at the same time).

''(B) EXCEPTIONS.—Such term shall not include a life insurance, annuity, or endowment contract if—

''(i) all persons directly or indirectly holding any interest in the contract (other than applicable exempt organizations) have an insurable interest in the insured under the contract independent of any interest of an applicable exempt organization in the contract,

''(ii) the sole interest in the contract of each person other than an applicable exempt organization is as a named beneficiary,

''(iii) the sole interest in the contract of each person other than an applicable exempt organization is—

''(I) as a beneficiary of a trust holding an interest in the contract, but only if the person's designation as such beneficiary was made without consideration and solely on a purely gratuitous basis, or

''(II) as a trustee who holds an interest in the contract in a fiduciary capacity solely for the benefit of applicable exempt organizations or persons otherwise described in clauses (i), (ii), and (iv) or subclause (I) of this clause, or

''(iv) except as provided in subparagraph (C), the sole interest in the contract of each person other than an applicable exempt organization is as a lender with respect to the contract and the contract covers only 1 individual and such individual is an officer, director, or employee of the applicable exempt organization with an interest in the contract.

''(C) RESTRICTIONS ON EXCEPTION FOR LENDERS.—

''(i) NUMERICAL LIMIT.—The number of contracts that may be taken into account under subparagraph (B)(iv) with respect to officers, directors, or employees of the applicable exempt organization with interests in the contracts shall not exceed the greater of—

''(I) the lesser of 5 percent of the total officers, directors, and employees of the organization or 20, or

''(II) 5.

''(ii) AGGREGATE INDEBTEDNESS.—The exception under subparagraph (B)(iv) shall apply only to the extent that the aggregate amount of the indebtedness with respect to 1 or more contracts covering a single individual does not exceed $50,000.

''(D) SECRETARIAL AUTHORITY.—The Secretary may exempt a contract from treatment as an applicable insurance contract based on specific factors, including factors such as whether the transaction is at arms length, whether economic benefits to the applicable exempt organization substantially exceed the economic benefits to all other persons with an interest in the contract (determined without regard to whether, or the extent to which, such organization has paid or contributed with respect to the contract), and the likelihood of abuse.

''(3) DEFINITION AND RULE RELATING TO ACQUISITION COSTS.—

''(A) ACQUISITION COSTS DEFINED.—The term 'acquisition costs' means the direct or indirect costs of acquiring an interest in an applicable insurance contract. Such term shall include any fees, commissions, charges, or other amounts paid in connection with the acquisition, whether or not paid to the issuer of the contract.

''(B) TIMING OF PAYMENTS.—Except as provided in regulations, if acquisition costs of any acquisition are paid or incurred in more than 1 calendar year, the tax imposed by subsection (a) with respect to the acquisition shall be imposed each time the costs are so paid or incurred.

''(4) RULES RELATING TO INTERESTS.—

''(A) IN GENERAL.—An interest in the contract includes any right with respect to the contract, whether as an owner, beneficiary, or otherwise.

''(B) INDIRECT INTERESTS.—

''(i) IN GENERAL.—Except as provided in clause (ii), an indirect interest in a contract includes an interest in an entity which directly or indirectly holds an interest in the contract.

''(ii) PORTFOLIO INVESTMENTS.—If an applicable exempt organization holds an interest in a contract solely because the organization holds, as part of a diversified investment strategy, a de minimis interest in an entity which directly or indirectly holds the interest in the contract, such indirect interest in the contract shall not be taken into account for purposes of this section.

''(C) EXCHANGED CONTRACTS.—In the case of an exchange of an applicable insurance contract on which no gain or loss is recognized under section 1035, any interest in any of the contracts involved in the exchange shall be treated as an interest in all such contracts.

''(5) INCREASE IN INTEREST.—If a person increases an interest in an applicable insurance contract, the increase shall be treated as a separate acquisition for purposes of this section.

''(6) PRIOR ACQUISITIONS.—Except as provided in regulations, if a person acquires an interest in a contract before the contract is treated as an applicable insurance contract, the acquisition shall be treated as a taxable acquisition of an interest in an applicable insurance contract as of the date the contract becomes an applicable insurance contract.

''(c) APPLICABLE EXEMPT ORGANIZATION.—For purposes of this section, the term 'applicable exempt organization' means—

''(1) an organization described in section 170(c),

''(2) an organization described in section 168(h)(2)(A)(iv), or

''(3) an organization not described in paragraph (1) or (2) which is described in section 2055(a) or section 2522(a).

''(d) TAX NOT TREATED AS INVESTMENT IN THE CONTRACT.—For purposes of section 72, the tax imposed by this section shall not be included in investment in the contract.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. Such regulations may include regulations which—

''(1) provide, for purposes of subsection (b)(6), appropriate rules for the application of this section in any case where an interest is acquired before a contract becomes an applicable insurance contract,

''(2) prevent, in cases the Secretary determines appropriate, the imposition of more than one tax under this section if the same interest is acquired more than once, and

''(3) are designed to prevent avoidance of the purposes of this section, including through the use of intermediaries.''.

(2) CONFORMING AMENDMENT.—The table of sections for subchapter F of chapter 42, as added by this Act, is amended by adding at the end the following new item:

''Sec. 4966. Excise tax on acquisition of interests in insurance contracts in which certain exempt organizations hold an interest.''.

(b) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end the following new section:

**''SEC. 6050U. RETURNS RELATING TO APPLICABLE INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD INTERESTS.**

''(a) REQUIREMENTS OF REPORTING.—

''(1) EXEMPT ORGANIZATIONS.—Each—

''(A) applicable exempt organization which acquires (within the meaning of section 4966) an interest in any applicable insurance contract, and

''(B) other person which makes an acquisition of such an interest if such acquisition is taxable under section 4966,

shall make the return described in subsection (c).

''(2) TRANSFERS.—If a person (including an applicable exempt organization) acquires an

interest in an applicable insurance contract in an acquisition which is taxable under section 4966 and then transfers such interest to 1 or more other persons, each person acquiring all or a portion of such interest shall make the return described in subsection (c).

''(b) TIME FOR MAKING RETURN.—Any organization or person required to make a return under subsection (a) shall file such return at such time as may be established by the Secretary with respect to—

''(1) in the case of a person described in subsection (a)(1), the calendar year in which the acquisition occurs, any calendar year in which acquisition costs are paid or incurred, and any other calendar years specified by the Secretary, and

''(2) in the case of a person described in subsection (a)(2), the calendar year in which the transfer occurs.

''(c) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary prescribes,

''(2) in the case of—

''(A) a return required under subsection (a)(1)(A), contains the name, address, and taxpayer identification number of the applicable exempt organization, the issuer of the applicable insurance contract, and any person acquiring an interest in the contract if the acquisition is taxable under section 4966,

''(B) a return required under subsection (a)(1)(B), contains the name, address, and taxpayer identification number of the person acquiring an interest in the applicable insurance contract if the acquisition is taxable under section 4966, any applicable exempt organization holding an interest in the contract, and the issuer of the contract, and

''(C) a return required under subsection (a)(2), contains the name, address, and taxpayer identification number of the transferor and transferee, and

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

''(d) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person whose taxpayer identification information is required to be included in such return under subsection (c) a written statement showing—

''(1) the name and address of the person required to make such return and the telephone number of the information contact for such person, and

''(2) the taxpayer identity and other information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished on or before the date specified by the Secretary.

''(e) DEFINITIONS.—For purposes of this section, any term used in this section which is also used in section 4966 shall have the meaning given such term by section 4966.''.

(2) PENALTIES.—

(A) IN GENERAL.—Section 6724(d) is amended—

(i) in paragraph (1)(B), by redesignating clauses (xiii) through (xviii) as clauses (xiv) through (xix) and by inserting after clause (xii) the following new clause:

''(xiii) section 6050U (relating to returns relating to applicable insurance contracts in which certain exempt organizations hold interests),'', and

(ii) in paragraph (3), by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) the statement required by subsection (d) of section 6050U (relating to returns relating to applicable insurance contracts in which certain exempt organizations hold interests).''.

(B) INTENTIONAL DISREGARD.—Section 6721(e)(2) is amended by striking ''or'' at the end of subparagraph (B), by striking ''and'' at the end of subparagraph (C) and inserting ''or'', and by adding at the end the following new subparagraph:

''(D) in the case of a return required to be filed under section 6050U, the amount of tax imposed under section 4966 which has not been paid with respect to items required to be included on the return, and''.

(3) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61is amended by adding at the end the following new item:

''Sec. 6050U. Returns relating to applicable insurance contracts in which certain exempt organizations hold interests.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued after May 3, 2005.

(2) REPORTING OF EXISTING CONTRACTS.—In the case of any life insurance, annuity, or endowment contract—

(A) which was issued on or before May 3, 2005,

(B) with respect to which an applicable exempt organization (as defined in section 4966 of the Internal Revenue Code of 1986, as added by this section) holds an interest on May 3, 2005, and

(C) which would be treated as an applicable insurance contract (as so defined) if issued after May 3, 2005,

such organization shall, not later than the date which is 1 year after the date of the enactment of this Act, report to the Secretary of the Treasury with respect to such contract. Such report shall be in such form and manner, and contain such information, as the Secretary may prescribe. The Secretary shall submit such reports, along with any recommendations for legislation as the Secretary considers appropriate, to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate within 6 months of the date such reports are required to be filed.

**SEC. 213. INCREASE IN PENALTY EXCISE TAXES ON PUBLIC CHARITIES, SOCIAL WELFARE ORGANIZATIONS, AND PRIVATE FOUNDATIONS.**

(a) TAXES ON SELF-DEALING AND EXCESS BENEFIT TRANSACTIONS.—

(1) IN GENERAL.—Section 4941(a) (relating to initial taxes) is amended—

(A) in paragraph (1), by striking ''5 percent'' and inserting ''10 percent'', and

(B) in paragraph (2), by striking ''2½ percent'' and inserting ''5 percent''.

(2) INCREASE IN TAX IF SELF-DEALING INCLUDES COMPENSATION TO DISQUALIFIED PERSON.—Section 4941(a)(1) is amended by adding at the end the following new sentence: ''If the act of self-dealing includes acts described in subsection (d)(1)(D), '25 percent' shall be substituted for '10 percent', except that the Secretary may abate under section 4962 (determined without regard to the exception under subsection (b) thereof) not more than 15 percentage points of such tax.''.

(3) INCREASED LIMITATION FOR MANAGERS ON SELF-DEALING.—Section 4941(c)(2) is amended by striking ''$10,000'' each place it appears in the text and heading thereof and inserting ''$20,000''.

(4) INCREASED LIMITATION FOR MANAGERS ON EXCESS BENEFIT TRANSACTIONS.—Section 4958(d)(2) is amended by striking ''$10,000'' and inserting ''$20,000''.

(b) TAXES ON FAILURE TO DISTRIBUTE INCOME.—Section 4942(a) (relating to initial tax) is amended by striking ''15 percent'' and inserting ''30 percent''.

(c) TAXES ON EXCESS BUSINESS HOLDINGS.—Section 4943(a)(1) (relating to imposition) is amended by striking ''5 percent'' and inserting ''10 percent''.

(d) TAXES ON INVESTMENTS WHICH JEOPARDIZE CHARITABLE PURPOSE.—

(1) IN GENERAL.—Section 4944(a) (relating to initial taxes) is amended by striking ''5 percent'' both places it appears and inserting ''10 percent''.

(2) INCREASED LIMITATION FOR MANAGERS.—Section 4944(d)(2) is amended—

(A) by striking ''$5,000,'' and inserting ''$10,000,'', and

(B) by striking ''$10,000.'' and inserting ''$20,000.''.

(e) TAXES ON TAXABLE EXPENDITURES.—

(1) IN GENERAL.—Section 4945(a) (relating to initial taxes) is amended—

(A) in paragraph (1), by striking ''10 percent'' and inserting ''20 percent'', and

(B) in paragraph (2), by striking ''2½ percent'' and inserting ''5 percent''.

(2) INCREASED LIMITATION FOR MANAGERS.—Section 4945(c)(2) is amended—

(A) by striking ''$5,000,'' and inserting ''$10,000,'', and

(B) by striking ''$10,000.'' and inserting ''$20,000.''.

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

**SEC. 214. REFORM OF CHARITABLE CONTRIBUTIONS OF CERTAIN EASEMENTS ON BUILDINGS IN REGISTERED HISTORIC DISTRICTS.**

(a) SPECIAL RULES WITH RESPECT TO BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—

(1) IN GENERAL.—Paragraph (4) of section 170(h) (relating to definition of conservation purpose) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULES WITH RESPECT TO BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—In the case of any contribution of a qualified real property interest which is a restriction with respect to the exterior of a building described in subparagraph (C)(ii), such contribution shall not be considered to be exclusively for conservation purposes unless—

''(i) such interest—

''(I) includes a restriction which preserves the entire exterior of the building (including the front, sides, rear, and height of the building), and

''(II) prohibits any change in the exterior of the building which is inconsistent with the historical character of such exterior,

''(ii) the donor and donee enter into a written agreement certifying, under penalty of perjury, that the donee—

''(I) is a qualified organization (as defined in paragraph (3)) with a purpose of environmental protection, land conservation, open space preservation, or historic preservation, and

''(II) has the resources to manage and enforce the restriction and a commitment to do so, and

''(iii) in the case of any contribution made in a taxable year beginning after the date of the enactment of this subparagraph, the taxpayer includes with the taxpayer's return for the taxable year of the contribution—

''(I) a qualified appraisal (within the meaning of subsection (f)(11)(E)) of the qualified property interest,

''(II) photographs of the entire exterior of the building, and

''(III) a description of all restrictions on the development of the building.''.

(b) DISALLOWANCE OF DEDUCTION FOR STRUCTURES AND LAND IN REGISTERED HISTORIC DISTRICTS.—Subparagraph (C) of section 170(h)(4), as redesignated by subsection (a), is amended—

(1) by striking ''any building, structure, or land area which'',

(2) by inserting ''any building, structure, or land area which'' before ''is listed'' in clause (i), and

(3) by inserting ''any building which'' before ''is located'' in clause (ii).

(c) FILING FEE FOR CERTAIN CONTRIBUTIONS.—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by inserting at the end the following new paragraph:

''(13) CONTRIBUTIONS OF CERTAIN INTERESTS IN BUILDINGS LOCATED IN REGISTERED HISTORIC DISTRICTS.—

''(A) IN GENERAL.—No deduction shall be allowed with respect to any contribution described in subparagraph (B) unless the taxpayer includes with the return for the taxable year of the contribution a $500 filing fee.

''(B) CONTRIBUTION DESCRIBED.—A contribution is described in this subparagraph if such contribution is a qualified conservation contribution (as defined in subsection (h)) which is a restriction with respect to the exterior of a building described in subsection (h)(4)(C)(ii) and for which a deduction is claimed in excess of the greater of—

''(i) 3 percent of the fair market value of the building (determined immediately before such contribution), or

''(ii) $10,000.

''(C) DEDICATION OF FEE.—Any fee collected under this paragraph shall be used for the enforcement of the provisions of subsection (h).''.

(d) EFFECTIVE DATE.—

(1) SPECIAL RULES FOR BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—The amendments made by subsection (a) shall apply to contributions made after November 15, 2005.

(2) DISALLOWANCE OF DEDUCTION FOR STRUCTURES AND LAND.—The amendments made by subsection (b) shall apply to contributions made after the date of the enactment of this Act.

(3) FILING FEE.—The amendment made by subsection (c) shall apply to contributions made 180 days after the date of the enactment of this Act.

**SEC. 215. CHARITABLE CONTRIBUTIONS OF TAXIDERMY PROPERTY.**

(a) IN GENERAL.—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph:

''(14) CONTRIBUTIONS OF TAXIDERMY PROPERTY.—

''(A) CONTRIBUTIONS OF MORE THAN $500.—In the case of any contribution of taxidermy property for which a deduction of more than $500 is claimed, no deduction shall be allowed under subsection (a) unless the donor includes with the return for the taxable year in which the contribution is made a photograph of the taxidermy property and data with respect to the sales prices of similar taxidermy property.

''(B) CONTRIBUTIONS OF MORE THAN $5,000.—In the case of any contribution of taxidermy property for which a deduction of more than $5,000 is claimed, no deduction shall be allowed under subsection (a) unless the donor—

''(i) notifies the Internal Revenue Service of such deduction, and

''(ii) includes with the return for the taxable year in which the contribution is made—

''(I) a statement of value from the Internal Revenue Service, or

''(II) a request for a statement of value from the Internal Revenue Service and a $500 fee.

''(C) TAXIDERMY PROPERTY.—For purposes of this section, the term 'taxidermy property' means a mounted work of art which contains any part of a dead animal.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after November 15, 2005.

**SEC. 216. RECAPTURE OF TAX BENEFIT FOR CHARITABLE CONTRIBUTIONS OF EXEMPT USE PROPERTY NOT USED FOR AN EXEMPT USE.**

(a) RECAPTURE OF DEDUCTION ON CERTAIN SALES OF EXEMPT USE PROPERTY.—

(1) IN GENERAL.—Clause (i) of section 170(e)(1)(B) (related to certain contributions of ordinary income and capital gain property) is amended to read as follows:

''(i) of tangible personal property—

''(I) if the use by the donee is unrelated to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection (c)), or

''(II) which is applicable property (as defined in paragraph (8)(C)) which is sold, exchanged, or otherwise disposed of by the donee before the last day of the taxable year in which the contribution was made and with respect to which the donee has not made a certification in accordance with paragraph (8)(D),''.

(2) DISPOSITIONS AFTER CLOSE OF TAXABLE YEAR.—Section 170(e), as amended by this Act, is amended by adding at the end the following new paragraph:

''(8) RECAPTURE OF DEDUCTION ON CERTAIN DISPOSITIONS OF EXEMPT USE PROPERTY.—

''(A) IN GENERAL.—In the case of an applicable disposition of applicable property, there shall be included in the income of the donor of such property for the taxable year of such donor in which the applicable disposition occurs an amount equal to the excess (if any) of—

''(i) the amount of the deduction allowed to the donor under this section with respect to such property, over

''(ii) the donor's basis in such property at the time such property was contributed.

''(B) APPLICABLE DISPOSITION.—For purposes of this paragraph, the term 'applicable disposition' means any sale, exchange, or other disposition by the donee of applicable property—

''(i) after the last day of the taxable year of the donor in which such property was contributed, and

''(ii) before the last day of the 3-year period beginning on the date of the contribution of such property,

unless the donee makes a certification in accordance with subparagraph (D).

''(C) APPLICABLE PROPERTY.—For purposes of this paragraph, the term 'applicable property' means charitable deduction property (as defined in section 6050L(a)(2)(A))—

''(i) which is tangible personal property the use of which is identified by the donee as related to the purpose or function constituting the basis of the donee's exemption under section 501, and

''(ii) for which a deduction in excess of the donor's basis is allowed.

''(D) CERTIFICATION.—A certification meets the requirements of this subparagraph if it is a written statement which is signed under penalty of perjury by an officer of the donee organization and—

''(i) which—

''(I) certifies that the use of the property by the donee was related to the purpose or function constituting the basis for the donee's exemption under section 501, and

''(II) describes how the property was used and how such use furthered such purpose or function, or

''(ii) which—

''(I) states the intended use of the property by the donee at the time of the contribution, and

''(II) certifies that such intended use has become impossible or infeasible to implement.''.

(b) REPORTING REQUIREMENTS.—Paragraph (1) of section 6050L(a) (relating to returns relating to certain dispositions of donated property) is amended—

(1) by striking ''2 years'' and inserting ''3 years'', and

(2) by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting at the end the following:

''(F) a description of the donee's use of the property, and

''(G) a statement indicating whether the use of the property was related to the purpose or function constituting the basis for the donee's exemption under section 501.

In any case in which the donee indicates that the use of applicable property (as defined in section 170(e)(1)(C)) was related to the purpose or function constituting the basis for the exemption of the donee under section 501 under subparagraph (G), the donee shall include with the return the certification described in section 170(e)(8)(D) if such certification is required under section 170(e)(8).''.

(c) PENALTY.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by this Act, is amended by inserting after section 6720B the following new section:

**''SEC. 6720C. FRAUDULENT IDENTIFICATION OF EXEMPT USE PROPERTY.**

''In addition to any criminal penalty provided by law, any person who identifies applicable property (as defined in section 170(e)(8)(C)) as having a use which is related to a purpose or function constituting the basis for the donee's exemption under section 501 and who knows that such property is not intended for such a use shall pay a penalty of $10,000.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by this Act, is amended by adding after the item relating to section 6720B the following new item:

''Sec. 6720C. Fraudulent identification of exempt use property.''.

(d) EFFECTIVE DATE.—

(1) RECAPTURE.—The amendments made by subsection (a) shall apply to contributions after June 1, 2006.

(2) REPORTING.—The amendments made by subsection (b) shall apply to returns filed after June 1, 2006.

(3) PENALTY.—The amendments made by subsection (c) shall apply to identifications made after the date of the enactment of this Act.

**SEC. 217. LIMITATION OF DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF CLOTHING AND HOUSEHOLD ITEMS.**

(a) IN GENERAL.—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph:

''(15) CONTRIBUTIONS OF CLOTHING AND HOUSEHOLD ITEMS.—

''(A) IN GENERAL.—In the case of an individual, partnership, or S corporation, the deduction allowed under subsection (a) for any contribution of clothing or household items with respect to which the donor has not obtained a qualified appraisal shall be—

''(i) in the case of an item which is in good used condition or better, no more than the amount assigned to such item under subparagraph (B) for such year,

''(ii) except as provided by clause (iii), in the case of an item which is not in good used condition or better, no more than 20 percent of the amount assigned to such item under subparagraph (B) for such year, and

''(iii) in the case of an item which is not functional with respect to the use for which it was designed, zero.

''(B) ASSIGNED VALUES.—Each year the Secretary shall publish an itemized list of clothing and household items and shall assign an amount with respect to each item on the list which represents the fair market value of such item in good used condition.

''(C) EXCEPTION FOR ITEMS SOLD BY THE DONEE.—Subparagraph (A) shall not apply to any contribution of clothing or household items for which a deduction of more than $500 is claimed if—

''(i) the donee sells the clothing or household items before the earlier of—

''(I) the due date (including extensions) for filing the return of tax for the taxable year of the donor in which the contribution was made, or

''(II) the date on which such return was filed,

''(ii) the donee reports the sales price of the clothing or household items to the donor, and

''(iii) the amount claimed as a deduction with respect to such clothing or household items does not exceed the amount of the sales price reported to the donor.

''(D) HOUSEHOLD ITEMS.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'household items' includes furniture, furnishings, electronics, appliances, linens, and other similar items.

''(ii) EXCLUDED ITEMS.—Such term does not include—

''(I) food,

''(II) paintings, antiques, and other objects of art,

''(III) jewelry and gems, and

''(IV) collections.

''(E) SPECIAL RULE FOR PASS-THRU ENTITIES.—In the case of a partnership or S corporation, this paragraph shall be applied at the entity level, except that the deduction shall be denied at the partner or shareholder level.''.

(b) SUBSTANTIATION.—

(1) ITEMS OF $250 OR MORE.—Subparagraph (B) of section 170(f)(8) is amended by inserting after clause (iii) the following new clause:

''(iv) In the case of a contribution consisting of clothing or household items, the number of items contributed, an indication of the condition of each item, a description of the type of item contributed, and a copy of the list published under paragraph (15)(B) or an instruction on how to obtain such list.''.

(2) ITEMS OF $500 OR MORE.—Subparagraph (B) of section 170(f)(11) is amended by inserting '', the information contained in the acknowledgment required under paragraph (8) in the case of any contribution of clothing or household items,'' after ''a description of such property''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2006.

**SEC. 218. MODIFICATION OF RECORDKEEPING REQUIREMENTS FOR CERTAIN CHARITABLE CONTRIBUTIONS.**

(a) RECORDKEEPING REQUIREMENT.—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph:

''(16) RECORDKEEPING.—No deduction shall be allowed under subsection (a) for any contribution of a cash, check, or other monetary gift unless the donor maintains as a record of such contribution—

''(A) a cancelled check, or

''(B) a receipt or a letter or other written communication from the donee showing the name of the donee organization, the date of the contribution, and the amount of the contribution.''.

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

**SEC. 219. CONTRIBUTIONS OF FRACTIONAL INTERESTS IN TANGIBLE PERSONAL PROPERTY.**

(a) INCOME TAX.—Section 170 (relating to charitable, etc., contributions and gifts), as amended by this Act, is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) SPECIAL RULES FOR FRACTIONAL GIFTS.—

''(1) VALUATION OF SUBSEQUENT GIFTS.—

''(A) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

''(i) the fair market value of the property at the time of the initial fractional contribution, or

''(ii) the fair market value of the property at the time of the additional contribution.

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means any charitable contribution by the taxpayer of any interest in property with respect to which the taxpayer has previously made an initial fractional contribution.

''(ii) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any taxpayer, the first charitable contribution of an undivided portion of the taxpayer's entire interest in any tangible personal property.

''(2) RECAPTURE OF DEDUCTION IN CERTAIN CASES.—

''(A) IN GENERAL.—The Secretary shall provide for the recapture of an amount equal to the amount of any deduction allowed under this section (plus interest) with respect to any contribution of an undivided interest of a taxpayer's entire interest in property in any case where such property is not in the physical possession of the donee during any applicable period for a period of time which bears substantially the same ratio to 1 year as—

''(i) the percentage of the undivided interest of the donee in the property (determined on the day after such contribution was made), bears to

''(ii) 100 percent.

''(B) APPLICABLE PERIOD.—For purposes of subparagraph (A), the term 'applicable period' means any 1-year period which begins on—

''(i) in the year of the contribution, the date of the contribution, and

''(ii) in any subsequent calendar year, the date which corresponds to the date described in clause (i).

''(C) ANTI-ABUSE RULES.—The Secretary shall prescribe such regulations as necessary to prevent the avoidance of the purposes of this paragraph through the transfer of any such undivided interest to a third party controlled by the taxpayer.''.

(b) ESTATE TAX.—Section 2055 (relating to transfers for public, charitable, and religious uses) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) VALUATION OF SUBSEQUENT GIFTS.—

''(1) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

''(A) the fair market value of the property at the time of the initial fractional contribution, or

''(B) the fair market value of the property at the time of the additional contribution.

''(2) DEFINITIONS.—For purposes of this paragraph—

''(A) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means a bequest, legacy, devise, or transfer described in subsection (a) of any interest in a property with respect to which the decedent had previously made an initial fractional contribution.

''(B) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any decedent, any charitable contribution of an undivided portion of the decedent's entire interest in any tangible personal property for which a deduction was allowed under section 170.''.

(c) GIFT TAX.—Section 2522 (relating to charitable and similar gifts) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) SPECIAL RULES FOR FRACTIONAL GIFTS.—

''(1) VALUATION OF SUBSEQUENT GIFTS.—

''(A) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

''(i) the fair market value of the property at the time of the initial fractional contribution, or

''(ii) the fair market value of the property at the time of the additional contribution.

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means any gift for which a deduction is allowed under subsection (a) or (b) of any interest in a property with respect to which the donor has previously made an initial fractional contribution.

''(ii) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any donor, the first gift of an undivided portion of the donor's entire interest in any tangible personal property for which a deduction is allowed under subsection (a) or (b).

''(2) RECAPTURE OF DEDUCTION IN CERTAIN CASES.—

''(A) IN GENERAL.—The Secretary shall provide for the recapture of an amount equal to the amount of any deduction allowed under this section (plus interest) with respect to any contribution of an undivided interest of a donor's entire interest in property in any case where such property is not in the physical possession of the donee during any applicable period for a period of time which bears substantially the same ratio to 1 year as—

''(i) the percentage of the undivided interest of the donee in the property (determined on the day after such contribution was made), bears to

''(ii) 100 percent.

''(B) APPLICABLE PERIOD.—For purposes of subparagraph (A), the term 'applicable period' means any 1-year period which begins on—

''(i) in the year of the contribution, the date of the contribution, and

''(ii) in any subsequent calendar year, the date which corresponds to the date described in clause (i).

''(C) ANTI-ABUSE RULES.—The Secretary shall prescribe such regulations as necessary to prevent the avoidance of the purposes of this paragraph though the transfer of any such undivided interest to a third party controlled by the donor.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions, bequests, and gifts made after the date of the enactment of this Act.

**SEC. 220. PROVISIONS RELATING TO SUBSTANTIAL AND GROSS OVERSTATEMENTS OF VALUATIONS OF CHARITABLE DEDUCTION PROPERTY.**

(a) SUBSTANTIAL AND GROSS OVERSTATEMENTS OF VALUATIONS OF CHARITABLE DEDUCTION PROPERTY.—

(1) IN GENERAL.—Section 6662 (relating to imposition of accuracy-related penalties) is amended by adding at the end the following new subsection:

''(i) SPECIAL RULES FOR CHARITABLE DEDUCTION PROPERTY.—In the case of charitable deduction property (as defined in section 6664(c)(3)(A))—

''(1) the determination under subsection (e)(1)(A) as to whether there is a substantial valuation misstatement under chapter 1 with respect to the value of the property shall be made by substituting '150 percent' for '200 percent', and

''(2) the determination under subsection (h)(2)(A)(i) as to whether there is a gross valuation misstatement with respect to the value of the property shall be made by substituting '200 percent' for '400 percent' and by substituting '150 percent' for '200 percent' in applying subsection (e)(1)(A) for purposes of such determination.''.

(2) ELIMINATION OF REASONABLE CAUSE EXCEPTION FOR GROSS MISSTATEMENTS.—Section 6664(c)(2) (relating to reasonable cause exception for underpayments) is amended by striking ''paragraph (1) shall not apply unless'' and inserting ''paragraph (1) shall not apply. The preceding sentence shall not apply to a substantial valuation overstatement under chapter 1 if''.

(b) PENALTY ON APPRAISERS WHOSE APPRAISALS RESULT IN SUBSTANTIAL OR GROSS VALUATION MISSTATEMENTS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6695 the following new section:

**''SEC. 6695A. SUBSTANTIAL AND GROSS VALUATION MISSTATEMENTS ATTRIBUTABLE TO INCORRECT APPRAISALS.**

''(a) IMPOSITION OF PENALTY.—If—

''(1) a person prepares an appraisal of the value of property and such person knows, or reasonably should have known, that the appraisal would be used in connection with a return or a claim for refund, and

''(2) the claimed value of the property on a return or claim for refund which is based on such appraisal results in a substantial valuation misstatement under chapter 1 (within the meaning of section 6662(e)), or a gross valuation misstatement (within the meaning of section 6662(h)), with respect to such property,

then such person shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—The amount of the penalty imposed under subsection (a) on any person with respect to an appraisal shall be equal to the lesser of—

''(1) the greater of—

''(A) 10 percent of the amount of the underpayment (as defined in section 6664(a)) attributable to the misstatement described in subsection (a)(2), or

''(B) $1,000, or

''(2) 125 percent of the gross income received by the person described in subsection (a)(1) from the preparation of the appraisal.

''(c) EXCEPTION.—No penalty shall be imposed under subsection (a) if the person establishes to the satisfaction of the Secretary that the value established in the appraisal was more likely than not the proper value.''.

(2) RULES APPLICABLE TO PENALTY.—Section 6696 (relating to rules applicable with respect to sections 6694 and 6695) is amended—

(A) by striking ''6694 and 6695'' each place it appears in the text and heading thereof and inserting ''6694, 6695, and 6695A'', and

(B) by striking ''6694 or 6695'' each place it appears in the text and inserting ''6694, 6695, or 6695A''.

(3) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6696 and inserting the following new items:

''Sec. 6695A. Substantial and gross valuation misstatements attributable to incorrect appraisals.
''Sec. 6696. Rules applicable with respect to sections 6694, 6695, and 6695A.''.

(c) QUALIFIED APPRAISERS AND APPRAISALS.—

(1) IN GENERAL.—Subparagraph (E) of section 170(f)(11) is amended to read as follows:

''(E) QUALIFIED APPRAISAL AND APPRAISER.—For purposes of this paragraph—

''(i) QUALIFIED APPRAISAL.—The term 'qualified appraisal' means, with respect to any property, an appraisal of such property which—

''(I) is treated for purposes of this paragraph as a qualified appraisal under regulations or other guidance prescribed by the Secretary, and

''(II) is conducted by a qualified appraiser in accordance with generally accepted appraisal standards and any regulations or other guidance prescribed under subclause (I).

''(ii) QUALIFIED APPRAISER.—Except as provided in clause (iii), the term 'qualified appraiser' means an individual who—

''(I) has earned an appraisal designation from a recognized professional appraiser organization or has otherwise met minimum education and experience requirements set forth in regulations prescribed by the Secretary,

''(II) regularly performs appraisals for which the individual receives compensation, and

''(III) meets such other requirements as may be prescribed by the Secretary in regulations or other guidance.

''(iii) SPECIFIC APPRAISALS.—An individual shall not be treated as a qualified appraiser with respect to any specific appraisal unless—

''(I) the individual demonstrates verifiable education and experience in valuing the type of property subject to the appraisal, and

''(II) the individual has not been prohibited from practicing before the Internal Revenue Service by the Secretary under section 330(c) of title 31, United States Code, at any time during the 3-year period ending on the date of the appraisal.''.

(2) REASONABLE CAUSE EXCEPTION.—Subparagraphs (B) and (C) of section 6664(c)(3) are amended to read as follows:

''(B) QUALIFIED APPRAISAL.—The term 'qualified appraisal' has the meaning given such term by section 170(f)(11)(E)(i).

''(C) QUALIFIED APPRAISER.—The term 'qualified appraiser' has the meaning given such term by section 170(f)(11)(E)(ii).''.

(d) DISCIPLINARY ACTIONS AGAINST APPRAISERS.—Section 330(c) of title 31, United States Code, is amended by striking ''with respect to whom a penalty has been assessed under section 6701(a) of the Internal Revenue Code of 1986''.

(e) EFFECTIVE DATES.—

(1) MISSTATEMENT PENALTIES.—Except as provided in paragraph (3), the amendments made by subsection (a) shall apply to returns filed after the date of the enactment of this Act.

(2) APPRAISER PROVISIONS.—Except as provided in paragraph (3), the amendments made by subsections (b), (c), and (d) shall apply to appraisals prepared with respect to returns or submissions filed after the date of the enactment of this Act.

(3) SPECIAL RULE FOR CERTAIN EASEMENTS.—In the case of a contribution of a qualified real property interest which is a restriction with respect to the exterior of a building described in section 170(h)(4)(C)(ii) of the Internal Revenue Code of 1986, and an appraisal with respect to the contribution, the amendments made by subsections (a) and (b) shall apply to returns filed after December 16, 2004.

**SEC. 221. ADDITIONAL STANDARDS FOR CREDIT COUNSELING ORGANIZATIONS.**

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

''(q) SPECIAL RULES FOR CREDIT COUNSELING ORGANIZATIONS.—

''(1) IN GENERAL.—An organization with respect to which the provision of credit counseling services is a substantial purpose shall not be exempt from tax under subsection (a) unless such organization is described in paragraph (3) or (4) of subsection (c) and such organization is organized and operated in accordance with the following requirements:

''(A) The organization—

''(i) provides credit counseling services tailored to the specific needs and circumstances of consumers,

''(ii) makes no loans to debtors and does not negotiate the making of loans on behalf of debtors, and

''(iii) does not promote, or charge any separate fee for, any service for the purpose of improving any consumer's credit record, credit history, or credit rating.

''(B) The organization does not refuse to provide credit counseling services to a consumer due to the inability of the consumer to pay, the ineligibility of the consumer for debt management plan enrollment, or the unwillingness of the consumer to enroll in a debt management plan.

''(C) The organization establishes and implements a fee policy which—

''(i) requires that any fees charged to a consumer for services are reasonable, and

''(ii) prohibits charging any fee based in whole or in part on a percentage of the consumer's debt, the consumer's payments to be made pursuant to a debt management plan, or the projected or actual savings to the consumer resulting from enrolling in a debt management plan.

''(D) At all times the organization has a board of directors or other governing body—

''(i) which is controlled by persons who represent the broad interests of the public, such as public officials acting in their capacities as such, persons having special knowledge or expertise in credit or financial education, and community leaders,

''(ii) not more than 20 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees or the repayment of consumer debt to creditors other than the credit counseling organization or its affiliates), and

''(iii) not more than 49 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees).

''(E) The organization does not own more than 35 percent of—

''(i) the total combined voting power of a corporation which is in the business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services,

''(ii) the profits interest of a partnership which is in the business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services, and

''(iii) the beneficial interest of a trust or estate which is in the business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services.

''(F) The organization receives no amount for providing referrals to others for financial services (including debt management services) or credit counseling services to be provided to consumers, and pays no amount to others for obtaining referrals of consumers.

''(2) REQUIREMENTS UNDER SUBSECTION (c)(3).—In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (3) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization is organized and operated in accordance with the following requirements:

''(A) The organization—

''(i) charges no fees (other than nominal fees) for debt management plan services or credit counseling services and waives any fees if the consumer is unable to pay such fees, and

''(ii) does not solicit contributions from consumers during the initial counseling process or while the consumer is receiving services from the organization.

''(B) The activities of the organization related to debt management plan services (in the aggregate) do not exceed 25 percent of the total activities of the organization activities measured by any of the following:

''(i) The time spent on activities.

''(ii) The resources dedicated to activities.

''(iii) The effort expended by the organization with respect to activities.

''(iv) The sources of revenue of the organization.

''(v) Any other measures prescribed by the Secretary.

''(3) REQUIREMENTS UNDER SUBSECTION (c)(4).—In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (4) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization—

''(A) is organized and operated such that it charges no fees (other than nominal fees) for credit counseling services and waives any fees if the consumer is unable to pay such fees, and

''(B) notifies the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition as a credit counseling organization.

''(4) SECRETARIAL AUTHORITY.—The Secretary may require any organization described in paragraph (1) to submit such information as the Secretary requires to verify that such organization meets the requirements of this section.

''(5) CREDIT COUNSELING SERVICES; DEBT MANAGEMENT PLAN SERVICES.—For purposes of this subsection—

''(A) CREDIT COUNSELING SERVICES.—The term 'credit counseling services' means—

''(i) the providing of educational information to the general public on budgeting, personal finance, financial literacy, saving and spending practices, and the sound use of consumer credit,

''(ii) the assisting of individuals and families with financial problems by providing them with counseling, or

''(iii) a combination of the activities described in clauses (i) and (ii).

''(B) DEBT MANAGEMENT PLAN SERVICES.—The term 'debt management plan services' means services related to the repayment, consolidation, or restructuring of a consumer's debt, and includes the negotiation with creditors of lower interest rates, the waiver or reduction of fees, and the marketing and processing of debt management plans.''.

(b) DEBT MANAGEMENT PLAN SERVICES TREATED AS AN UNRELATED BUSINESS.—Section 513 (relating to unrelated trade or business) is amended by adding at the end the following:

''(j) DEBT MANAGEMENT PLAN SERVICES.—The term 'unrelated trade or business' includes—

''(1) the provision of debt management plan services (as defined in section 501(q)(4)(B)) by an organization described in section 501(q) to the extent such services are not substantially related to the provision of credit counseling services (as defined in section 501(q)(4)(A)) to a consumer, and

''(2) the provision of debt management plan services (as so defined) by any organization other than an organization which meets the requirements of section 501(q).''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) TRANSITION RULE FOR EXISTING ORGANIZATIONS.—In the case of any organization described in paragraph (3) or (4) section 501(c) of the Internal Revenue Code of 1986 and with respect to which the provision of credit counseling services is a substantial purpose on the date of the enactment of this Act, the amendments made by this section shall apply to taxable years beginning after the date which is 1 year after the date of the enactment of this Act.

**SEC. 222. EXPANSION OF THE BASE OF TAX ON PRIVATE FOUNDATION NET INVESTMENT INCOME.**

(a) GROSS INVESTMENT INCOME.—

(1) IN GENERAL.—Paragraph (2) of section 4940(c) (relating to gross investment income) is amended by adding at the end the following new sentence: ''Such term shall also include income from sources similar to those in the preceding sentence.''.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 509 (relating to gross investment income) is amended by adding at the end the following new sentence: ''Such term shall also include income from sources similar to those in the preceding sentence.''.

(b) CAPITAL GAIN NET INCOME.—Paragraph (4) of section 4940(c) (relating to capital gains and losses) is amended—

(1) in subparagraph (A), by striking ''used for the production of interest, dividends, rents, and royalties'' and inserting ''used for the production of gross investment income (as defined in paragraph (2))'', and

(2) in subparagraph (C), by inserting ''or carrybacks'' after ''carryovers''.

(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. 223. DEFINITION OF CONVENTION OR ASSOCIATION OF CHURCHES.**

Section 7701 (relating to definitions) is amended by redesignating subsection(o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) CONVENTION OR ASSOCIATION OF CHURCHES.—For purposes of this title, any organization which is otherwise a convention or association of churches shall not fail to so qualify merely because the membership of such organization includes individuals as well as churches or because individuals have voting rights in such organization.''.

**SEC. 224. NOTIFICATION REQUIREMENT FOR ENTITIES NOT CURRENTLY REQUIRED TO FILE.**

(a) IN GENERAL.—Section 6033 (relating to returns by exempt organizations) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) ADDITIONAL NOTIFICATION REQUIREMENTS.—Any organization the gross receipts of which in any taxable year result in such organization being referred to in subsection (a)(3)(A)(ii) or (a)(3)(B)—

''(1) shall furnish annually, at such time and in such manner as the Secretary may by forms or regulations prescribe, information setting forth—

''(A) the legal name of the organization,

''(B) any name under which such organization operates or does business,

''(C) the organization's mailing address and Internet web site address (if any),

''(D) the organization's taxpayer identification number,

''(E) the name and address of a principal officer, and

''(F) evidence of the continuing basis for the organization's exemption from the filing requirements under subsection (a)(1), and

''(2) upon the termination of the existence of the organization, shall furnish notice of such termination.''.

(b) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—Section 6033 (relating to returns by exempt organizations), as amended by subsection (a), is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—

''(1) IN GENERAL.—If an organization described in subsection (a)(1) or (k) fails to file an annual return or notice required under either subsection for 3 consecutive years, such organization's status as an organization exempt from tax under section 501(a) shall be considered revoked on and after the date set by the Secretary for the filing of the third annual return or notice. The Secretary shall publish and maintain a list of any organization the status of which is so revoked.

''(2) APPLICATION NECESSARY FOR REINSTATEMENT.—Any organization the tax-exempt status of which is revoked under paragraph (1) must apply in order to obtain reinstatement of such status regardless of whether such organization was originally required to make such an application.

''(3) RETROACTIVE REINSTATEMENT IF REASONABLE CAUSE SHOWN FOR FAILURE.—If upon application for reinstatement of status as an organization exempt from tax under section 501(a), an organization described in paragraph (1) can show to the satisfaction of the Secretary evidence of reasonable cause for the failure described in such paragraph, the organization's exempt status may, in the discretion of the Secretary, be reinstated effective from the date of the revocation under such paragraph.''.

(c) NO DECLARATORY JUDGMENT RELIEF.—Section 7428(b) (relating to limitations) is amended by adding at the end the following new paragraph:

''(4) NONAPPLICATION FOR CERTAIN REVOCATIONS.—No action may be brought under this section with respect to any revocation of status described in section 6033(i)(1).''.

(d) NO INSPECTION REQUIREMENT.—Section 6104(b) (relating to inspection of annual information returns), as amended by this Act,

is amended by inserting ''(other than subsection (h) thereof)'' after ''6033''.

(e) NO DISCLOSURE REQUIREMENT.—Section 6104(d)(3) (relating to exceptions from disclosure requirements) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) NONDISCLOSURE OF ANNUAL NOTICES.—Paragraph (1) shall not require the disclosure of any notice required under section 6033(h).''.

(f) NO MONETARY PENALTY FOR FAILURE TO NOTIFY.—Section 6652(c)(1) (relating to annual returns under section 6033 or 6012(a)(6)) is amended by adding at the end the following new subparagraph:

''(E) NO PENALTY FOR CERTAIN ANNUAL NOTICES.—This paragraph shall not apply with respect to any notice required under section 6033(h).''.

(g) SECRETARIAL OUTREACH REQUIREMENTS.—

(1) NOTICE REQUIREMENT.—The Secretary of the Treasury shall notify in a timely manner every organization described in section 6033(h) of the Internal Revenue Code of 1986 (as added by this section) of the requirement under such section 6033(h) and of the penalty established under section 6033(i) of such Code—

(A) by mail, in the case of any organization the identity and address of which is included in the list of exempt organizations maintained by the Secretary, and

(B) by Internet or other means of outreach, in the case of any other organization.

(2) LOSS OF STATUS PENALTY FOR FAILURE TO FILE RETURN.—The Secretary of the Treasury shall publicize in a timely manner in appropriate forms and instructions and through other appropriate means, the penalty established under section 6033(i) of such Code for the failure to file a return under section 6033(a)(1) of such Code.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to notices and returns with respect to annual periods beginning after 2005.

**SEC. 225. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO EXEMPT ORGANIZATIONS.**

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) DISCLOSURE OF PROPOSED ACTIONS RELATED TO CHARITABLE ORGANIZATIONS.—

''(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

''(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

''(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

''(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

''(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

''(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

''(i) upon written request by an appropriate State officer, and

''(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations. Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

''(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of Federal or State issues relating to the tax-exempt status of such organization.

''(3) DISCLOSURE WITH RESPECT TO CERTAIN OTHER EXEMPT ORGANIZATIONS.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of an organization described in paragraph (2), (4), (6), (7), (8), (10), or (13) of section 501(c) for the purpose of, and to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

''(4) USE IN CIVIL JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

''(5) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

''(6) DEFINITIONS.—For purposes of this subsection—

''(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

''(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

''(i) the State attorney general,

''(ii) the State tax officer,

''(iii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

''(iv) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6103(p)(3) is amended by inserting ''an section 6104(c)'' after ''section'' in the first sentence.

(2) Paragraph (4) of section 6103(p) is amended—

(A) in the matter preceding subparagraph (A), by inserting '', or any appropriate State officer (as defined in section 6104(c)),'' before ''or any other person'',

(B) in subparagraph (F)(i), by inserting ''or any appropriate State officer (as defined in section 6104(c)),'' before ''or any other person'', and

(C) in the matter following subparagraph (F), by inserting '', an appropriate State officer (as defined in section 6104(c)),'' after ''including an agency'' each place it appears.

(3) The heading for paragraph (1) of section 6104(c) is amended by inserting ''FOR CHARITABLE ORGANIZATIONS'' after ''RULE''.

(4) Paragraph (2) of section 7213(a) is amended by inserting ''or under section 6104(c)'' after ''6103''.

(5) Paragraph (2) of section 7213A(a) is amended by inserting ''or 6104(c)'' after ''6103''.

(6) Paragraph (2) of section 7431(a) is amended by inserting ''(including any disclosure in violation of section 6014(c)'' after ''6103''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

## PART II—IMPROVED ACCOUNTABILITY OF DONOR ADVISED FUNDS

**SEC. 231. EXCISE TAX ON SPONSORING ORGANIZATIONS OF DONOR ADVISED FUNDS FOR FAILURE TO MEET DISTRIBUTION REQUIREMENTS.**

(a) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations), as amended by this Act, is amended by adding at the end the following new subchapter:

**''Subchapter G—Donor Advised Funds**



**''SEC. 4967. TAXES ON SPONSORING ORGANIZATIONS OF DONOR ADVISED FUNDS FOR FAILURE TO MEET DISTRIBUTION REQUIREMENTS.**

''(a) INITIAL TAX.—There is hereby imposed on any sponsoring organization a tax equal to 30 percent of each of the following amounts:

''(1) The organization level undistributed amount of such sponsoring organization (other than any organization subject to tax under section 4942) for any taxable year which has not been distributed before the first day of the second (or any succeeding) taxable year following such taxable year (if such first day falls within the taxable period).

''(2) The fund level undistributed amount of any donor advised fund of such sponsoring organization for any taxable year which has not been distributed before the 181st day of the first (or any succeeding) taxable year following the applicable period (if such 181st day falls within the taxable period).

''(3) The illiquid fund undistributed amount of any illiquid asset donor advised fund of such sponsoring organization for any taxable year which has not been distributed before the 181st day of the second (or any succeeding) taxable year following such taxable year (if such 181st day falls within the taxable period).

''(b) ADDITIONAL TAX.—In any case in which an initial tax is imposed under subsection (a) on any amount, if any portion of such amount remains undistributed at the close of the taxable period, there is hereby imposed a tax equal to 100 percent of the amount remaining undistributed at such time.

''(c) ORGANIZATION LEVEL UNDISTRIBUTED AMOUNT; FUND LEVEL UNDISTRIBUTED AMOUNT; ILLIQUID FUND UNDISTRIBUTED AMOUNT.—For purposes of this section—

''(1) ORGANIZATION LEVEL UNDISTRIBUTED AMOUNT.—The term 'organization level undistributed amount' means, with respect to any sponsoring organization for any taxable year, the amount by which—

''(A) the organization level distributable amount for such taxable year, exceeds

''(B) the qualifying distributions made during such taxable year and designated for the purpose of reducing such amount.

''(2) FUND LEVEL UNDISTRIBUTED AMOUNT.—The term 'fund level undistributed amount' means, with respect to any donor advised fund of a sponsoring organization for any applicable period, the amount by which—

''(A) the fund level distributable amount for such applicable period, exceeds

''(B) the qualifying distributions made during such applicable period and designated for the purpose of reducing such amount.

''(3) ILLIQUID FUND UNDISTRIBUTED AMOUNT.—

''(A) IN GENERAL.—The term 'illiquid fund undistributed amount' means, with respect to any illiquid asset donor advised fund of a sponsoring organization for any taxable year, the amount by which—

''(i) the illiquid fund distributable amount for such taxable year, exceeds

''(ii) the qualifying distributions made during such taxable year and designated for the purpose of reducing such amount.

''(B) ILLIQUID ASSET DONOR ADVISED FUND.—The term 'illiquid asset donor advised fund' means for any taxable year a donor advised fund the value of the illiquid assets of which (as of the end of the preceding taxable year) exceeds 10 percent of the value of the total assets of such fund.

''(C) ILLIQUID ASSET.—The term 'illiquid asset' means for any taxable year any asset other than cash and marketable securities the value of which is held for the entire taxable year as such asset or any other illiquid asset.

''(d) ORGANIZATION LEVEL DISTRIBUTABLE AMOUNT; FUND LEVEL DISTRIBUTABLE AMOUNT; ILLIQUID FUND DISTRIBUTABLE AMOUNT.—For purposes of this section—

''(1) ORGANIZATION LEVEL DISTRIBUTABLE AMOUNT.—The term 'organization level distributable amount' means, with respect to any sponsoring organization for any taxable year, an amount equal to the applicable percentage of the fair market value of the aggregate assets of all donor advised funds maintained by such organization as determined on the last day of the preceding taxable year (other than such funds which have been in existence for less than 1 year as so determined).

''(2) FUND LEVEL DISTRIBUTABLE AMOUNT.—The term 'fund level distributable amount' means, with respect to any donor advised fund of any sponsoring organization for any applicable 3-consecutive taxable year period, an amount equal to the greater of—

''(A) $250, or

''(B) 2.5 percent of the greater of—

''(i) the average of the sponsoring organization's required minimum initial contribution amount for such period, or

''(ii) the average of the sponsoring organization's required minimum balance for such period,

for the type of donor with respect to such donor advised fund.

''(3) ILLIQUID FUND DISTRIBUTABLE AMOUNT.—The term 'illiquid fund distributable amount' means, with respect to any illiquid asset donor advised fund of any sponsoring organization for any taxable year, an amount equal to the applicable percentage of the value of the assets in such fund as determined at the end of the preceding taxable year.

''(4) APPLICABLE PERCENTAGE.—For purposes of paragraphs (1) and (3), the applicable percentage is—

''(A) 3 percent for the first taxable year beginning after the date of the enactment of this section,

''(B) 4 percent for the second taxable year beginning after such date, and

''(C) 5 percent for any taxable year beginning after the second taxable year beginning after such date.

''(e) QUALIFYING DISTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying distribution' means—

''(A) any amount paid by the sponsoring organization from a donor advised fund—

''(i) to any organization described in section 170(b)(1)(A) (other than any organization described in section 509(a)(3) or any sponsoring organization if such amount is for maintenance in a donor advised fund), and

''(ii) notwithstanding clause (i), to any organization described section 170(f)(17)(B)(ii), but only to the extent not prohibited by regulations, and

''(B) any amount set aside in such donor advised fund for purposes, and under procedures similar to those, described in section 4942(g)(2).

Such term shall also include any amount paid during any taxable year for reasonable and necessary administrative expenses charged to a donor advised fund by a sponsoring organization.

''(2) DISTRIBUTIONS TO SPONSORING ORGANIZATIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), such term shall include any distribution to a sponsoring organization.

''(B) ORGANIZATION LEVEL DISTRIBUTIONS.—For purposes of subsection (c)(1)(B), such term shall not include any distribution to a sponsoring organization unless such distribution is designated for use in connection with a charitable program of such organization.

''(3) PURPOSE OF DISTRIBUTION.—Each qualifying distribution shall be taken into account in determining whether each of the requirements of paragraphs (1), (2), and (3) of subsection (a) are met, except that only qualifying distributions from a donor advised fund shall be taken into account in determining whether the requirements of paragraphs (2) and (3) of subsection (a) are met with respect to the fund.

''(4) DESIGNATION OF TAXABLE YEAR.—

''(A) IN GENERAL.—A sponsoring organization shall designate the taxable years or applicable periods with respect to which any qualifying distribution shall be applied for purposes of satisfying the distribution requirements of such taxable year or applicable period.

''(B) CARRYOVER OF EXCESS DISTRIBUTION DESIGNATIONS.—If a sponsoring organization designates an amount of qualifying distributions in excess of the amount necessary to meet the distribution requirements for all taxable years and all applicable periods, the sponsoring organization may designate such excess as a carryover distribution which may be applied for purposes of satisfying the distribution requirements of the succeeding 5 taxable years.

''(f) VALUATION RULES.—For purposes of determining the value of any asset held by a donor advised fund, the following rules shall apply:

''(1) Securities for which market quotations are readily available shall be valued at fair market value determined on a monthly basis.

''(2) Cash shall be determined on an average monthly basis.

''(3) Any illiquid asset transferred by a donor to a sponsoring organization for maintenance in such donor advised fund shall be valued in an amount equal to the sum of—

''(A) the value of such asset claimed by the donor for purposes of determining the donor's deduction under section 170, 2055, or 2522 with respect to such transfer and reported by the donor to the sponsoring organization (in any manner specified by the Secretary), and

''(B) an assumed annual rate of return of 5 percent of such value.

''(4) Any illiquid asset purchased by such fund shall be valued in an amount equal to—

''(A) the purchase price paid for such asset by such fund, and

''(B) an assumed annual rate of return of 5 percent of such value.

''(g) SPONSORING ORGANIZATION; DONOR ADVISED FUND.—For purposes of this subchapter—

''(1) SPONSORING ORGANIZATION.—The term 'sponsoring organization' means any organization which—

''(A) is described in section 170(c) (other than in paragraph (1) thereof, and without regard to paragraph (2)(A) thereof), and

''(B) maintains 1 or more donor advised funds.

''(2) DONOR ADVISED FUND.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'donor advised fund' means a fund or account—

''(i) which is separately identified by reference to contributions of a donor or donors,

''(ii) which is owned and controlled by a sponsoring organization, and

''(iii) with respect to which a donor or any person appointed or designated by such person) has, or reasonably expects to have, advisory privileges with respect to the distribution or investment of amounts held in such fund or account by reason of the donor's status as a donor.

''(B) EXCEPTION.—The term 'donor advised fund' shall not include any fund or account with respect to which a person described in subparagraph (A)(iii) advises as to which individuals receive grants for travel, study, or other similar purposes, but only if—

''(i) such person's advisory privileges are performed exclusively by such person in the person's capacity as a member of a committee appointed by the sponsoring organization,

''(ii) no combination of persons described in subparagraph (A)(iii) (or persons related to such persons) control, directly or indirectly, such committee, and

''(iii) all grants from such fund or account satisfy requirements similar to those described in section 4945(g) (concerning grants to individuals by private foundations).

''(C) SECRETARIAL AUTHORITY.—The Secretary may exempt a fund or account from treatment as a donor advised fund which—

''(i) is advised by committee not directly or indirectly controlled by the donor or advisor (and any related parties), or

''(ii) will benefit a single identified organization or governmental entity or a single identified charitable purpose.

''(h) OTHER DEFINITIONS.—For purposes of this section—

''(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to the undistributed amount for any taxable year, the period beginning with the first day of the taxable year and ending on the earlier of—

''(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212, or

''(B) the date on which the tax imposed by subsection (a) is assessed.

''(2) APPLICABLE PERIOD.—The term 'applicable period' means, with respect to any donor advised fund of any sponsoring organization, a 3-consecutive taxable year period determined under the following rules:

''(A) The first applicable 3-consecutive taxable year period for any donor advised fund shall begin on the first day of the first taxable year of the sponsoring organization beginning after the date such fund has been in existence for 1 year.

''(B) Any applicable 3-consecutive taxable year period after the first such period shall begin on the day after the termination of any preceding applicable 3-consecutive taxable year period with respect to such donor advised fund.

''(i) REGULATIONS.—The Secretary may issue such regulations as are necessary to carry out the purposes of this section, including regulations regarding—

''(1) the acceptable methods for calculating the organization level undistributed amount for sponsoring organizations,

''(2) the allowable adjustments in the determination of the value of any illiquid asset where the asset value has declined significantly after a contribution to, or purchase by, the donor advised fund, and

''(3) the treatment or disregard of transactions designed to avoid the application of the illiquid asset rules, such as through exchanges of illiquid assets for other assets.

**''SEC. 4968. TAXES ON PROHIBITED DISTRIBUTIONS.**

''(a) IMPOSITION OF TAXES.—

''(1) ON THE DONOR OR DONOR ADVISOR.—There is hereby imposed on the advice of any person described in section 4967(g)(2)(A)(iii) to have a sponsoring organization of a donor advised fund make a taxable distribution from such fund a tax equal to 20 percent of the amount thereof. The tax imposed by this paragraph shall be paid by such person who advised the sponsoring organization of the donor advised fund to make the distribution.

''(2) ON THE FUND MANAGEMENT.—There is hereby imposed on the agreement of any fund manager to the making of a distribution, knowing that it is a taxable distribution, a tax equal to 5 percent of the amount thereof, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any fund manager who agreed to the making of the distribution.

''(b) JOINT AND SEVERAL LIABILITY.—For purposes of subsection (a), if more than one person is liable under subsection (a)(1) or (a)(2) with respect to the making of a taxable distribution, all such persons shall be jointly and severally liable under such paragraph with respect to such distribution.

''(c) TAXABLE DISTRIBUTION.—For purposes of this subsection—

''(1) IN GENERAL.—The term 'taxable distribution' means any distribution from a donor advised fund to any person other than the sponsoring organization's non donor advised funds or accounts or organizations described in section 170(b)(1)(A) (other than any organization described in section 509(a)(3) or any sponsoring organization if such amount is for maintenance in a donor advised fund).

''(2) EXCEPTION.—Notwithstanding paragraph (1), such term shall not include any distribution from a donor advised fund to any organization described in section 170(f)(17)(B)(ii) to the extent such distribution is not prohibited under regulations.

''(d) FUND MANAGER.—For purposes of this subchapter, the term 'fund manager' means, with respect to any sponsoring organization of a donor advised fund—

''(1) an officer, director, or trustee of such sponsoring organization (or an individual having powers or responsibilities similar to those of officers, directors, or trustees of the sponsoring organization), and

''(2) with respect to any act (or failure to act), the employees of the sponsoring organization having authority or responsibility with respect to such act (or failure to act).

**''SEC. 4969. TAXES ON PROHIBITED BENEFITS.**

''(a) IMPOSITION OF TAXES.—

''(1) ON THE DONOR, DONOR ADVISOR, OR RELATED PERSON.—There is hereby imposed on the advice of any person described in subsection (c) to have a sponsoring organization of a donor advised fund make a distribution from such fund which results in such a person receiving, directly or indirectly, a more than incidental benefit as a result of such distribution, a tax equal to 25 percent of the amount of such distribution. The tax imposed by this paragraph shall be paid by such person who advised the sponsoring organization of the donor advised fund to make the distribution.

''(2) ON THE RECIPIENT OF THE BENEFIT.—There is hereby imposed on any person described in subsection (c) who receives a benefit described in paragraph (1), a tax equal to 25 percent of the amount of the distribution described in paragraph (1).

''(3) ON THE FUND MANAGEMENT.—There is hereby imposed on the agreement of any fund manager to the making of a distribution, knowing that such distribution would confer a benefit described in paragraph (1), a tax equal to 10 percent of the amount of such distribution, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any fund manager who agreed to the making of the distribution.

''(b) JOINT AND SEVERAL LIABILITY.—For purposes of subsection (a), if more than one person is liable under subsection (a)(1), (a)(2), or (a)(3) with respect to the making of a distribution described in subsection (a), all such persons shall be jointly and severally liable under such paragraph with respect to such distribution.

''(c) DONOR, DONOR ADVISOR, OR RELATED PERSON.—A person is described in this subsection if such person is described in section 4958(f)(1)(D) (determined without regard to any investment advisor).''.

(b) ABATEMENT OF TAXES ALLOWED.—Section 4963 is amended—

(1) by inserting ''4967, 4968, 4969,'' after ''4958,'' each place it appears in subsections (a) and (c),

(2) by inserting ''4967,'' after ''4958,'' in subsection (b),

(3) in subsection (d)(2), by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) in the case of the second tier tax imposed by section 4967(b), reducing the amount of the undistributed amount to zero.'', and

(4) in subsection (e)(2), by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (B) the following new subparagraphs:

''(C) in the case of section 4967(a)(1), on the first day of the taxable year for which there was a failure to distribute,

''(D) in the case of paragraph (2) or (3) of section 4967(a), on the 181st day of the taxable year for which there was a failure to distribute,''.

(c) CONFORMING AMENDMENTS.—

(1) The table of subchapters for chapter 42, as amended by this Act, is amended by adding at the end the following new item:

''SUBCHAPTER G. DONOR ADVISED FUNDS.''.

(2) Section 6213(e) is amended by inserting ''4967 (relating to taxes on sponsoring organizations of donor advised funds for failure to meet distribution requirements),'' after ''benefit),''.

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

**SEC. 232. PROHIBITED TRANSACTIONS.**

(a) DISQUALIFIED PERSONS.—

(1) IN GENERAL.—Paragraph (1) of section 4958(f) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding after subparagraph (C) the following new subparagraph:

''(D) any person who is described in paragraph (7) with respect to any sponsoring organization (as defined in section 4967(g)(1)).''.

(2) DONORS, DONOR ADVISORS, AND INVESTMENT ADVISORS TREATED AS DISQUALIFIED PERSONS.—Section 4958(f) is amended by adding at the end the following new paragraph:

''(7) DONORS, DONOR ADVISORS, AND INVESTMENT ADVISORS WITH RESPECT TO SPONSORING ORGANIZATIONS.—For purposes of paragraph (1)(D)—

''(A) IN GENERAL.—A person is described in this paragraph if such person—

''(i) is described in section 4967(g)(2)(A)(iii),

''(ii) is an investment advisor,

''(iii) is a member of the family of an individual described in clause (i) or (ii), or

''(iv) is a 35-percent controlled entity (as defined in paragraph (3) by substituting 'persons described in clause (i), (ii), or (iii) of paragraph (7)(A)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

''(B) INVESTMENT ADVISOR.—The term 'investment advisor' means, with respect to any sponsoring organization (as defined in section 4967(g)(1)), any person (other than an employee of such organization) compensated by such organization for managing the investment of, or providing investment advice with respect to, assets maintained in donor advised funds (as defined in section 4967(g)(2)) owned by such organization.''.

(3) DONORS, DONOR ADVISORS, AND INVESTMENT ADVISORS TREATED AS DISQUALIFIED PERSONS WITH RESPECT TO A SPONSORING ORGANIZATION WHICH IS A PRIVATE FOUNDATION.—Section 4946(a)(1) is amended by striking ''and'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', and'', and by adding at the end the following new subparagraph:

''(J) a person described in section 4958(f)(1)(D).''.

(b) CERTAIN TRANSACTIONS TREATED AS EXCESS BENEFIT TRANSACTIONS.—

(1) IN GENERAL.—Section 4958(c) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) SPECIAL RULES FOR DONOR ADVISED FUNDS OWNED BY SPONSORING ORGANIZATIONS.—In the case of any donor advised fund (as defined in section 4967(g)(2)) of a sponsoring organization (as defined in section 4967(g)(1))—

''(A) the term 'excess benefit transaction' includes any grant, loan, compensation, or other payment from such fund to a person described in subsection (f)(1)(D) (determined without regard to any investment advisor) with respect to such fund, and

''(B) the term 'excess benefit' includes, with respect to any transaction described in subparagraph (A), the amount of any such grant, loan, compensation, or other payment.

Notwithstanding the last sentence of subsection (e), a sponsoring organization shall be treated as an applicable tax-exempt organization to the extent necessary to carry out this paragraph.''.

(2) SPECIAL RULE FOR CORRECTION OF TRANSACTION.—Section 4958(f)(6) is amended by inserting '', except that in the case of any correction of an excess benefit transaction described in subsection (c)(2), no amount repaid in a manner prescribed by the Secretary may be held in, or credited to, any donor advised fund'' after ''standards''.

(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. 233. TREATMENT OF CHARITABLE CONTRIBUTION DEDUCTIONS TO DONOR ADVISED FUNDS.**

(a) INCOME.—Section 170(f) (relating to disallowance of deduction in certain cases and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(17) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

''(A) IN GENERAL.—A deduction otherwise allowed under subsection (a) for any contribution to a sponsoring organization (as defined in section 4967(g)(1)) to be maintained in any donor advised fund (as defined in section 4967(g)(2)) of such organization shall only be allowed if—

''(i) such sponsoring organization is not described in paragraph (3), (4), or (5) of subsection (c) or section 509(a)(3), and

''(ii) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of paragraph (8)(C) from the sponsoring organization that such organization has exclusive legal control over the assets contributed.

''(B) CONTRIBUTIONS TO TYPE I OR TYPE II SUPPORTING ORGANIZATIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a contribution to a sponsoring organization (as so defined) described in clause (ii) to be maintained in any donor advised fund (as so defined) of such organization shall be allowed to the extent not prohibited by regulations.

''(ii) ORGANIZATION DESCRIBED.—An organization is described in this clause if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

''(I) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

''(II) supervised or controlled in connection with one or more such organizations.''.

(b) ESTATE.—Section 2055(e) is amended by adding at the end the following new paragraph:

''(5) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

''(A) IN GENERAL.—A deduction otherwise allowed under subsection (a) for any contribution to a sponsoring organization (as defined in section 4967(g)(1)) to be maintained in any donor advised fund (as defined in section 4967(g)(2)) of such organization shall only be allowed if—

''(i) such sponsoring organization is not described in paragraph (3) or (4) of subsection (a) or section 509(a)(3), and

''(ii) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of section 170(f)(8)(C)) from the sponsoring organization that such organization has exclusive legal control over the assets contributed.

''(B) CONTRIBUTIONS TO TYPE I OR TYPE II SUPPORTING ORGANIZATIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a contribution to a sponsoring organization (as so defined) described in clause (ii) to be maintained in any donor advised fund (as so defined) of such organization shall be allowed to the extent not prohibited by regulations.

''(ii) ORGANIZATION DESCRIBED.—An organization is described in this clause if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

''(I) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

''(II) supervised or controlled in connection with one or more such organizations.''.

(c) GIFT.—Section 2522(c) is amended by adding at the end the following new paragraph:

''(13) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

''(A) IN GENERAL.—A deduction otherwise allowed under subsection (a) for any contribution to a sponsoring organization (as defined in section 4967(g)(1)) to be maintained in any donor advised fund (as defined in section 4967(g)(2)) of such organization shall only be allowed if—

''(i) such sponsoring organization is not described in paragraph (3) or (4) of subsection (a) or section 509(a)(3), and

''(ii) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of section 170(f)(8)(C)) from the sponsoring organization that such organization has exclusive legal control over the assets contributed.

''(B) CONTRIBUTIONS TO TYPE I OR TYPE II SUPPORTING ORGANIZATIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a contribution to a sponsoring organization (as so defined) described in clause (ii) to be maintained in any donor advised fund (as so defined) of such organization shall be allowed to the extent not prohibited by regulations.

''(ii) ORGANIZATION DESCRIBED.—An organization is described in this clause if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

''(I) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

''(II) supervised or controlled in connection with one or more such organizations.''.

(d) REGULATIONS.—The regulations prescribed under sections 170(f)(17)(B)(i), 2055(e)(5)(B)(i), 2522(c)(13)(B)(i), 4967(e)(i)(A)(ii), and 4968(c)(2) of the Internal Revenue Code of 1986 shall deny a deduction for contributions to sponsoring organizations (as defined in section 4967(g)(1) of such Code) which are described in section 170(f)(17)(B)(ii) of such Code and shall apply excise taxes to distributions from donor advised funds (as defined in section 4967(g)(2) of such Code) and sponsoring organizations (as so defined) to organizations so described in cases where the donor of the contributions or the donor or donor advisor of the amounts distributed directly or indirectly controls a supported organization (as defined in section 509(f)(3) of such Code) of such organization.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date which is 180 days after the date of the enactment of this Act.

**SEC. 234. RETURNS OF, AND APPLICATIONS FOR RECOGNITION BY, SPONSORING ORGANIZATIONS.**

(a) MATTERS INCLUDED ON RETURNS.—

(1) IN GENERAL.—Section 6033, as amended by this Act, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—Every organization described in section 4967(g)(1) shall, on the return required under subsection (a) for the taxable year—

''(1) list the total number of donor advised funds (as defined in section 4967(g)(2)) it owns at the end of such taxable year,

''(2) indicate the aggregate value of assets held in such funds at the end of such taxable year, and

''(3) indicate the aggregate contributions to and grants made from such funds during such taxable year.''.

(2) EXTENSION OF STATUTE OF LIMITATIONS.—Section 6501(c) is amended by adding at the end the following new paragraph:

''(11) DONOR ADVISED FUNDS.—If a sponsoring organization (as defined in section 4967(g)(1)) fails to include on any return for any taxable year any information with respect to any donor advised fund of such organization which is required under section 6033(j) to be included with such return, the time for assessment of any tax imposed under subchapter G of chapter 42 with respect to any distribution from such donor advised fund shall not expire before the date which is 3 years after the date on which the secretary is furnished the information so required.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to returns filed for taxable years ending after the date of the enactment of this Act.

(b) MATTERS INCLUDED ON EXEMPT STATUS APPLICATION.—

(1) IN GENERAL.—Section 508 is amended by adding at the end the following new subsection:

''(f) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—A sponsoring organization (as defined in section 4967(g)(1)) shall give notice to the Secretary (in such manner as the Secretary may provide) whether such organization maintains or intends to maintain donor advised funds (as defined in section 4967(g)(2)) and the manner in which such organization plans to operate such funds.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to organizations applying for tax-exempt status after the date of the enactment of this Act.

## PART III—IMPROVED ACCOUNTABILITY OF SUPPORTING ORGANIZATIONS

**SEC. 241. REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.**

(a) TYPES OF SUPPORTING ORGANIZATIONS.—Subparagraph (B) of section 509(a)(3) is amended to read as follows:

''(B) is—

''(i) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2),

''(ii) supervised or controlled in connection with one or more such organizations, or

''(iii) operated in connection with one or more such organizations, and''.

(b) REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.—Section 509 (relating to private foundation defined) is amended by adding at the end the following new subsection:

''(f) REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.—

''(1) TYPE III SUPPORTING ORGANIZATIONS.—For purposes of subsection (a)(3)(B)(iii), an organization shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of subsection (a) unless such organization meets the following requirements:

''(A) APPLICATION REQUIREMENT.—The organization provides to the Secretary, as a part of any notification filed under section 508(a) after the date of the enactment of this subsection, a letter from each supported organization acknowledging that the supported organization has been designated by such organization as a supported organization.

''(B) RESPONSIVENESS.—For each taxable year beginning after the date of the enactment of this subsection, the organization provides to each supported organization such information as the Secretary may require to ensure that such organization is responsive to the needs or demands of the supported organization.

''(C) SUPPORTED ORGANIZATIONS.—

''(i) IN GENERAL.—The organization—

''(I) is not operated in connection with more than 5 supported organizations, and

''(II) is not operated in connection with any supported organization that is not organized in the United States on any date after the date which is 180 days after the date of the enactment of this subsection.

''(ii) SPECIAL RULE FOR EXISTING ORGANIZATIONS.—If the organization is operated in connection with more than 5 supported organizations on the date of the enactment of this subsection—

''(I) clause (i)(I) shall not apply, and

''(II) the organization may not be operated in connection with any other organization after such date unless the total number of supported organizations is 5 or less.

''(D) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—The organization makes no contributions to or for the use of any donor advised fund (as defined in section 4967(g)(2)).

''(2) ORGANIZATIONS CONTROLLED BY DONORS.—

''(A) IN GENERAL.—For purposes of subsection (a)(3)(B), an organization shall not be considered to be—

''(i) operated, supervised, or controlled by any organization described in paragraph (1) or (2) of subsection (a), or

''(ii) operated in connection with any organization described in paragraph (1) or (2) of subsection (a),

if such organization accepts any gift or contribution from any person described in subparagraph (B).

''(B) PERSON DESCRIBED.—A person is described in this subparagraph if such person is—

''(i) a person (other than an organization described in paragraph (1), (2), or (4) of section 509(a)) who controls, directly or indirectly, either alone or together with persons described in clauses (ii) and (iii), the governing body of a supported organization,

''(ii) a member of the family (determined under section 4958(f)(4)) of an individual described in clause (i), or

''(iii) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 509(f)(2)(B)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

''(3) SUPPORTED ORGANIZATION.—For purposes of this subsection, the term 'supported organization' means, with respect to an organization described in subsection (a)(3), an organization described in paragraph (1) or (2) of subsection (a)—

''(A) for whose benefit the organization described in subsection (a)(3) is organized and operated, or

''(B) with respect to which the organization performs the functions of, or carries out the purposes of.''.

(c) CHARITABLE TRUSTS WHICH ARE TYPE III SUPPORTING ORGANIZATIONS.—For purposes of section 509(a)(3)(B)(iii) of the Internal Revenue Code of 1986, an organization which is a trust shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of section 509(a) of such Code solely because—

(1) it is a charitable trust under State law,

(2) the supported organization (as defined in section 509(f)(3) of such Code) is a beneficiary of such trust, and

(3) the supported organization (as so defined) has the power to enforce the trust and compel an accounting.

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

**SEC. 242. EXCISE TAX ON SUPPORTING ORGANIZATIONS FOR FAILURE TO MEET DISTRIBUTION REQUIREMENTS.**

(a) IN GENERAL.—Subchapter D of chapter 42 (relating to failure by certain charitable organizations to meet certain qualification requirements) is amended by adding at the end the following new section:

**''SEC. 4959. TAXES ON CERTAIN SUPPORTING ORGANIZATIONS FAILING TO MEET DISTRIBUTION REQUIREMENTS.**

''(a) INITIAL TAX.—There is hereby imposed on the undistributed income of any type III supporting organization for any taxable year, which has not been distributed before the first day of the second (or any succeeding) taxable year following such taxable year (if such first day falls within the taxable period), a tax equal to 30 percent of the amount of such income remaining undistributed at the beginning of such second (or succeeding) taxable year.

''(b) ADDITIONAL TAX.—In any case in which an initial tax is imposed under subsection (a) on the undistributed income of a type III supporting organization for any taxable year, if any portion of such income remains undistributed at the close of the taxable period, there is hereby imposed a tax equal to 100 percent of the amount remaining undistributed at such time.

''(c) UNDISTRIBUTED INCOME.—For purposes of this section, the term 'undistributed income' means, with respect to any type III supporting organization for any taxable year as of any time, the amount by which—

''(1) the distributable amount for such taxable year, exceeds

''(2) the qualifying distributions made before such time out of such distributable amount.

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

''(1) IN GENERAL.—the term 'distributable amount' means, with respect to any type III supporting organization for any taxable year, an amount equal to the sum of—

''(A) the greater of—

''(i) 85 percent of the adjusted net income (as defined in section 4942(f)) of the type III supporting organization for the preceding taxable year, or

''(ii) the applicable percentage of the fair market value of the aggregate assets of such organization (other than assets used or held to perform the functions of, or carry out the purposes of, a supported organization) on the last day of the preceding taxable year, and

''(B) any amount received during the preceding taxable year which is a repayment of amounts paid by the organization in any prior taxable year to a supported organization exclusively for the benefit of such supported organization or to perform the functions of, or carry out the purposes of such supported organization.

''(2) INVESTMENT ASSETS.—For purposes of paragraph (1)(A)(ii), assets held for investment or for the operation of an unrelated trade or business shall not be considered as assets used or held to perform the functions of, or carry out the purposes of, a supported organization.

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)(A)(ii), the applicable percentage is—

''(A) 3 percent for the first taxable year beginning after the date of the enactment of this section,

''(B) 4 percent for the second taxable year beginning after such date, and

''(C) 5 percent for any taxable year beginning after the second taxable year beginning after such date.

''(e) QUALIFYING DISTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying distribution' means amounts paid by the type III supporting organization to or for the use of a supported organization.

''(2) ADMINISTRATIVE AND OPERATING EXPENSES.—Reasonable and necessary administrative expenses of a type III supporting organization shall be treated as a qualifying distribution to a supported organization.

''(f) TREATMENT OF QUALIFYING DISTRIBUTIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), any qualifying distribution made during a taxable year shall be treated as made—

''(A) first out of the undistributed income of the immediately preceding taxable year (if the type III supporting organization was subject to the tax imposed by this section for such preceding taxable year) to the extent thereof, and

''(B) second out of the undistributed income for the taxable year to the extent thereof.

For purposes of this paragraph, distributions shall be taken into account in the order of time in which made.

''(2) CORRECTION OF DEFICIENT DISTRIBUTIONS FOR PRIOR TAXABLE YEARS, ETC.—In the case of any qualifying distribution which (under paragraph (1)) is not treated as made out of the undistributed income of the immediately preceding taxable year, the type III supporting organization may elect to treat any portion of such distribution as made out of the undistributed income of a designated prior taxable year. The election shall be made by the type III supporting organization at such time and in such manner as the Secretary shall by regulations prescribe.

''(g) ADJUSTMENT OF DISTRIBUTABLE AMOUNT WHERE DISTRIBUTIONS DURING PRIOR YEARS HAVE EXCEEDED INCOME.—

''(1) IN GENERAL.—If, for the taxable years in the adjustment period for which an organization is a type III supporting organization—

''(A) the aggregate qualifying distributions treated (under subsection (f)) as made out of the undistributed income for such taxable years, exceeds

''(B) the distributable amounts for such taxable years (determined without regard to this subsection),

then, for purposes of this section (other than subsection (f)), the distributable amount for the taxable year shall be reduced by an amount equal to such excess.

''(2) TAXABLE YEARS IN ADJUSTMENT PERIOD.—For purposes of paragraph (1), with respect to any taxable year of a type III supporting organization, the taxable years in the adjustment period are the taxable years (not exceeding 5) beginning after the date of the enactment of this section and immediately preceding the taxable year.

''(h) OTHER DEFINITIONS.—For purposes of this section—

''(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to the undistributed income for any taxable year, the period beginning with the first day of the taxable year and ending on the earlier of—

''(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212, or

''(B) the date on which the tax imposed by subsection (a) is assessed.

''(2) TYPE III SUPPORTING ORGANIZATION.—The term 'type III supporting organization' means an organization which meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and which is operated in connection with one or more organizations described in paragraph (1) or (2) of section 509(a).

''(3) SUPPORTED ORGANIZATION.—The term 'supported organization' has the meaning given such term under section 509(f)(3).''.

(b) CONFORMING AMENDMENT.—The table of sections for subchapter D of chapter 42 is amended by inserting after the item relating to section 4958 the following new item:

''Sec. 4959. Taxes on certain supporting organizations failing to meet distribution requirements.''.

(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. 243. EXCESS BENEFIT TRANSACTIONS.**

(a) IN GENERAL.—Section 4958(c), as amended by this Act, is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR SUPPORTING ORGANIZATIONS.—

''(A) IN GENERAL.—In the case of any organization described in section 509(a)(3)—

''(i) the term 'excess benefit transaction' includes—

''(I) any grant, loan, compensation, or other payment provided by such organization to a person described in subparagraph (B), and

''(II) any loan provided by such organization to a disqualified person (other than an organization described in paragraph (1), (2), or (4) of section 509(a)), and

''(ii) the term 'excess benefit' includes, with respect to any transaction described in clause (i), the amount of any such grant, loan, compensation, or other payment.

''(B) PERSON DESCRIBED.—A person is described in this subparagraph if such person is—

''(i) a substantial contributor to such organization,

''(ii) a member of the family (determined under section 4958(f)(4)) of an individual described in clause (i), or

''(iii) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 4958(c)(3)(B)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

''(C) SUBSTANTIAL CONTRIBUTOR.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'substantial contributor' means any person who contributed or bequeathed an aggregate amount of more than $5,000 to the organization, if such amount is more than 2 percent of the total contributions and bequests received by the organization before the close of the taxable year of the organization in which the contribution or bequest is received by the organization from such person. In the case of a trust, such term also means the creator of the trust.

''(ii) EXCEPTION.—Such term shall not include any organization described in paragraph (1), (2), or (4) of section 509(a).''.

(b) DISQUALIFIED PERSONS.—Paragraph (1) of section 4958(f), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', and'', and by adding after subparagraph (D) the following new subparagraph:

''(E) any person who is described in subparagraph (A), (B), or (C) with respect to an organization described in section 509(a)(3) which is organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of the applicable tax-exempt organization.''.

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

**SEC. 244. EXCESS BUSINESS HOLDINGS OF SUPPORTING ORGANIZATIONS.**

(a) IN GENERAL.—Section 4943 is amended by adding at the end the following new subsection:

''(e) APPLICATION OF TAX TO SUPPORTING ORGANIZATIONS.—

''(1) IN GENERAL.—For purposes of this section, a qualified supporting organization shall be treated as a private foundation.

''(2) EXCEPTION.—The Secretary may exempt any qualified supporting organization from the application of this subsection if the Secretary determines that the excess business holdings of such organization are consistent with the purpose or function constituting the basis for its exemption under section 501.

''(3) QUALIFIED SUPPORTING ORGANIZATION.—For purposes of this subsection, the term 'qualified supporting organization' means any—

''(A) type III supporting organization (as defined in section 4959(h)(2)), or

''(B) organization which meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and which is supervised or controlled in connection with or one or more organizations described in paragraph (1) or (2) of section 509(a), but only if such organization accepts any gift or contribution from any person described in section 509(f)(2)(B).

''(4) DISQUALIFIED PERSON.—

''(A) IN GENERAL.—In applying this section to any organization described in section 509(a)(3), the term 'disqualified person' means, with respect to the organization—

''(i) any person who was, at any time during the 5-year period ending on date described in subsection (a)(2)(A), in a position to exercise substantial influence over the affairs of the organization,

''(ii) any member of the family (determined under section 4958(f)(4)) of an individual described in clause (i),

''(iii) any 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 4943(e)(2)(A)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof),

''(iv) any person described in section 4958(c)(3)(B), and

''(v) any organization—

''(I) which is effectively controlled (directly or indirectly) by the same person or persons who control the organization in question, or

''(II) substantially all of the contributions to which were made (directly or indirectly) by the same person or persons described in subparagraph (B) or a member of their family (within the meaning of section 4946(d)) who made (directly or indirectly) substantially all of the contributions to the organization in question.

''(B) PERSONS DESCRIBED.—A person is described in this subparagraph if such person is—

''(i) a substantial contributor to the organization (as defined in section 4958(c)(3)(C)),

''(ii) an officer, director, or trustee of the organization (or an individual having powers or responsibilities similar to those officers, directors, or trustees of the organization), or

''(iii) an owner of more than 20 percent of—

''(I) the total combined voting power of a corporation,

''(II) the profits interest of a partnership, or

''(III) the beneficial interest of a trust or unincorporated enterprise,

which is a substantial contributor (as so defined) to the organization.

''(5) SPECIAL RULE FOR CERTAIN HOLDINGS OF TYPE III SUPPORTING ORGANIZATIONS.—For purposes of this subsection, the term 'excess business holdings' shall not include any holdings of a type III supporting organization (as defined in section 4959(h)(2)) in any business enterprise if the holdings are held for the benefit of the community pursuant to the direction of a State attorney general or a State official with jurisdiction over the type III supporting organization.

''(6) PRESENT HOLDINGS.—For purposes of this subsection, rules similar to the rules of paragraphs (4), (5), and (6) of subsection (c) shall apply to organizations described in section 509(a)(3), except that—

''(A) 'the date of the enactment of this subsection' shall be substituted for 'May 26, 1969' each place it appears in paragraphs (4), (5), and (6), and

''(B) 'January 1, 2007' shall be substituted for 'January 1, 1970' in paragraph (4)(E).''.

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

**SEC. 245. TREATMENT OF AMOUNTS PAID TO SUPPORTING ORGANIZATIONS BY PRIVATE FOUNDATIONS.**

(a) QUALIFYING DISTRIBUTIONS.—Paragraph (4) of section 4942(g) is amended to read as follows:

''(4) LIMITATION ON DISTRIBUTIONS BY NONOPERATING PRIVATE FOUNDATIONS TO SUPPORTING ORGANIZATIONS.—For purposes of this section, the term 'qualifying distribution' shall not include any amount paid by a private foundation which is not an operating foundation to an organization described in section 509(a)(3).''.

(b) TAXABLE EXPENDITURES.—

(1) IN GENERAL.—Subsection (d) of section 4945 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) to an organization described in section 509(a)(3),''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4945(d)(5), as redesignated by subparagraph (A), is amended—

(i) by striking ''a grant to an organization'' and inserting ''a grant to any other organization'', and

(ii) by striking ''paragraph (1), (2), or (3) of section 509(a)'' in subparagraph (A) and inserting ''paragraph (1) or (2) of section 509(a)''.

(B) Section 4945(f) is amended by striking ''Subsection (d)(4)'' in the last sentence thereof and inserting ''Subsection (d)(5)''.

(C) Section 4945(h) is amended by striking ''subsection (d)(4)'' and inserting ''subsection (d)(5)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions and expenditures after the date of the enactment of this Act.

**SEC. 246. RETURNS OF SUPPORTING ORGANIZATIONS.**

(a) REQUIREMENT TO FILE RETURN.—Subparagraph (B) of section 6033(a)(3), as redesignated by this Act, is amended by inserting ''(other than an organization described in section 509(a)(3))'' after ''paragraph (1)''.

(b) MATTERS INCLUDED ON RETURNS.—Section 6033, as amended by this Act, is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) ADDITIONAL PROVISIONS RELATING TO SUPPORTING ORGANIZATIONS.—

''(1) IN GENERAL.—Every organization described in section 509(a)(3) shall, on the return required under subsection (a)—

''(A) list the organizations described in section 509(a)(3)(A) with respect to which such organization provides support,

''(B) indicate whether the organization meets the requirements of clause (i), (ii), or (iii) of section 509(a)(3)(B), and

''(C) certify that the organization meets the requirements of section 509(a)(3)(C).

''(2) TYPE III SUPPORTING ORGANIZATIONS.—Every type III supporting organization (as defined in section 4959(h)(2)) shall indicate on the return required under subsection (a) for the taxable year whether the organization has received a letter from each supported organization (as defined in section 509(f)(3)) during the taxable year which—

''(A) acknowledges that the supporting organization has designated such organization as a supported organization,

''(B) details the type of support provided by the supporting organization, and

''(C) explains how such support furthers the charitable purpose of the supported organization.''.

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

## TITLE III—MISCELLANEOUS PROVISIONS

### SEC. 301. RESTRUCTURING OF NEW YORK LIBERTY ZONE TAX CREDITS.

(a) IN GENERAL.—Subchapter Y of chapter 1 is amended by adding at the end the following new section:

**''SEC. 1400M. NEW YORK LIBERTY ZONE TAX CREDITS.**

''(a) IN GENERAL.—There shall be allowed as a credit against any taxes imposed by this title (other than by section 3111(a), section 3403, or subtitle D) paid or incurred by any governmental unit of the State of New York and the City of New York, New York (including any agency or instrumentality thereof) for any calendar year an amount equal to the lesser of—

''(1) the total expenditures during such year by such governmental unit for qualifying projects, or

''(2) the amount allocated to such governmental unit for such calendar year under subsection (b)(2).

''(b) QUALIFYING PROJECT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying project' means any transportation infrastructure project, including highways, mass transit systems, railroads, airports, ports, and waterways, in or connecting with the New York Liberty Zone (as defined in section 1400L(h)), which is designated as a qualifying project under this section jointly by the Governor of the State of New York and the Mayor of the City of New York, New York.

''(2) DOLLAR LIMITATION.—

''(A) IN GENERAL.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly allocate to a governmental unit the amount of expenditures which may be taken into account under subsection (a) for any calendar year in the credit period with respect to a qualifying project.

''(B) AGGREGATE LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for all calendar years in the credit period shall not exceed $2,000,000,000.

''(C) ANNUAL LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for any calendar year in the credit period shall not exceed the sum of—

''(i) $200,000,000, plus

''(ii) the aggregate amount authorized to be allocated under this paragraph for all preceding calendar years in the credit period which was not so allocated.

''(D) UNALLOCATED AMOUNTS AT END OF CREDIT PERIOD.—If, as of the close of the credit period, the amount under subparagraph (B) exceeds the aggregate amount allocated under subparagraph (A) for all calendar years in the credit period, the Governor of the State of New York and the Mayor of the City of New York, New York, may jointly allocate for any calendar year following the credit period for expenditures with respect to qualifying projects which may be taken into account under subsection (a) an amount equal to such excess, reduced by the aggregate amount allocated under this subparagraph for all preceding calendar years.

''(c) CARRYOVER OF UNUSED ALLOCATIONS.—

''(1) IN GENERAL.—If the amount allocated under subsection (b)(2) to a governmental unit for any calendar year exceeds the total expenditures for such year by such governmental unit for qualifying projects, the allocation of such governmental unit for the succeeding calendar year shall be increased by the amount of such excess.

''(2) REALLOCATION.—If a governmental unit does not use an amount allocated to it under subsection (b)(2) within the time prescribed by the Governor of the State of New York and the Mayor of the City of New York, New York, then such amount shall after such time be treated for purposes of subsection (b)(2) in the same manner as if it had never been allocated.

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

''(1) CREDIT PERIOD.—The term 'credit period' means the 10-year period beginning on January 1, 2006.

''(2) TREATMENT OF FUNDS.—Any expenditure for a qualifying project taken into account for purposes of the credit under this section shall be considered State and local funds for the purpose of any Federal program.

''(e) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to ensure compliance with the purposes of this section.''.

(b) TERMINATION OF CERTAIN NEW YORK LIBERTY ZONE BENEFITS.—

(1) SPECIAL ALLOWANCE AND EXPENSING.—Section 1400L(b)(2)(A)(v) is amended by striking ''the termination date'' and inserting ''the date of the enactment of the Tax Relief Act of 2005 or the termination date if pursuant to a binding contract in effect on such enactment date''.

(2) LEASEHOLD.—Section 1400L(c)(2)(B) is amended by striking ''before January 1, 2007'' and inserting ''on or before the date of the enactment of the Tax Relief Act of 2005 or before January 1, 2007, if pursuant to a binding contract in effect on such enactment date''.

### SEC. 302. MODIFICATION TO S CORPORATION PASSIVE INVESTMENT INCOME RULES.

(a) INCREASED PERCENTAGE LIMIT.—Paragraph (2) of section 1375(a) is amended by striking ''25 percent'' and inserting ''60 percent''.

(b) OTHER PROVISIONS.—

(1) REPEAL OF EXCESSIVE PASSIVE INCOME AS A TERMINATION EVENT.—Section 1362(d) is amended by striking paragraph (3).

(2) CAPITAL GAIN NOT TREATED AS PASSIVE INVESTMENT INCOME.—Subsection (b) of section 1375 is amended by striking paragraphs (3) and (4) and inserting the following new paragraph:

''(3) PASSIVE INVESTMENT INCOME DEFINED.—

''(A) Except as otherwise provided in this paragraph, the term 'passive investment income' means gross receipts derived from royalties, rents, dividends, interest, and annuities.

''(B) EXCEPTION FOR INTEREST ON NOTES FROM SALES OF INVENTORY.—The term 'passive investment income' shall not include interest on any obligation acquired in the ordinary course of the corporation's trade or business from its sale of property described in section 1221(a)(1).

''(C) TREATMENT OF CERTAIN LENDING OR FINANCE COMPANIES.—If the S corporation meets the requirements of section 542(c)(6) for the taxable year, the term 'passive investment income' shall not include gross receipts for the taxable year which are derived directly from the active and regular conduct of a lending or finance business (as defined in section 542(d)(1)).

''(D) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.

''(E) EXCEPTION FOR BANKS, ETC.—In the case of a bank (as defined in section 581) or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)), 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.

''(F) COORDINATION WITH SECTION 1374.—The amount of passive investment income shall be determined by not taking into account any recognized built-in gain or loss of the S corporation for any taxable year in the recognition period. Terms used in the preceding sentence shall have the same respective meanings as when used in section 1374.''.

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (J) of section 26(b)(2) is amended by striking ''25 percent'' and inserting ''60 percent''.

(2) Clause (i) of section 1042(c)(4)(A) is amended by striking ''section 1362(d)(3)(C)'' and inserting ''section 1375(b)(3)''.

(3) Subparagraph (B) of section 1362(f)(1) is amended by striking ''or (3)''.

(4) Clause (i) of section 1375(b)(1)(A) is amended by striking ''25 percent'' and inserting ''60 percent''.

(5) The heading for section 1375 is amended by striking ''**25 PERCENT**'' and inserting ''**60 PERCENT**''.

(6) The item relating to section 1375 in the table of sections for part III of subchapter S of chapter 1 is amended by striking ''25 percent'' and inserting ''60 percent''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006 and before October 1, 2009.

### SEC. 303. MODIFICATION OF EFFECTIVE DATE OF DISREGARD OF CERTAIN CAPITAL EXPENDITURES FOR PURPOSES OF QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Section 144(a)(4)(G) is amended by striking ''September 30, 2009'' and inserting ''December 31, 2006''.

(b) CONFORMING AMENDMENT.—Section 144(a)(4)(F) is amended by striking ''September 30, 2009'' and inserting ''December 31, 2006''.

### SEC. 304. PREMIUMS FOR MORTGAGE INSURANCE.

(a) IN GENERAL.—Section 163(h)(3) (relating to qualified residence interest) is amended by adding at the end the following new subparagraph:

''(E) MORTGAGE INSURANCE PREMIUMS TREATED AS INTEREST.—

''(i) IN GENERAL.—Premiums paid or accrued for qualified mortgage insurance by a taxpayer during the taxable year in connection with acquisition indebtedness with respect to a qualified residence of the taxpayer shall be treated for purposes of this section as interest which is qualified residence interest.

''(ii) PHASEOUT.—The amount otherwise treated as interest under clause (i) shall be reduced (but not below zero) by 10 percent of such amount for each $1,000 ($500 in the case of a married individual filing a separate return) (or fraction thereof) that the taxpayer's adjusted gross income for the taxable year exceeds $100,000 ($50,000 in the case of a married individual filing a separate return).''.

(b) DEFINITION AND SPECIAL RULES.—Section 163(h)(4) (relating to other definitions and special rules) is amended by adding at the end the following new subparagraphs:

''(E) QUALIFIED MORTGAGE INSURANCE.—The term 'qualified mortgage insurance' means—

''(i) mortgage insurance provided by the Veterans Administration, the Federal Housing Administration, or the Rural Housing Administration, and

''(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subparagraph).

''(F) SPECIAL RULES FOR PREPAID QUALIFIED MORTGAGE INSURANCE.—Any amount paid by the taxpayer for qualified mortgage insurance that is properly allocable to any mortgage the payment of which extends to periods that are after the close of the taxable year in which such amount is paid shall be chargeable to capital account and shall be treated as paid in such periods to which so allocated. No deduction shall be allowed for the unamortized balance of such account if such mortgage is satisfied before the end of its term. The preceding sentences shall not apply to amounts paid for qualified mortgage insurance provided by the Veterans Administration or the Rural Housing Administration.''.

(c) INFORMATION RETURNS RELATING TO MORTGAGE INSURANCE.—Section 6050H (relating to returns relating to mortgage interest received in trade or business from individuals) is amended by adding at the end the following new subsection:

''(h) RETURNS RELATING TO MORTGAGE INSURANCE PREMIUMS.—

''(1) IN GENERAL.—The Secretary may prescribe, by regulations, that any person who, in the course of a trade or business, receives from any individual premiums for mortgage insurance aggregating $600 or more for any calendar year, shall make a return with respect to each such individual. Such return shall be in such form, shall be made at such time, and shall contain such information as the Secretary may prescribe.

''(2) STATEMENT TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under paragraph (1) shall furnish to each individual with respect to whom a return is made a written statement showing such information as the Secretary may prescribe. Such written statement shall be furnished on or before January 31 of the year following the calendar year for which the return under paragraph (1) was required to be made.

''(3) SPECIAL RULES.—For purposes of this subsection—

''(A) rules similar to the rules of subsection (c) shall apply, and

''(B) the term 'mortgage insurance' means—

''(i) mortgage insurance provided by the Veterans Administration, the Federal Housing Administration, or the Rural Housing Administration, and

''(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subsection).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued during the period beginning after December 31, 2006, and before January 1, 2008, and properly allocable to such period, with respect to mortgage insurance contracts issued after December 31, 2006.

**SEC. 305. SENSE OF THE SENATE ON USE OF NO-BID CONTRACTING BY FEDERAL EMERGENCY MANAGEMENT AGENCY.**

(a) FINDINGS.—The Senate finds that—

(1) on September 8, 2005, the Federal Emergency Management Agency announced that it had awarded 4 contracts for emergency housing relief following Hurricane Katrina to The Shaw Group of Baton Rouge, Louisiana, Fluor Corporation of Aliso Viejo, California, Bechtel National of San Francisco, California, and CH2M Hill of Denver, Colorado;

(2) these contracts were awarded with no competition from other capable firms, and up to $100,000,000 in taxpayer funds were authorized for each of these contracts;

(3) in the midst of concerns about abusive and irresponsible spending of taxpayer funds, the Federal Emergency Management Agency pledged to re-bid these noncompetitive contracts, with Acting Under Secretary of Emergency Preparedness and Response, R. David Paulison, stating before the Committee on Homeland Security and Government Affairs of the Senate that ''[a]ll of these no-bid contracts, we are going to go back and re-bid'';

(4) the Federal Emergency Management Agency has yet to reopen these 4 contracts to competitive bidding, and declared on November 11, 2005, that these contracts would not be reopened for bidding until February 2006;

(5) by February 2006, the majority of the contracts will have been completed and the majority of taxpayer funds will have been spent;

(6) large and politically-connected firms continue to benefit from no-bid and limited-competition contracts, and contracts are not being awarded to capable, local companies;

(7) according to an analysis in the Washington Post, companies outside the States most affected by Hurricane Katrina have received more than 90 percent of the Federal contracts for recovery and reconstruction;

(8) the monitoring of Federal contracting practices remains difficult, with a report by the San Jose Mercury News stating ''The database of contracts is incomplete. Information released by Federal agencies is spotty and sporadic. And disclosure of many no-bid contracts isn't required by law''; and

(9)(A) there is currently no Chief Financial Officer charged with monitoring the flow of all funds to the affected areas; and

(B) the task of financial management is spread across disparate Federal departments and agencies with inadequate oversight of taxpayer funds.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Federal Emergency Management Agency should—

(1) immediately rebid noncompetitive contracts entered into following Hurricane Katrina, consistent with the commitment of the Agency made on October 6, 2005, before millions of taxpayer dollars are wasted on irresponsible and inefficient spending;

(2)(A) immediately implement the planned competitive contracting strategy of the Agency for recovery work in all current and future reconstruction efforts; and

(B) in carrying out that strategy, should prioritize local and small disadvantaged businesses in the contracting and subcontracting process; and

(3) immediately after the awarding of a contract, publicly disclose the amount and competitive or noncompetitive nature of the contract.

**SEC. 306. SENSE OF CONGRESS REGARDING DOHA ROUND.**

(a) FINDINGS.—The Congress makes the following findings:

(1) Members of the World Trade Organization (WTO) are currently engaged in a round of trade negotiations known as the Doha Development Agenda (Doha Round).

(2) The Doha Round includes negotiations aimed at clarifying and improving disciplines under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Antidumping Agreement) and the Agreement on Subsidies and Countervailing Measures (Subsidies Agreement).

(3) The WTO Ministerial Declaration adopted on November 14, 2001 (WTO Paper No. WT/MIN(01)/DEC/1) specifically provides that the Doha Round negotiations are to preserve the ''basic concepts, principles and effectiveness'' of the Antidumping Agreement and the Subsidies Agreement.

(4) In section 2102(b)(14)(A) of the Bipartisan Trade Promotion Authority Act of 2002, the Congress mandated that the principal negotiating objective of the United States with respect to trade remedy laws was to ''preserve the ability of the United States to enforce rigorously its trade laws . . . and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies''.

(5) The countries that have been the most persistent and egregious violators of international fair trade rules are engaged in an aggressive effort to significantly weaken the disciplines provided in the Antidumping Agreement and the Subsidies Agreement and undermine the ability of the United States to effectively enforce its trade remedy laws.

(6) Chronic violators of fair trade disciplines have put forward proposals that would substantially weaken United States trade remedy laws and practices, including mandating that unfair trade orders terminate after a set number of years even if unfair trade and injury are likely to recur, mandating that trade remedy duties reflect less than the full margin of dumping or subsidization, mandating higher de minimis levels of unfair trade, making cumulation of the effects of imports from multiple countries more difficult in unfair trade investigations, outlawing the critical practice of ''zeroing'' in antidumping investigations, mandating the weighing of causes, and mandating other provisions that make it more difficult to prove injury.

(7) United States trade remedy laws have already been significantly weakened by numerous unjust and activist WTO dispute settlement decisions which have created new obligations to which the United States never agreed.

(8) Trade remedy laws remain a critical resource for American manufacturers, agricultural producers, and aquacultural producers in responding to closed foreign markets, subsidized imports, and other forms of unfair trade, particularly in the context of the challenges currently faced by these vital sectors of the United States economy.

(9) The United States had a current account trade deficit of approximately $668,000,000,000 in 2004, including a trade deficit of almost $162,000,000,000 with China alone, as well as a trade deficit of $40,000,000,000 in advanced technology.

(10) United States manufacturers have lost over 3,000,000 jobs since June 2000, and United States manufacturing employment is currently at its lowest level since 1950.

(11) Many industries critical to United States national security are at severe risk from unfair foreign competition.

(12) The Congress strongly believes that the proposals put forward by countries seeking to undermine trade remedy disciplines in the Doha Round would result in serious harm to the United States economy, including significant job losses and trade disadvantages.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should not be a signatory to any agreement or protocol with respect to the Doha Development Round of the World Trade Organization negotiations, or any other bilateral or multilateral trade negotiations, that—

(A) adopts any proposal to lessen the effectiveness of domestic and international disciplines on unfair trade or safeguard provisions, including proposals—

(i) mandating that unfair trade orders terminate after a set number of years even if unfair trade and injury are likely to recur;

(ii) mandating that trade remedy duties reflect less than the full margin of dumping or subsidization;

(iii) mandating higher de minimis levels of unfair trade;

(iv) making cumulation of the effects of imports from multiple countries more difficult in unfair trade investigations;

(v) outlawing the critical practice of ''zeroing'' in antidumping investigations; or

(vi) mandating the weighing of causes or other provisions making it more difficult to prove injury in unfair trade cases; and

(B) would lessen in any manner the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws;

(2) the United States trade laws and international rules appropriately serve the public interest by offsetting injurious unfair trade, and that further ''balancing modifications'' or other similar provisions are unnecessary and would add to the complexity and difficulty of achieving relief against injurious unfair trade practices; and

(3) the United States should ensure that any new agreement relating to international disciplines on unfair trade or safeguard provisions fully rectifies and corrects decisions by WTO dispute settlement panels or the Appellate Body that have unjustifiably and negatively impacted, or threaten to negatively impact, United States law or practice, including a law or practice with respect to foreign dumping or subsidization.

**SEC. 307. MODIFICATION OF BOND RULE.**

In the case of bonds issued after the date of the enactment of this Act and before August 31, 2009—

(1) the requirement of paragraph (1) of section 648 of the Deficit Reduction Act of 1984 (98 Stat. 941) shall be treated as met with respect to the securities or obligations referred to in such section if such securities or obligations are held in a fund the annual distributions from which cannot exceed 7 percent of the average fair market value of the assets held in such fund except to the extent distributions are necessary to pay debt service on the bond issue,

(2) paragraph (3) of such section shall be applied by substituting ''distributions from'' for ''the investment earnings of'' both places it appears, and

(3) Paragraph (4) of such section shall be applied by substituting ''March 1, 1985'' for ''October 9, 1969''.

**SEC. 308. TREATMENT OF CERTAIN STOCK OPTION PLANS UNDER NONQUALIFIED DEFERRED COMPENSATION RULES.**

(a) IN GENERAL.—The Secretary of the Treasury shall modify the regulations under section 409A of the Internal Revenue Code of 1986 to extend to applicable foreign option plans the exception under such section for incentive stock options under section 422 of such Code and options granted under an employee stock purchase plan meeting the requirements of section 423 of such Code. Such extension shall be subject to such terms and conditions as may be prescribed in such regulations.

(b) APPLICABLE FOREIGN OPTION PLANS.—For purposes of subsection (a)—

(1) IN GENERAL.—The term ''applicable foreign option plan'' means a plan providing for the issuance of employee stock options—

(A) which is established under the laws of a foreign jurisdiction, and

(B) which, under such laws or the terms of the plan (or both), is subject to requirements substantially similar to the requirements under section 422 or 423 of such Code.

(2) SUBSTANTIALLY SIMILAR.—A plan shall not be treated as subject to substantially similar requirements under paragraph (1)(B) unless—

(A) the plan is required to cover substantially all employees,

(B) in the case of an option under an employee stock purchase plan, the plan is required to provide an option price which is not less than the amount specified in section 423(b)(6) of such Code, except that such section shall be applied by substituting ''80 percent'' for ''85 percent'' each place it appears,

(C) the plan is required to provide coverage of individuals who, but for the exception of the application of section 409A of such Code by reason of this section, would be subject to tax under such section with respect to the plan, and

(D) the plan meets such other requirements as the Secretary of the Treasury prescribes in the regulations under subsection (a).

**SEC. 309. SENSE OF THE SENATE REGARDING THE DEDICATION OF EXCESS FUNDS.**

It is the sense of the Senate that any increases in revenues to the Treasury as a result of this Act and the amendments made by this Act that exceed the amounts specified in the reconciliation instructions shall be dedicated to the Low-Income Home Energy Assistance Program, in an amount not to exceed the amount which is $2,900,000,000 more than the funding levels established for such Program for fiscal year 2005.

**SEC. 310. MODIFICATION OF TREATMENT OF LOANS TO QUALIFIED CONTINUING CARE FACILITIES.**

(a) IN GENERAL.—Subsection (g) of section 7872 is amended to read as follows:

''(g) EXCEPTION FOR LOANS TO QUALIFIED CONTINUING CARE FACILITIES.—

''(1) IN GENERAL.—This section shall not apply for any calendar year to any below-market loan owed by a facility which on the last day of such year is a continuing care facility, if such loan was made pursuant to a continuing care contract and if the lender (or the lender's spouse) attains age 62 before the close of such year.

''(2) CONTINUING CARE CONTRACT.—For purposes of this section, the term 'continuing care contract' means a written contract between an individual and a qualified continuing care facility under which—

''(A) the individual or individual's spouse may use a qualified continuing care facility for their life or lives,

''(B) the individual or individual's spouse will be provided with housing in an independent living unit (which has additional available facilities outside such unit for the provision of meals and other personal care), an assisted living facility or a nursing facility, as is available in the continuing care facility, as appropriate for the health of such individual or individual's spouse, and

''(C) the individual or individual's spouse will be provided assisted living or nursing care as the health of such individual or individual's spouse requires, and as is available in the continuing care facility.

''(3) QUALIFIED CONTINUING CARE FACILITY.—

''(A) IN GENERAL.—For purposes of this section, the term 'qualified continuing care facility' means 1 or more facilities—

''(i) which are designed to provide services under continuing care contracts,

''(ii) that include an independent living unit, plus an assisted living or nursing facility, or both, and

''(iii) substantially all of the independent living unit residents of which are covered by continuing care contracts.

''(B) NURSING HOMES EXCLUDED.—The term 'qualified continuing care facility' shall not include any facility which is of a type which is traditionally considered a nursing home.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to loans made after December 31, 2005.

**SEC. 311. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY CERTAIN EMPLOYEES OF THE INTELLIGENCE COMMUNITY.**

(a) IN GENERAL.—Subparagraph (A) of section 121(d)(9) (relating to exclusion of gain from sale of principal residence) is amended by striking ''duty'' and all that follows and inserting ''duty—

''(i) as a member of the uniformed services,

''(ii) as a member of the Foreign Service of the United States, or

''(iii) as an employee of the intelligence community.''.

(b) EMPLOYEE OF INTELLIGENCE COMMUNITY DEFINED.—Subparagraph (C) of section 121(d)(9) is amended by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

''(iv) EMPLOYEE OF INTELLIGENCE COMMUNITY.—The term 'employee of the intelligence community' means an employee (as defined by section 2105 of title 5, United States Code) of—

''(I) the Office of the Director of National Intelligence,

''(II) the Central Intelligence Agency,

''(III) the National Security Agency,

''(IV) the Defense Intelligence Agency,

''(V) the National Geospatial-Intelligence Agency,

''(VI) the National Reconnaissance Office,

''(VII) any other office within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs,

''(VIII) any of the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of Treasury, the Department of Energy, and the Coast Guard,

''(IX) the Bureau of Intelligence and Research of the Department of State, or

''(X) any of the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information.''.

(c) SPECIAL RULE.—Subparagraph (C) of section 121(d)(9), as amended by subsection (b), is amended by adding at the end the following new clause:

''(vi) SPECIAL RULE RELATING TO INTELLIGENCE COMMUNITY.—An employee of the intelligence community shall not be treated as serving on qualified extended duty unless—

''(I) for purposes of such duty such employee has moved from 1 duty station to another, and

''(II) at least 1 of such duty stations is located outside of the Washington, District of Columbia, and Baltimore metropolitan statistical areas (as defined by the Secretary of Commerce).''.

(d) CONFORMING AMENDMENT.—The heading for section 121(d)(9) is amended by striking ''MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE'' and inserting ''UNIFORMED

SERVICES, FOREIGN SERVICE, AND INTELLIGENCE COMMUNITY''.

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

## TITLE IV—REVENUE OFFSET PROVISIONS

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

**SEC. 401. 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 thereof 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. 402. 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. 403. 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 be 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 considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) CONFORMING AMENDMENT.—Section 6700(a) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the activities described in paragraphs (1) and (2) of section 6700(a) of the Internal Revenue Code of 1986 and after the date of the enactment of this Act.

**SEC. 404. 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 '', or tax liability reflected in,'' after ''the preparation or presentation of'' 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

be 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 considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and 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 the activities described in section 6701(a) of the Internal Revenue Code of 1986 after the date of the enactment of this Act.

**Subtitle B—Economic Substance Doctrine**

**SEC. 411. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.**

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) 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. 412. 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(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(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) and (3) 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) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

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

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting ''and noneconomic substance transaction understatements'' after ''reportable transaction understatements'' both places it appears,

(B) in paragraph (2)(A), by inserting ''and a noneconomic substance transaction understatement'' after ''reportable transaction understatement'',

(C) in paragraph (2)(B), by inserting ''6662B or'' before ''6663'',

(D) in paragraph (2)(C)(i), by inserting ''or section 6662B'' before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting ''and section 6662B'' after ''This section'',

(F) in paragraph (3), by inserting ''or noneconomic substance transaction understatement'' after ''reportable transaction understatement'', and

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

''(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).''.

(3) Subsection (e) of section 6707A is amended—

(A) by striking ''or'' at the end of subparagraph (B), and

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

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

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

(c) 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.''.

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

**SEC. 413. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.**

(a) IN GENERAL.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking ''attributable'' and all that follows and inserting the following: ''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)).'', and

(2) by inserting ''AND NONECONOMIC SUBSTANCE TRANSACTIONS'' in the heading thereof after ''TRANSACTIONS''.

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

## Subtitle C—Improvements in Efficiency and Safeguards in Internal Revenue Service Collection

**SEC. 421. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.**

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

''(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date which is 180 days after the date of the enactment of this Act.

**SEC. 422. TERMINATION OF INSTALLMENT AGREEMENTS.**

(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

''(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

''(D) to file a return of tax imposed under this title by its due date (including extensions), or''.

(b) CONFORMING AMENDMENT.—The heading for section 6159(b)(4) is amended by striking ''FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION'' and inserting ''FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

**SEC. 423. PARTIAL PAYMENTS REQUIRED WITH SUBMISSION OF OFFERS-IN-COMPROMISE.**

(a) IN GENERAL.—Section 7122 (relating to compromises), as amended by this Act, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) RULES FOR SUBMISSION OF OFFERS-IN-COMPROMISE.—

''(1) PARTIAL PAYMENT REQUIRED WITH SUBMISSION.—

''(A) LUMP-SUM OFFERS.—

''(i) IN GENERAL.—The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of amount of such offer.

''(ii) LUMP-SUM OFFER-IN-COMPROMISE.—For purposes of this section, the term 'lump-sum offer-in-compromise' means any offer of payments made in 5 or fewer installments.

''(B) PERIODIC PAYMENT OFFERS.—The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment and each proposed installment due during the period such offer is being evaluated for acceptance and has not been rejected by the Secretary. Any failure to make a payment required under the preceding sentence shall be deemed a withdrawal of the offer-in-compromise.

''(2) RULES OF APPLICATION.—

''(A) USE OF PAYMENT.—The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

''(B) NO USER FEE IMPOSED.—Any user fee which would otherwise be imposed under this section shall not be imposed on any offer-in-compromise accompanied by a payment required under this subsection.

''(C) WAIVER AUTHORITY.—The Secretary may issue regulations waiving any payment required under paragraph (1) in a manner consistent with the practices established in accordance with the requirements under subsection (d)(3).''.

(b) ADDITIONAL RULES RELATING TO TREATMENT OF OFFERS.—

(1) UNPROCESSABLE OFFER IF PAYMENT REQUIREMENTS ARE NOT MET.—Paragraph (3) of section 7122(d) (relating to standards for evaluation of offers), as redesignated by subsection (a), is amended by striking ''; and'' at the end of subparagraph (A) and inserting a comma, by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any offer-in-compromise which does not meet the requirements of subsection (c) shall be returned to the taxpayer as unprocessable.''.

(2) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Section 7122, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(g) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer. For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken in to account in determining the expiration of the 24-month period.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted on and after the date which is 60 days after the date of the enactment of this Act.

## Subtitle D—Penalties and Fines

**SEC. 431. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.**

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking ''Any person who—'' and inserting ''(a) IN GENERAL.—Any person who—'', and

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

''(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.''.

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''5 years'' and inserting ''10 years''.

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking ''Any person'' and inserting the following:

''(a) IN GENERAL.—Any person'', and

(ii) by striking ''$25,000'' and inserting ''$50,000'',

(B) in the third sentence, by striking ''section'' and inserting ''subsection'', and

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

''(b) AGGRAVATED FAILURE TO FILE.—

''(1) IN GENERAL.—In the case of any failure described in paragraph (2), the first sentence of subsection (a) shall be applied by substituting—

''(A) 'felony' for 'misdemeanor',

''(B) '$500,000 ($1,000,000' for '$25,000 ($100,000', and

''(C) '10 years' for '1 year'.

''(2) FAILURE DESCRIBED.—A failure described in this paragraph is a failure to make a return described in subsection (a) for a period of 3 or more consecutive taxable years.''.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''3 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions, and failures to act, occurring after the date of the enactment of this Act.

**SEC. 432. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.**

(a) DETERMINATION OF PENALTY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) APPLICABLE TAXPAYER.—For purposes of this subsection—

(A) IN GENERAL.—The term ''applicable taxpayer'' means a taxpayer which—

(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of offshore payment mechanisms (including credit, debit, or charge cards) issued by banks or other entities in foreign jurisdictions, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has neither signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003–11 nor voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.

(B) AUTHORITY TO WAIVE.—The Secretary of the Treasury or the Secretary's delegate may waive the application of paragraph (1) to any taxpayer if the Secretary or the Secretary's delegate determines that the use of such offshore payment mechanisms is incidental to the transaction and, in addition, in the case of a trade or business, such use is conducted in the ordinary course of the type of trade or business of the taxpayer.

(C) ISSUES RAISED.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

(i) communicates to the taxpayer knowledge about the specific item, or

(ii) has made a request to the taxpayer for information and the taxpayer could not make a complete response to that request without giving the examiner knowledge of the specific item.

(b) APPLICABLE PENALTY.—For purposes of this section, the term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if, as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

**SEC. 433. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.**

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

Identification pursuant to subparagraph (B) alone shall not satisfy the requirement under subparagraph (A). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.''.

(b) REPORTING OF DEDUCTIBLE AMOUNTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61, as amended by this Act, is amended by inserting after section 6050U the following new section:

**''SEC. 6050V. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.**

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61, as amended by this Act, is amended by inserting after the item relating to section 6050U the following new item:

''Sec. 6050V. Information with respect to certain fines, penalties, and other amounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

**SEC. 434. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.**

(a) DISALLOWANCE OF DEDUCTION.—

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

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

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

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

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

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

**''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.**

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

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

''(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

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

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

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

**SEC. 435. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.**

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking ''$750'' and inserting ''$2,000'', and

(2) by striking ''$15'' and inserting ''$40''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

**Subtitle E—Provisions to Discourage Expatriation**

**SEC. 441. TAX TREATMENT OF INVERTED ENTITIES.**

(a) IN GENERAL.—Section 7874 is amended—

(1) by striking ''March 4, 2003'' in subsection (a)(2)(B)(i) and in the matter following subsection (a)(2)(B)(iii) and inserting ''March 20, 2002'',

(2) by striking ''at least 60 percent'' in subsection (a)(2)(B)(ii) and inserting ''more than 50 percent'',

(3) by striking ''80 percent'' in subsection (b) and inserting ''at least 80 percent'',

(4) by striking ''60 percent'' in subsection (b) and inserting ''more than 50 percent'',

(5) by adding at the end of subsection (a)(2) the following new sentence: ''Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (B) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.'', and

(6) by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) SPECIAL RULES APPLICABLE TO EXPATRIATED ENTITIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an expatriated entity—

''(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

''(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an expatriated entity, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after March 20, 2002.

**SEC. 442. REVISION OF TAX RULES ON EXPATRIATION OF INDIVIDUALS.**

(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 2005, 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 2004' 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:

''(49) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation) is inadmissible.''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(21) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(3) EFFECTIVE DATES.—The amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(h) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after 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:

''(C) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4) Section 6039G(a) is amended by inserting ''or 877A'' after ''section 877(b)''.

(5) The second sentence of section 6039G(d) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''section 877(a))''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after 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 on or 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 F—Miscellaneous Provisions

### SEC. 451. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.

(a) IN GENERAL.—Section 1275(d) (relating to regulation authority) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'', and

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

''(2) TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT.—

''(A) IN GENERAL.—In the case of a debt instrument which—

''(i) is convertible into stock of the issuing corporation, into stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1)), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

''(ii) provides for contingent payments,

any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed-rate debt instrument shall be applied as if the regulations require that such comparable yield be determined by reference to a noncontingent fixed-rate debt instrument which is convertible into stock.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.''.

(b) CROSS REFERENCE.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

''For the treatment of contingent payment convertible debt, see section 1275(d)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued on or after the date of the enactment of this Act.

### SEC. 452. GRANT OF TREASURY REGULATORY AUTHORITY TO ADDRESS FOREIGN TAX CREDIT TRANSACTIONS INVOLVING INAPPROPRIATE SEPARATION OF FOREIGN TAXES FROM RELATED FOREIGN INCOME.

(a) IN GENERAL.—Section 901 (relating to taxes of foreign countries and of possessions of United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) REGULATIONS.—The Secretary may prescribe regulations disallowing a credit under subsection (a) for all or a portion of any foreign tax, or allocating a foreign tax among 2 or more persons, in cases where the foreign tax is imposed on any person in respect of income of another person or in other cases involving the inappropriate separation of the foreign tax from the related foreign income.''.

(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. 453. REPEAL OF SPECIAL PROPERTY EXCEPTION TO LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.

(a) IN GENERAL.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by striking paragraphs (1) and (2), by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

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

''(3) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2005, with respect to leases entered into on or before March 12, 2004.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

### SEC. 454. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE CORPORATIONS.

(a) IN GENERAL.—Section 163(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) TREATMENT OF CORPORATE PARTNERS.—Except to the extent provided by regulations, in applying this subsection to a corporation which owns (directly or indirectly) an interest in a partnership—

''(A) such corporation's distributive share of interest income paid or accrued to such partnership shall be treated as interest income paid or accrued to such corporation,

''(B) such corporation's distributive share of interest paid or accrued by such partnership shall be treated as interest paid or accrued by such corporation, and

''(C) such corporation's share of the liabilities of such partnership shall be treated as liabilities of such corporation.''.

(b) ADDITIONAL REGULATORY AUTHORITY.—Section 163(j)(9) (relating to regulations), as redesignated by subsection (a), is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) regulations providing for the reallocation of shares of partnership indebtedness, or distributive shares of the partnership's interest income or interest expense, as may be appropriate to carry out the purposes of this subsection.''.

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

### SEC. 455. LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 274(e) (relating to expenses treated as compensation) is amended to read as follows:

''(2) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities, to the extent that the expenses do not exceed the amount of the expenses which are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to an employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).''.

(b) PERSONS NOT EMPLOYEES.—Paragraph (9) of section 274(e) is amended by striking ''to the extent that the expenses are includible in the gross income'' and inserting ''to the extent that the expenses do not exceed the amount of the expenses which are includible in the gross income''.

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

### SEC. 456. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.

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

(b) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—Section 1(g)(4) (relating to net unearned income) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—For purposes of this subsection, in the case of any child who is a beneficiary of a qualified disability trust (as defined in section 642(b)(2)(C)(ii)), any amount included in the income of such child under sections 652 and 662 during a taxable year shall be considered earned income of such child for such taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

### SEC. 457. LOAN AND REDEMPTION REQUIREMENTS ON POOLED FINANCING REQUIREMENTS.

(a) STRENGTHENED REASONABLE EXPECTATION REQUIREMENT.—Subparagraph (A) of section 149(f)(2) (relating to reasonable expectation requirement) is amended to read as follows:

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to an issue if the issuer reasonably expects that—

''(i) as of the close of the 1-year period beginning on the date of issuance of the issue, at least 50 percent of the net proceeds of the issue (as of the close of such period) will have been used directly or indirectly to make or finance loans to ultimate borrowers, and

''(ii) as of the close of the 3-year period beginning on such date of issuance, at least 95 percent of the net proceeds of the issue (as of the close of such period) will have been so used.''.

(b) WRITTEN LOAN COMMITMENT AND REDEMPTION REQUIREMENTS.—Section 149(f) (relating to treatment of certain pooled financing bonds) is amended by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively, and by inserting after paragraph (3) the following new paragraphs:

''(4) WRITTEN LOAN COMMITMENT REQUIREMENT.—

''(A) IN GENERAL.—The requirement of this paragraph is met with respect to an issue if the issuer receives prior to issuance written loan commitments identifying the ultimate potential borrowers of at least 50 percent of the net proceeds of such issue.

''(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any issuer which is a State (or an integral part of a State) issuing pooled financing bonds to make or finance loans to subordinate governmental units of such State or to State-created entities providing financing for water-infrastructure projects through the federally-sponsored State revolving fund program.

''(5) REDEMPTION REQUIREMENT.—The requirement of this paragraph is met if to the extent that less than the percentage of the proceeds of an issue required to be used under clause (i) or (ii) of paragraph (2)(A) is used by the close of the period identified in such clause, the issuer uses an amount of proceeds equal to the excess of—

''(A) the amount required to be used under such clause, over

''(B) the amount actually used by the close of such period,

''to redeem outstanding bonds within 90 days after the end of such period.''.

(c) ELIMINATION OF DISREGARD OF POOLED BONDS IN DETERMINING ELIGIBILITY FOR SMALL ISSUER EXCEPTION TO ARBITRAGE REBATE.—Section 148(f)(4)(D)(ii) (relating to aggregation of issuers) is amended by striking subclause (II) and by redesignating subclauses (III) and (IV) as subclauses (II) and (III), respectively.

(d) CONFORMING AMENDMENTS.—

(1) Section 149(f)(1) is amended by striking ''paragraphs (2) and (3)'' and inserting ''paragraphs (2), (3), (4), and (5)''.

(2) Section 149(f)(7)(B), as redesignated by subsection (b), is amended by striking ''paragraph (4)(A)'' and inserting ''paragraph (6)(A)''.

(3) Section 54(l)(2) is amended by striking ''section 149(f)(4)(A)'' and inserting ''section 149(f)(6)(A)''.

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

**SEC. 458. REPORTING OF INTEREST ON TAX-EXEMPT BONDS.**

(a) IN GENERAL.—Section 6049(b)(2) (relating to exceptions) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) CONFORMING AMENDMENT.—Section 6049(b)(2)(C), as redesignated by subsection (a), is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest earned after December 31, 2005.

**SEC. 459. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.**

(a) TAXABLE YEARS ENDING BEFORE 2006.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 29(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 29(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005.—Section 29(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar year 2005 and the amount in effect under subsection (a) for sales in such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(b) TAXABLE YEARS ENDING AFTER 2005.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 45K(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 45K(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005, 2006, AND 2007.—Section 45K(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar years 2005, 2006, and 2007 and the amount in effect under subsection (a) for sales in each such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(3) TREATMENT OF COKE AND COKE GAS.—

(A) NONAPPLICATION OF PHASEOUT.—Section 45K(g)(2) is amended by adding at the end the following new subparagraph:

''(D) NONAPPLICATION OF PHASEOUT.—Subsection (b)(1) shall not apply.''.

(B) APPLICATION OF INFLATION ADJUSTMENT.—Section 45K(g)(2)(B) is amended by inserting ''and the last sentence of subsection (b)(2) shall not apply.''.

(C) CLARIFICATION OF QUALIFYING FACILITY.—Section 45K(g)(1) is amended by inserting ''(other than from petroleum based products)'' after ''coke or coke gas''.

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

**SEC. 460. MODIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR.**

(a) IN GENERAL.—Clause (i) of section 6654(d)(1)(C) is amended by striking ''substituting'' and all that follows through ''1997.'' and inserting ''substituting '110 percent (120 percent if the preceding taxable year begins in 2005)' for '100 percent'.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 2005.

**SEC. 461. REVALUATION OF LIFO INVENTORIES OF LARGE INTEGRATED OIL COMPANIES.**

(a) GENERAL RULE.—Notwithstanding any other provision of law, if a taxpayer is an applicable integrated oil company for its last taxable year ending in calendar year 2005, the taxpayer shall—

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

(2) decrease its cost of goods sold for such taxable year by the aggregate amount of the increases under paragraph (1).

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

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

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

(A) $18.75, and

(B) the number of barrels of crude oil (or in the case of natural gas or other petroleum products, the number of barrel-of-oil equivalents) represented by the layer.

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

(c) APPLICATION OF REQUIREMENT.—

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

(2) UNDERPAYMENTS OF ESTIMATED TAX.—o addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1986 (relating to failure by corporation to pay estimated tax) with respect to any underpayment of an installment required to be paid with respect to the taxable year described in subsection (a) to the extent such underpayment was created or increased by this section.

(d) APPLICABLE INTEGRATED OIL COMPANY.—For purposes of this section, the term ''applicable integrated oil company'' means an integrated oil company (as defined in section 291(b)(4) of the Internal Revenue Code of 1986) which has an average daily worldwide production of crude oil of at least 500,000 barrels for the taxable year and which had gross receipts in excess of $1,000,000,000 for its last taxable year ending during calendar year 2005. For purposes of this subsection all persons treated as a single employer under subsections (a) and (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as 1 person and, in the case of a short taxable year, the rule under section 448(c)(3)(B) shall apply.

**SEC. 462. ELIMINATION OF AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR MAJOR INTEGRATED OIL COMPANIES.**

(a) IN GENERAL.—Section 167(h) is amended by adding at the end the following new paragraph:

''(5) NONAPPLICATION TO MAJOR INTEGRATED OIL COMPANIES.—This subsection shall not apply with respect to any expenses paid or incurred for any taxable year by any integrated oil company (as defined in section 291(b)(4)) which has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 1329(a) of the Energy Policy Act of 2005.

**SEC. 463. VALUATION OF EMPLOYEE PERSONAL USE OF NONCOMMERCIAL AIRCRAFT.**

(a) IN GENERAL.—For purposes of Federal income tax inclusion, the value of any employee personal use of noncommercial aircraft shall equal the excess (if any) of—

(1) greater of—

(A) the fair market value of such use, or

(B) the actual cost of such use (including all fixed and variable costs), over

(2) any amount paid by or on behalf of such employee for such use.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to use after the date of the enactment of this Act.

**SEC. 464. APPLICATION OF FIRPTA TO REGULATED INVESTMENT COMPANIES.**

(a) IN GENERAL.—Subclause (II) of section 897(h)(4)(A)(i) (defining qualified investment entity) is amended by inserting ''which is a United States real property holding corporation or which would be a United States real property holding corporation if the exceptions provided in subsections (c)(3) and (h)(2) did not apply to interests in any real estate investment trust or regulated investment company'' after ''regulated investment company''.

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

**SEC. 465. TREATMENT OF DISTRIBUTIONS ATTRIBUTABLE TO FIRPTA GAINS.**

(a) QUALIFIED INVESTMENT ENTITY.—

(1) IN GENERAL.—Section 897(h)(1) is amended—

(A) by striking ''a nonresident alien individual or a foreign corporation'' in the first sentence and inserting ''a nonresident alien individual, a foreign corporation, or other qualified investment entity'',

(B) by striking ''such nonresident alien individual or foreign corporation'' in the first sentence and inserting ''such nonresident alien individual, foreign corporation, or other qualified investment entity'', and

(C) by striking the second sentence and inserting the following new sentence: ''Notwithstanding the preceding sentence, any distribution by a qualified investment entity to a nonresident alien, a foreign corporation, or other qualified investment entity with respect to any class of stock which is regularly traded on an established securities market located in the United States shall not be treated as gain recognized from the sale or exchange of a United States real property interest if the shareholder did not own more than 5 percent of such class of stock at any time during the 1 year period ending on the date of such distribution.''.

(2) APPLICATION AFTER 2007.—Clause (ii) of section 897(h)(4)(A) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, an entity described in clause (i)(II) shall be treated as a qualified investment entity for purposes of applying paragraph (1) in any case in which a real estate investment trust makes a distribution to an entity described in clause (i)(II).''.

(b) TREATMENT OF CERTAIN DISTRIBUTIONS AS DIVIDENDS.—

(1) IN GENERAL.—Section 852(b)(3) (relating to capital gains) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN DISTRIBUTIONS.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount of such distribution which would be included in computing long-term capital gains for the shareholder under subparagraph (B) or (D) (without regard to this subparagraph)—

''(i) shall not be included in computing such shareholder's long-term capital gains, and

''(ii) shall be included in such shareholder's gross income as a dividend from the regulated investment company.''.

(2) CONFORMING AMENDMENT.—Section 871(k)(2) (relating to short-term capital gain dividends) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN DISTRIBUTIONS.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount which would be treated as a short-term capital gain dividend to the shareholder (without regard to this subparagraph)—

''(i) shall not be treated as a short-term capital gain dividend, and

''(ii) shall be included in such shareholder's gross income as a dividend from the regulated investment company.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of qualified investment entities beginning after the date of the enactment of this Act.

(2) DIVIDENDS.—The amendments made by subsection (b) shall apply to dividends with respect to taxable years of regulated investment companies beginning after December 31, 2004.

**SEC. 466. PREVENTION OF AVOIDANCE OF TAX ON INVESTMENTS OF FOREIGN PERSONS IN UNITED STATES REAL PROPERTY THROUGH WASH SALE TRANSACTIONS.**

(a) IN GENERAL.—Section 897(h) of the Internal Revenue Code of 1986 (relating to special rules in certain investment entities) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) TREATMENT OF CERTAIN WASH SALE TRANSACTIONS.—

''(A) IN GENERAL.—If an interest in a domestically controlled qualified investment entity is disposed of in an applicable wash sale transaction, the taxpayer shall, for purposes of this section, be treated as having gain from the sale or exchange of a United States real property interest in an amount equal to the portion of the distribution described in subparagraph (B) with respect to such interest which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1).

''(B) APPLICABLE WASH SALES TRANSACTION.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable wash sales transaction' means any transaction (or series of transactions) under which a nonresident alien individual or foreign corporation—

''(I) disposes of an interest in a domestically controlled qualified investment entity during the 30-day period preceding a distribution which is to be made with respect to the interest and any portion of which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1), and

''(II) acquires an identical interest in such entity during the 60-day period beginning with the 1st day of the 30-day period described in subclause (I).

For purposes of subclause (II), a nonresident alien individual or foreign corporation shall be treated as having acquired any interest acquired by a person related (within the meaning of section 465(b)(3)(C)) to the individual or corporation.

''(ii) EXCEPTION WHERE DISTRIBUTION ACTUALLY RECEIVED.—A transaction shall not be treated as an applicable wash sales transaction if the nonresident alien individual or foreign corporation receives the distribution described in clause (i)(I) with respect to either the interest which was disposed of, or acquired, in the transaction.

''(iii) EXCEPTION FOR CERTAIN PUBLICLY TRADED STOCK.—A transaction shall not be treated as an applicable wash sales transaction if it involves the disposition of any class of stock in a qualified investment entity which is regularly traded on an established securities market within the United States but only if the nonresident alien individual or foreign corporation did not own more than 5 percent of such class of stock at any time during the 1-year period ending on the date of the distribution described in clause (i)(I).''.

(b) NO WITHHOLDING REQUIRED.—Section 1445(b) of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following new paragraph:

''(8) APPLICABLE WASH SALES TRANSACTIONS.—No person shall be required to deduct and withhold any amount under subsection (a) with respect to a disposition which is treated as a disposition of a United States real property interest solely by reason of section 897(h)(4).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after December 31, 2005, in taxable years ending after such date.

**SEC. 467. MODIFICATIONS TO RULES RELATING TO TAXATION OF DISTRIBUTIONS OF STOCK AND SECURITIES OF A CONTROLLED CORPORATION.**

(a) MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355.—

(1) IN GENERAL.—Section 355(b) (defining active conduct of a trade or business) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES RELATING TO ACTIVE BUSINESS REQUIREMENT.—

''(A) IN GENERAL.—For purposes of determining whether a corporation meets the requirement of paragraph (2)(A), all members of such corporation's separate affiliated group shall be treated as 1 corporation. For purposes of the preceding sentence, the term 'separate affiliated group' means, with respect to any corporation, the affiliated group which would be determined under section 1504(a) if such corporation were the common parent and section 1504(b) did not apply.

''(B) CONTROL.—For purposes of paragraph (2)(D), all distributee corporations which are members of the same affiliated group (as defined in section 1504(a) without regard to section 1504(b)) shall be treated as 1 distributee corporation.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 355(b)(2) is amended to read as follows:

''(A) it is engaged in the active conduct of a trade or business,''.

(B) Section 355(b)(2) of such Code is amended by striking the last sentence.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply—

(i) to distributions after the date of the enactment of this Act, and before January 1, 2010, and

(ii) for purposes of determining the continued qualification under section 355(b)(2)(A) of the Internal Revenue Code of 1986 (as amended by paragraph (2)(A)) of distributions made before such date, as a result of an acquisition, disposition, or other restructuring after such date and before January 1, 2010.

(B) TRANSITION RULE.—The amendments made by this subsection shall not apply to any distribution pursuant to a transaction which is—

(i) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(C) ELECTIONS.—

(i) OUT OF TRANSITION RELIEF.—Subparagraph (B) shall not apply if the distributing

corporation elects not to have such subparagraph apply to distributions of such corporation. Any such election, once made, shall be irrevocable.

(ii) APPLICATION TO PRIOR DISTRIBUTIONS.—Subparagraph (A)(ii) shall not apply to a distributing or controlled corporation if the corporation elects not to have such subparagraph apply to such corporation. Any such election, once made, shall be irrevocable.

(b) SECTION 355 NOT TO APPLY TO DISTRIBUTIONS IF THE DISTRIBUTING OR CONTROLLED CORPORATION IS A DISQUALIFIED INVESTMENT CORPORATION.—

(1) IN GENERAL.—Section 355 (relating to distributions of stock and securities of a controlled corporation) is amended by adding at the end the following new subsection:

''(g) SECTION NOT TO APPLY TO DISTRIBUTIONS INVOLVING DISQUALIFIED INVESTMENT CORPORATIONS.—

''(1) IN GENERAL.—This section (and so much of section 356 as relates to this section) shall not apply to any distribution which is part of a transaction if—

''(A) either the distributing corporation or controlled corporation is, immediately after the transaction, a disqualified investment corporation, and

''(B) any person holds, immediately after the transaction, a 50-percent or greater interest in any disqualified investment corporation, but only if such person did not hold such an interest in such corporation immediately before the transaction.

''(2) DISQUALIFIED INVESTMENT CORPORATION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'disqualified investment corporation' means any distributing or controlled corporation if the fair market value of the investment assets of the corporation is 75 percent or more of the fair market value of all assets of the corporation.

''(B) INVESTMENT ASSETS.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'investment assets' means—

''(I) cash,

''(II) any stock or securities in a corporation,

''(III) any interest in a partnership,

''(IV) any debt instrument or other evidence of indebtedness,

''(V) any option, forward or futures contract, notional principal contract, or derivative,

''(VI) foreign currency, or

''(VII) any similar asset.

''(ii) EXCEPTION FOR ASSETS USED IN ACTIVE CONDUCT OF CERTAIN FINANCIAL TRADES OR BUSINESSES.—Such term shall not include any asset which is held for use in the active and regular conduct of—

''(I) a lending or finance business (within the meaning of section 954(h)(4)),

''(II) a banking business through a bank (as defined in section 581), a domestic building and loan association (within the meaning of section 7701(a)(19)), or any similar institution specified by the Secretary, or

''(III) an insurance business if the conduct of the business is licensed, authorized, or regulated by an applicable insurance regulatory body.

This clause shall only apply with respect to any business if substantially all of the income of the business is derived from persons who are not related (within the meaning of section 267(b) or 707(b)(1)) to the person conducting the business.

''(iii) EXCEPTION FOR SECURITIES MARKED TO MARKET.—Such term shall not include any security (as defined in section 475(c)(2)) which is held by a dealer in securities and to which section 475(a) applies.

''(iv) STOCK OR SECURITIES IN A 25-PERCENT CONTROLLED ENTITY.—

''(I) IN GENERAL.—Such term shall not include any stock and securities in, or any asset described in subclause (IV) or (V) of clause (i) issued by, a corporation which is a 25-percent controlled entity with respect to the distributing or controlled corporation.

''(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any 25-percent controlled entity.

''(III) 25-PERCENT CONTROLLED ENTITY.—For purposes of this clause, the term '25-percent controlled entity' means, with respect to any distributing or controlled corporation, any corporation with respect to which the distributing or controlled corporation owns directly or indirectly stock meeting the requirements of section 1504(a)(2), except that such section shall be applied by substituting '25 percent' for '80 percent' and without regard to stock described in section 1504(a)(4).

''(v) INTERESTS IN CERTAIN PARTNERSHIPS.—

''(I) IN GENERAL.—Such term shall not include any interest in a partnership, or any debt instrument or other evidence of indebtedness, issued by the partnership, if 1 or more of the trades or businesses of the partnership are (or, without regard to the 5-year requirement under subsection (b)(2)(B), would be) taken into account by the distributing or controlled corporation, as the case may be, in determining whether the requirements of subsection (b) are met with respect to the distribution.

''(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any partnership described in subclause (I).

''(3) 50-PERCENT OR GREATER INTEREST.—For purposes of this subsection—

''(A) IN GENERAL.—The term '50-percent or greater interest' has the meaning given such term by subsection (d)(4).

''(B) ATTRIBUTION RULES.—The rules of section 318 shall apply for purposes of determining ownership of stock for purposes of this paragraph.

''(4) TRANSACTION.—For purposes of this subsection, the term 'transaction' includes a series of transactions.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out, or prevent the avoidance of, the purposes of this subsection, including regulations—

''(A) to carry out, or prevent the avoidance of, the purposes of this subsection in cases involving—

''(i) the use of related persons, intermediaries, pass-thru entities, options, or other arrangements, and

''(ii) the treatment of assets unrelated to the trade or business of a corporation as investment assets if, prior to the distribution, investment assets were used to acquire such unrelated assets,

''(B) which in appropriate cases exclude from the application of this subsection a distribution which does not have the character of a redemption which would be treated as a sale or exchange under section 302, and

''(C) which modify the application of the attribution rules applied for purposes of this subsection.''.

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to distributions after the date of the enactment of this Act.

(B) TRANSITION RULE.—The amendments made by this subsection shall not apply to any distribution pursuant to a transaction which is—

(i) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

**SEC. 468. AMORTIZATION OF EXPENSES INCURRED IN CREATING OR ACQUIRING MUSIC OR MUSIC COPYRIGHTS.**

(a) IN GENERAL.—Section 263A (relating to capitalization and inclusion in inventory costs of certain expenses) is amended by redesignating subsection (i) as subsection (j) and by adding after subsection (h) the following new subsection:

''(i) SPECIAL RULES FOR CERTAIN MUSICAL WORKS AND COPYRIGHTS.—

''(1) IN GENERAL.—If—

''(A) any expense is paid or incurred by the taxpayer in creating or acquiring any musical composition (including any accompanying words) or any copyright with respect to a musical composition, and

''(B) such expense is required to be capitalized under this section,

then, notwithstanding section 167(g), the amount capitalized shall be amortized ratably over the 5-year period beginning with the month in which the composition or copyright was acquired (or, in the case of expenses paid or incurred in connection with the creation of a musical composition, the 5-taxable-year period beginning with the taxable year in which the expenses were paid or incurred).

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any expense—

''(A) which is a qualified creative expense under subsection (h),

''(B) to which a simplified procedure established under subsection (j)(2) applies,

''(C) which is an amortizable section 197 intangible (as defined in section 197(c)), or

''(D) which, without regard to this section, would not be allowable as a deduction.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after December 31, 2005, in taxable years ending after such date.

**SEC. 469. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.**

(a) IN GENERAL.—Subpart H of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new section:

**''SEC. 54A. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.**

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a rural renaissance bond on a credit allowance date of such bond, which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a rural renaissance bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any rural renaissance bond is the product of—

''(A) the credit rate determined by the Secretary under paragraph (3) for the day on which such bond was sold, multiplied by

''(B) the outstanding face amount of the bond.

''(3) DETERMINATION.—For purposes of paragraph (2), with respect to any rural renaissance bond, the Secretary shall determine daily or caused to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract

for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary's designee estimates will permit the issuance of rural renaissance bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer.

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term also includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under this part (other than subpart C).

''(d) RURAL RENAISSANCE BOND.—For purposes of this section—

''(1) IN GENERAL.—The term 'rural renaissance bond' means any bond issued as part of an issue if—

''(A) the bond is issued by a qualified issuer,

''(B) 95 percent or more of the proceeds from the sale of such issue are to be used for capital expenditures incurred for 1 or more qualified projects,

''(C) the qualified issuer designates such bond for purposes of this section and the bond is in registered form, and

''(D) the issue meets the requirements of subsections (e) and (h).

''(2) QUALIFIED PROJECT; SPECIAL USE RULES.—

''(A) IN GENERAL.—The term 'qualified project' means 1 or more projects described in subparagraph (B) located in a rural area.

''(B) PROJECTS DESCRIBED.—A project described in this subparagraph is—

''(i) a water or waste treatment project,

''(ii) an affordable housing project,

''(iii) a community facility project, including hospitals, fire and police stations, and nursing and assisted-living facilities,

''(iv) a value-added agriculture or renewable energy facility project for agricultural producers or farmer-owned entities, including any project to promote the production, processing, or retail sale of ethanol (including fuel at least 85 percent of the volume of which consists of ethanol), biodiesel, animal waste, biomass, raw commodities, or wind as a fuel,

''(v) a distance learning or telemedicine project,

''(vi) a rural utility infrastructure project, including any electric or telephone system,

''(vii) a project to expand broadband technology,

''(viii) a rural teleworks project, and

''(ix) any project described in any preceding clause carried out by the Delta Regional Authority.

''(C) SPECIAL RULES.—For purposes of this paragraph—

''(i) any project described in subparagraph (B)(iv) for a farmer-owned entity may be considered a qualified project if such entity is located in a rural area, or in the case of a farmer-owned entity the headquarters of which are located in a nonrural area, if the project is located in a rural area, and

''(ii) any project for a farmer-owned entity which is a facility described in subparagraph (B)(iv) for agricultural producers may be considered a qualified project regardless of whether the facility is located in a rural or nonrural area.

''(3) SPECIAL USE RULES.—

''(A) REFINANCING RULES.—For purposes of paragraph (1)(B), a qualified project may be refinanced with proceeds of a rural renaissance bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred after the date of the enactment of this section.

''(B) REIMBURSEMENT.—For purposes of paragraph (1)(B), a rural renaissance bond may be issued to reimburse a borrower for amounts paid after the date of the enactment of this section with respect to a qualified project, but only if—

''(i) prior to the payment of the original expenditure, the borrower declared its intent to reimburse such expenditure with the proceeds of a rural renaissance bond,

''(ii) not later than 60 days after payment of the original expenditure, the qualified issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

''(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

''(C) TREATMENT OF CHANGES IN USE.—For purposes of paragraph (1)(B), the proceeds of an issue shall not be treated as used for a qualified project to the extent that a borrower takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a rural renaissance bond.

''(e) MATURITY LIMITATIONS.—

''(1) DURATION OF TERM.—A bond shall not be treated as a rural renaissance bond if the maturity of such bond exceeds the maximum term determined by the Secretary under paragraph (2) with respect to such bond.

''(2) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined without regard to the requirements of subsection (f)(3) and using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

''(3) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a rural renaissance bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each calendar year that the issue is outstanding.

''(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) NATIONAL LIMITATION.—There is a rural renaissance bond limitation of $200,000,000.

''(2) ALLOCATION BY SECRETARY.—The Secretary shall allocate the amount described in paragraph (1) among qualified projects in such manner as the Secretary determines appropriate.

''(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(h) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the qualified issuer reasonably expects—

''(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified projects within the 5-year period beginning on the date of issuance of the rural renaissance bond,

''(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the rural renaissance bond or, in the case of a rural renaissance bond, the proceeds of which are to be loaned to 2 or more borrowers, such binding commitment will be incurred within the 6-month period beginning on the date of the loan of such proceeds to a borrower, and

''(C) such projects will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the qualified issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related projects will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the qualified issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(i) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a rural renaissance bond unless, with respect to the issue of which the bond is a part, the qualified issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

''(j) QUALIFIED ISSUER.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified issuer' means any not-for-profit cooperative lender which has as of the date of the enactment of this section received a guarantee under section 306 of the Rural Electrification Act and which meets the requirement of paragraph (2).

''(2) USER FEE REQUIREMENT.—The requirement of this paragraph is met if the issuer of any rural renaissance bond makes grants for qualified projects as defined under subsection (d)(2) on a semi-annual basis every year that such bond is outstanding in an annual amount equal to one-half of the rate on United States Treasury Bills of the same maturity multiplied by the outstanding principle balance of rural renaissance bonds issued by such issuer.

''(k) SPECIAL RULES RELATING TO POOL BONDS.—No portion of a pooled financing bond may be allocable to loan unless the borrower has entered into a written loan commitment for such portion prior to the issue date of such issue.

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

''(1) BOND.—The term 'bond' includes any obligation.

''(2) POOLED FINANCING BOND.—The term 'pooled financing bond' shall have the meaning given such term by section 149(f)(4)(A).

''(3) RURAL AREA.—The term 'rural area' means any area other than—

''(A) a city or town which has a population of greater than 50,000 inhabitants, or

''(B) the urbanized area contiguous and adjacent to such a city or town.

''(4) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—

''(A) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(B) NO BASIS ADJUSTMENT.—In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(l) shall apply.

''(5) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any rural renaissance bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(6) REPORTING.—Issuers of rural renaissance bonds shall submit reports similar to the reports required under section 149(e).''.

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(9) REPORTING OF CREDIT ON RURAL RENAISSANCE BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart H of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54A. Credit to holders of rural renaissance bonds.''.

(2) Section 54(c)(2) is amended by inserting '', section 54A,'' after ''subpart C''.

(d) ISSUANCE OF REGULATIONS.—The Secretary of Treasury shall issue regulations required under section 54A of the Internal Revenue Code of 1986 (as added by this section) not later than 120 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act and before January 1, 2010.

**SEC. 470. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO LARGE INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.**

(a) IN GENERAL.—Section 901 (relating to credit for taxes of foreign countries and of possessions of the United States), as amended by this Act, is amended by redesignating subsections (m) and (n) as subsections (n) and (o), respectively, and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULES RELATING TO LARGE INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer which is a large integrated oil company to a foreign country or possession of the United States for any period shall not be considered a tax—

''(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

''(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

''(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

''(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

''(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

''(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

''(i) persons who are not dual capacity taxpayers, and

''(ii) persons who are citizens or residents of the foreign country or possession.

''(4) LARGE INTEGRATED OIL COMPANY.—For purposes of this subsection, the term 'large integrated oil company' means, with respect to any taxable year, an integrated oil company (as defined in section 291(b)(4)) which—

''(A) had gross receipts in excess of $1,000,000,000 for such taxable year, and

''(B) has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

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

**SEC. 471. DISABILITY PREFERENCE PROGRAM FOR TAX COLLECTION CONTRACTS.**

(a) IN GENERAL.—The Secretary of the Treasury shall not enter into any qualified tax collection contract after April 1, 2006, until the Secretary implements a disability preference program that meets the requirements of subsection (b).

(b) DISABILITY PREFERENCE PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—A disability preference program meets the requirements of this subsection if such program requires that not less than 10 percent of the accounts of each dollar value category are awarded to persons described in paragraph (2).

(2) PERSON DESCRIBED.—For purposes of paragraph (1), a person is described in this paragraph if—

(A) as of the date any qualified tax collection contract is awarded—

(i) such person employs not less than 50 severely disabled individuals within the United States; or

(ii) not less than 30 percent of the employees of such person within the United States are severely disabled individuals;

(B) such person agrees as a condition of the qualified tax collection contract that not more than 90 days after the date such contract is awarded, not less than 35 percent of the employees of such person employed in connection with providing services under such contract shall—

(i) be hired after the date such contract is awarded; and

(ii) be severely disabled individuals; and

(C) such person is otherwise qualified to perform the services required.

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

(1) QUALIFIED TAX COLLECTION CONTRACT.—The term ''qualified tax collection contract'' shall have the meaning given such term under section 6306(b) of the Internal Revenue Code of 1986.

(2) DOLLAR VALUE CATEGORY.—The term ''dollar value category'' means the dollar ranges of accounts for collection as determined and assigned by the Secretary under section 6306(b)(1)(B) of the Internal Revenue Code of 1986 with respect to a qualified tax collection contract.

(3) SEVERELY DISABLED INDIVIDUAL.—The term ''severely disabled individual'' means—

(A) a veteran of the United States armed forces with a disability of 50 percent or greater—

(i) determined by the Secretary of Veterans Affairs to be service-connected; or

(ii) deemed by law to be service-connected; or

(B) any individual who is a disabled beneficiary (as defined in section 1148(k)(2) of the Social Security Act (42 U.S.C. 1320b–19(k)(2))) or who would be considered to be such a disabled beneficiary but for having income or resources in excess of the income or resources eligibility limits established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), respectively.

**TITLE V—COMPLIANCE WITH CONGRESSIONAL BUDGET ACT**

**SEC. 501. SUNSET OF CERTAIN PROVISIONS AND AMENDMENTS.**

The provisions of, and amendments made by, title I, subtitle A of title II, and title III shall not apply to taxable years beginning after September 30, 2010, and the Internal Revenue Code of 1986 shall be applied and administered to such years as if such provisions and amendments had never been enacted.

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**SA 2711.** Mr. FRIST (for Mr. TALENT) proposed an amendment to amendment SA 2710 proposed by Mr. FRIST (for himself, Mr. GRASSLEY, and Mr. BAUCUS) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of the amendment add the following:

**SEC. _____. PERMANENT EXTENSION OF EGTRRA PROVISIONS RELATING TO CHILD TAX CREDIT.**

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset provisions) shall not apply to the amendments made by section 201 of such Act.

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**SA 2712.** Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE — ____MEDICARE REFORM**

**SECTION __01. SHORT TITLE.**

This title may be cited as the ''Medicare Part D Reform Act of 2006''.

**SEC. __02. REMOVAL OF COVERED PART D DRUGS FROM THE PRESCRIPTION DRUG PLAN FORMULARY.**

Section 1860D–4(b)(3)(E) of the Social Security Act (42 U.S.C. 1395w–104(b)(3)(E)) is amended to read as follows:

''(E) REMOVING DRUG FROM FORMULARY OR CHANGING PREFERRED OR TIER STATUS OF DRUG.—

''(i) LIMITATION ON REMOVAL OR CHANGE.—Beginning with 2006, the PDP sponsor of a prescription drug plan may not remove a covered part D drug from the plan formulary or change the preferred or tiered cost-sharing status of such a drug other than during the period beginning on September 1 and ending on October 31. Subject to clause (ii), such removal or change shall only be effective beginning on January 1 of the immediately succeeding calendar year.

''(ii) NOTICE.—Any removal or change under this subparagraph shall not take effect unless appropriate notice is made available (such as under subsection (a)(3)) to the Secretary, affected enrollees, physicians, pharmacies, and pharmacists. Such notice shall ensure that such information is made available prior to the annual, coordinated open election period described in section 1851(e)(3)(B)(iii), as applied under section 1860D–1(b)(1)(B)(iii).''.

**SEC. __03. PHARMACEUTICAL PATIENT ASSISTANCE PROGRAMS.**

(a) PROVIDING A SAFE HARBOR FOR PHARMACEUTICAL PATIENT ASSISTANCE PROGRAMS.—Section 1128B(b)(3) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) in subparagraph (G)—

(A) by inserting ''or under a patient assistance program (including a pharmaceutical manufacturer patient assistance program)'' after ''Indian organizations)''; and

(B) by striking ''and'' at the end;

(2) in subparagraph (H), as added by section 237(d) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2213)—

(A) by moving such subparagraph 2 ems to the left; and

(B) by striking the period at the end and inserting ''; and''; and

(3) by redesignating subparagraph (H), as added by section 431(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2287), as subparagraph (I) and moving such subparagraph 2 ems to the left.

(b) EXCLUSION OF EXPENDITURES UNDER CERTAIN PHARMACY ASSISTANCE PROGRAMS FROM TROOP.—Section 1860D–2(b)(4)(C)(ii) of such Act (42 U.S.C. 1395w–102(b)(4)(C)(ii)) is amended by inserting ''under a pharmaceutical manufacturer patient assistance program,'' after ''a group health plan,''.

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

**SEC. __04. PROTECTION AGAINST COST-SHARING FOR FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.**

(a) IN GENERAL.—Section 1860D–14(a)(1)(D)(ii) of the Social Security Act (42 U.S.C. 1395w–114(a)(1)(D)(ii)) is amended—

(1) in the heading, by striking ''LOWEST INCOME'';

(2) by striking ''and whose income does not exceed 100 percent of the poverty line applicable to a family of the size involved''; and

(3) by adding at the end the following new sentence: ''In the case of an individual who is unable to pay the copayment applicable under the preceding sentence, such copayment shall be waived.''

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

**SEC. __05. NEGOTIATING FAIR PRICES FOR MEDICARE PRESCRIPTION DRUGS.**

(a) IN GENERAL.—Section 1860D–11 of the Social Security Act (42 U.S.C. 1395w–111) is amended by striking subsection (i) (relating to noninterference) and by inserting the following new subsection:

''(i) AUTHORITY TO NEGOTIATE PRICES WITH MANUFACTURERS.—In order to ensure that beneficiaries enrolled under prescription drug plans and MA–PD plans pay the lowest possible price, the Secretary shall have authority similar to that of other Federal entities that purchase prescription drugs in bulk to negotiate contracts with manufacturers of covered part D drugs, consistent with the requirements and in furtherance of the goals of providing quality care and containing costs under this part.''.

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

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**SA 2713.** Mrs. FEINSTEIN (for herself, Mr. KOHL, Mr. DORGAN, Mr. BINGAMAN, Mr. SCHUMER, Mrs. BOXER, and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ____. REMOVAL OF COVERED PART D DRUGS FROM THE PRESCRIPTION DRUG PLAN FORMULARY.**

(a) LIMITATION ON REMOVAL OR CHANGE OF COVERED PART D DRUGS FROM THE PRESCRIPTION DRUG PLAN FORMULARY.—Section 1860D–4(b)(3)(E) of the Social Security Act (42 U.S.C. 1395w–104(b)(3)(E)) is amended to read as follows:

''(E) REMOVING DRUG FROM FORMULARY OR CHANGING PREFERRED OR TIER STATUS OF DRUG.—

''(i) LIMITATION ON REMOVAL OR CHANGE.—

''(I) IN GENERAL.—Subject to subclause (II) and clause (ii), beginning with 2006, the PDP sponsor of a prescription drug plan may not remove a covered part D drug from the plan formulary or change the preferred or tiered cost-sharing status of such a drug other than at the beginning of each plan year except as the Secretary may permit to take into account new therapeutic uses and newly covered part D drugs.

''(II) SPECIAL RULE FOR NEWLY ENROLLED INDIVIDUALS.—Subject to clause (ii), in the case of an individual who enrolls in a prescription drug plan on or after the date of enactment of this subparagraph, the PDP sponsor of such plan may not remove a covered part D drug from the plan formulary or change the preferred or tiered cost-sharing status of such a drug during the period beginning on the date of such enrollment and ending on December 31 of the immediately succeeding plan year except as the Secretary may permit to take into account new therapeutic uses and newly covered part D drugs.

''(ii) EXCEPTIONS TO LIMITATION ON REMOVAL.—Clause (i) shall not apply with respect to a covered part D drug that—

''(I) is a brand name drug for which there is a generic drug approved under section 505(j) of the Food and Drug Cosmetic Act (21 U.S.C. 355(j)) that is placed on the market during the period in which there are limitations on removal or change in the formulary under subclause (I) or (II) of clause (i);

''(II) is a brand name drug that goes off-patent during such period;

''(III) is a drug for which the Commissioner of Food and Drugs issues a clinical warning that imposes a restriction or limitation on the drug during such period; or

''(IV) has been determined to be ineffective during such period.

''(iii) NOTICE OF REMOVAL UNDER APPLICATION OF EXCEPTION TO LIMITATION.—The PDP sponsor of a prescription drug plan shall provide appropriate notice (such as under subsection (a)(3)) of any removal or change under clause (ii) to the Secretary, affected enrollees, physicians, pharmacies, and pharmacists.''.

(b) NOTICE FOR CHANGE IN FORMULARY AND OTHER RESTRICTIONS OR LIMITATIONS ON COVERAGE.—

(1) IN GENERAL.—Section 1860D–4(a) of such Act (42 U.S.C. 1395w-104(a)) is amended by adding at the end the following new paragraph:

''(5) ANNUAL NOTICE OF CHANGES IN FORMULARY AND OTHER RESTRICTIONS OR LIMITATIONS ON COVERAGE.—Each PDP sponsor offering a prescription drug plan shall furnish to each enrollee at the time of each annual coordinated election period (referred to in section 1860D–1(b)(1)(B)(iii)) for a plan year a notice of any changes in the formulary or other restrictions or limitations on coverage of a covered part D drug under the plan that will take effect for the plan year.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to annual coordinated election periods beginning after the date of the enactment of this Act.

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**SA 2714.** Mr. DURBIN (for himself, Mrs. MURRAY, Mr. LIEBERMAN, Mr. LAUTENBERG, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 19, strike lines 19 through 22 and insert the following:

**SEC. 203. ELIGIBILITY OF ALL UNINSURED CHILDREN FOR SCHIP.**

(a) IN GENERAL.—Section 2110(b) of the Social Security Act (42 U.S.C. 1397jj(b)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(2) in paragraph (2)—

(A) by striking ''include'' and all that follows through ''a child who is an'' and inserting ''include a child who is an''; and

(B) by striking the semicolon and all that follows through the period and inserting a period; and

(3) by striking paragraph (4).

(b) NO EXCLUSION OF CHILDREN WITH ACCESS TO HIGH-COST COVERAGE.—Section 2110(b)(3) of the Social Security Act (42 U.S.C. 1397jj(b)(3)) is amended—

(1) in the paragraph heading, by striking ''RULE'' and inserting ''RULES'';

(2) by striking ''A child shall not be considered to be described in paragraph (1)(C)'' and inserting the following:

''(A) CERTAIN NON FEDERALLY FUNDED COVERAGE.—A child shall not be considered to be described in paragraph (1)(C)''; and

(3) by adding at the end the following:

''(B) NO EXCLUSION OF CHILDREN WITH ACCESS TO HIGH-COST COVERAGE.—A State may include a child as a targeted vulnerable child if the child has access to coverage under a group health plan or health insurance coverage and the total annual aggregate cost for premiums, deductibles, cost sharing, and similar charges imposed under the group health plan or health insurance coverage with respect to all targeted vulnerable children in the child's family exceeds 5 percent of such family's income for the year involved.''.

(c) CONFORMING AMENDMENTS.—

(1) Titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq.; 1397aa et. seq.) are amended by striking ''targeted low-income'' each place it appears and inserting ''targeted vulnerable''.

(2) Section 2101(a) of such Act (42 U.S.C. 1397aa(a)) is amended by striking ''uninsured, low-income'' and inserting ''low-income''.

(3) Section 2102(b)(3)(C) of such Act (42 U.S.C. 1397bb(b)(3)(C)) is amended by inserting '', particularly with respect to children whose family income exceeds 200 percent of the poverty line'' before the semicolon.

(4) Section 2102(b)(3)(E), section 2105(a)(1)(D)(ii), paragraphs (1)(C) and (2) of section 2107, and subsections (a)(1) and (d)(1)(B) of section 2108 of such Act (42 U.S.C. 1397bb(b)(3)(E); 1397ee(a)(1)(D)(ii); 1397gg; 1397hh) are amended by striking ''low-income'' each place it appears.

(5) Section 2110(a)(27) of such Act (42 U.S.C. 1397jj(a)(27)) is amended by striking ''eligible low-income individuals'' and inserting ''targeted vulnerable individuals''.

(d) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2006.

**SEC. 203A. INCREASE IN FEDERAL FINANCIAL PARTICIPATION UNDER SCHIP AND MEDICAID FOR STATES WITH SIMPLIFIED ENROLLMENT AND RENEWAL PROCEDURES FOR CHILDREN.**

(a) SCHIP.—Section 2105(c)(2) of the Social Security Act (42 U.S.C. 1397ee(c)(2)) is amended by adding at the end the following:

''(C) NONAPPLICATION OF LIMITATION AND INCREASE IN FEDERAL PAYMENT FOR STATES WITH SIMPLIFIED ENROLLMENT AND RENEWAL PROCEDURES.—

''(i) IN GENERAL.—Notwithstanding subsection (a)(1) and subparagraph (A)—

''(I) the limitation under subparagraph (A) on expenditures for items described in subsection (a)(1)(D) shall not apply with respect to expenditures incurred to carry out any of the outreach strategies described in clause (ii), but only if the State carries out the same outreach strategies for children under title XIX; and

''(II) the enhanced FMAP for a State for a fiscal year otherwise determined under subsection (b) shall be increased by 5 percentage points (without regard to the application of the 85 percent limitation under that subsection) with respect to such expenditures.

''(ii) OUTREACH STRATEGIES DESCRIBED.—For purposes of clause (i), the outreach strategies described in this clause are the following:

''(I) PRESUMPTIVE ELIGIBILITY.—The State provides for presumptive eligibility for children under this title and under title XIX.

''(II) ADOPTION OF 12-MONTH CONTINUOUS ELIGIBILITY.—The State provides that eligibility for children shall not be redetermined more often than once every year under this title or under title XIX.

''(III) ELIMINATION OF ASSET TEST.—The State does not apply any asset test for eligibility under this title or title XIX with respect to children.

''(IV) PASSIVE RENEWAL.—The State provides for the automatic renewal of the eligibility of children for assistance under this title and under title XIX if the family of which such a child is a member does not report any changes to family income or other relevant circumstances, subject to verification of information from State databases.''.

(b) MEDICAID.—

(1) IN GENERAL.—Section 1902(l) of the Social Security Act (42 U.S.C. 1396a(l)) is amended—

(A) in paragraph (3), by inserting ''subject to paragraph (5)'', after ''Notwithstanding subsection (a)(17),''; and

(B) by adding at the end the following:

''(5)(A) Notwithstanding the first sentence of section 1905(b), with respect to expenditures incurred to carry out any of the outreach strategies described in subparagraph (B) for individuals under 19 years of age who are eligible for medical assistance under subsection (a)(10)(A), the Federal medical assistance percentage is equal to the enhanced FMAP described in section 2105(b) and increased under section 2105(c)(2)(C)(i)(II), but only if the State carries out the same outreach strategies for children under title XXI.

''(B) For purposes of subparagraph (A), the outreach strategies described in this subparagraph are the following:

''(i) PRESUMPTIVE ELIGIBILITY.—The State provides for presumptive eligibility for such individuals under this title and title XXI.

''(ii) ADOPTION OF 12-MONTH CONTINUOUS ELIGIBILITY.—The State provides that eligibility for such individuals shall not be redetermined more often than once every year under this title or under title XXI.

''(iii) ELIMINATION OF ASSET TEST.—The State does not apply any asset test for eligibility under this title or title XXI with respect to such individuals.

''(iv) PASSIVE RENEWAL.—The State provides for the automatic renewal of the eligibility of such individuals for assistance under this title and under title XXI if the family of which such an individual is a member does not report any changes to family income or other relevant circumstances, subject to verification of information from State databases.''.

(2) CONFORMING AMENDMENT.—The first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended by striking ''section 1933(d)'' and inserting ''sections 1902(l)(5) and 1933(d)''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2006.

**SEC. 203B. LIMITATION ON PAYMENTS TO STATES THAT HAVE AN ENROLLMENT CAP BUT HAVE NOT EXHAUSTED THE STATE'S AVAILABLE ALLOTMENTS.**

(a) IN GENERAL.—Section 2105 of the Social Security Act (42 U.S.C. 1397ee) is amended by adding at the end the following:

''(h) LIMITATION ON PAYMENTS TO STATES THAT HAVE AN ENROLLMENT CAP BUT HAVE NOT EXHAUSTED THE STATE'S AVAILABLE ALLOTMENTS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section, payment shall not be made to a State under this section if the State has an enrollment freeze, enrollment cap, procedures to delay consideration of, or not to consider, submitted applications for child health assistance, or a waiting list for the submission or consideration of such applications or for such assistance, and the State has not fully expended the amount of all allotments available with respect to a fiscal year for expenditure by the State, including allotments for prior fiscal years that remain available for expenditure during the fiscal year under subsection (c) or (g) of section 2104 or that were redistributed to the State under subsection (f) or (g) of section 2104.

''(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting a State from establishing regular open enrollment periods for the submission of applications for child health assistance.''.

(b) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2006.

**SEC. 203C. ADDITIONAL ENHANCEMENT TO FMAP TO PROMOTE EXPANSION OF COVERAGE TO ALL UNINSURED CHILDREN UNDER MEDICAID AND SCHIP.**

(a) IN GENERAL.—Title XXI (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

**''SEC. 2111. ADDITIONAL ENHANCEMENT TO FMAP TO PROMOTE EXPANSION OF COVERAGE TO ALL UNINSURED CHILDREN UNDER MEDICAID AND SCHIP.**

''(a) IN GENERAL.—Notwithstanding subsection (b) of section 2105 (and without regard to the application of the 85 percent limitation under that subsection), the enhanced FMAP with respect to expenditures in a quarter for providing child health assistance to uninsured children whose family income exceeds 200 percent of the poverty line, shall be increased by 5 percentage points.

''(b) UNINSURED CHILD DEFINED.—

''(1) IN GENERAL.—For purposes of subsection (a), subject to paragraph (2), the term 'uninsured child' means an uncovered child who has been without creditable coverage for a period determined by the Secretary, except that such period shall not be less than 6 months.

''(2) SPECIAL RULE FOR NEWBORN CHILDREN.—In the case of a child 12 months old or younger, the period determined under paragraph (1) shall be 0 months and such child shall be considered uninsured upon birth.

''(3) SPECIAL RULE FOR CHILDREN LOSING MEDICAID OR SCHIP COVERAGE DUE TO INCREASED FAMILY INCOME.—In the case of a child who, due to an increase in family income, becomes ineligible for coverage under title XIX or this title during the period beginning on the date that is 12 months prior to the date of enactment of the All Kids Health Insurance Coverage Act of 2005 and ending on the date of enactment of such Act, the period determined under paragraph (1) shall be 0 months and such child shall be considered uninsured upon the date of enactment of the All Kids Health Insurance Coverage Act of 2005.

''(4) MONITORING AND ADJUSTMENT OF PERIOD REQUIRED TO BE UNINSURED.—The Secretary shall—

''(A) monitor the availability and retention of employer-sponsored health insurance coverage of dependent children; and

''(B) adjust the period determined under paragraph (1) as needed for the purpose of promoting the retention of private or employer-sponsored health insurance coverage of dependent children and timely access to health care services for such children.''.

(b) COST-SHARING FOR CHILDREN IN FAMILIES WITH HIGH FAMILY INCOME.—Section 2103(e)(3) of the Social Security Act (42 U.S.C. 1397cc(e)(3)) is amended by adding at the end the following new subparagraph:

''(C) CHILDREN IN FAMILIES WITH HIGH FAMILY INCOME.—

''(i) IN GENERAL.—For children not described in subparagraph (A) whose family income exceeds 400 percent of the poverty line for a family of the size involved, subject to paragraphs (1)(B) and (2), the State shall impose a premium that is not less than the cost of providing child health assistance to children in such families, and deductibles, cost sharing, or similar charges shall be imposed under the State child health plan (without regard to a sliding scale based on income), except that the total annual aggregate cost-sharing with respect to all such children in a family under this title may not exceed 5 percent of such family's income for the year involved.

''(ii) INFLATION ADJUSTMENT.—The dollar amount specified in clause (i) shall be increased, beginning with fiscal year 2008, from year to year based on the percentage increase in the consumer price index for all urban consumers (all items; United States city average). Any dollar amount established under this clause that is not a multiple of $100 shall be rounded to the nearest multiple of $100.''.

(c) ADDITIONAL ALLOTMENTS FOR STATES PROVIDING COVERAGE TO ALL UNINSURED CHILDREN IN THE STATE.—

(1) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by inserting after subsection (c) the following:

''(d) ADDITIONAL ALLOTMENTS FOR STATES PROVIDING COVERAGE TO ALL UNINSURED CHILDREN IN THE STATE.—

''(1) APPROPRIATION; TOTAL ALLOTMENT.—For the purpose of providing additional allotments to States to provide coverage of all uninsured children (as defined in section 2111(b)) in the State under the State child health plan, there is appropriated, out of any money in the Treasury not otherwise appropriated—

''(A) for fiscal years 2007, 2008, and 2009, $3,000,000,000;

''(B) for fiscal year 2010, $5,000,000,000; and

''(C) for fiscal year 2011, $7,000,000,000.

''(2) STATE AND TERRITORIAL ALLOTMENTS.—

''(A) IN GENERAL.—In addition to the allotments provided under subsections (b) and (c), subject to subparagraph (B) and paragraphs (3) and (4), of the amount available for the additional allotments under paragraph (1) for a fiscal year, the Secretary shall allot to each State with a State child health plan that provides coverage of all uninsured children (as so defined) in the State approved under this title—

''(i) in the case of such a State other than a commonwealth or territory described in subsection (ii), the same proportion as the proportion of the State's allotment under subsection (b) (determined without regard to subsection (f)) to 98.95 percent of the total amount of the allotments under such section for such States eligible for an allotment under this subparagraph for such fiscal year; and

''(ii) in the case of a commonwealth or territory described in subsection (c)(3), the same proportion as the proportion of the commonwealth's or territory's allotment under subsection (c) (determined without regard to subsection (f)) to 1.05 percent of the total amount of the allotments under such section for commonwealths and territories eligible for an allotment under this subparagraph for such fiscal year.

''(B) MINIMUM ALLOTMENT.—

''(i) IN GENERAL.—No allotment to a State for a fiscal year under this subsection shall be less than 50 percent of the amount of the allotment to the State determined under subsections (b) and (c) for the preceding fiscal year.

''(ii) PRO RATA REDUCTIONS.—The Secretary shall make such pro rata reductions to the allotments determined under this subsection as are necessary to comply with the requirements of clause (i).

''(C) AVAILABILITY AND REDISTRIBUTION OF UNUSED ALLOTMENTS.—In applying subsections (e) and (f) with respect to additional allotments made available under this subsection, the procedures established under such subsections shall ensure such additional allotments are only made available to States which have elected to provide coverage under section 2111.

''(3) USE OF ADDITIONAL ALLOTMENT.—Additional allotments provided under this subsection are not available for amounts expended before October 1, 2005. Such amounts are available for amounts expended on or after such date for child health assistance for uninsured children (as defined in section 2111(b)).

''(4) REQUIRING ELECTION TO PROVIDE COVERAGE.—No payments may be made to a State under this title from an allotment provided under this subsection unless the State has made an election to provide child health assistance for all uninsured children (as so defined) in the State, including such children whose family income exceeds 200 percent of the poverty line.''.

(2) CONFORMING AMENDMENTS.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended—

(A) in subsection (a), by inserting ''subject to subsection (d),'' after ''under this section,'';

(B) in subsection (b)(1), by inserting ''and subsection (d)'' after ''Subject to paragraph (4)''; and

(C) in subsection (c)(1), by inserting ''subject to subsection (d),'' after ''for a fiscal year,''.

(d) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2006.

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**SA 2715.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 19, strike lines 19 through 22 and insert the following:

**SEC. 203. REDUCED TAXES FOR PATRIOT EMPLOYERS.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

**''SEC. 45N. REDUCTION IN TAX OF PATRIOT EMPLOYERS.**

''(a) IN GENERAL.—In the case of any taxable year beginning after December 31, 2005, and before January 1, 2011, with respect to which a taxpayer is certified by the Secretary as a Patriot employer, the Patriot employer credit determined under this section for purposes of section 38 shall be equal to 1 percent of the taxable income of the taxpayer which is properly allocable to all trades or businesses with respect to which the taxpayer is certified as a Patriot employer for the taxable year.

''(b) PATRIOT EMPLOYER.—For purposes of subsection (a), the term 'Patriot employer' means, with respect to any taxable year, any taxpayer which—

''(1) maintains its headquarters in the United States if the taxpayer has ever been headquartered in the United States,

''(2) pays at least 60 percent of each employee's health care premiums,

''(3) if such taxpayer employs at least 50 employees on average during the taxable year—

''(A) maintains or increases the number of full-time workers in the United States relative to the number of full-time workers outside of United States,

''(B) compensates each employee of the taxpayer at an hourly rate (or equivalent thereof) not less than an amount equal to the Federal poverty level for a family of three for the calendar year in which the taxable year begins divided by 2,080,

''(C) provides either a defined benefit plan or a defined contribution plan which fully matches at least 5 percent of each employee's contributions to the plan, and

''(D) provides full differential salary and insurance benefits for all National Guard and Reserve employees who are called for active duty, and

''(4) if such taxpayer employs less than 50 employees on average during the taxable year, either—

''(A) compensates each employee of the taxpayer at an hourly rate (or equivalent thereof) not less than an amount equal to the Federal poverty level for a family of 3 for the calendar year in which the taxable year begins divided by 2,080, or

''(B) provides either a defined benefit plan or a defined contribution plan which fully matches at least 5 percent of each employee's contributions to the plan.''.

(b) ALLOWANCE AS GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking ''and'' at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting '', and'', and by adding at the end the following:

''(27) the Patriot employer credit determined under section 45N.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

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**SA 2716.** Mrs. CLINTON (for herself, Ms. MIKULSKI, Mr. HARKIN, Mr. LAUTENBERG, Mr. REED, Mr. SALAZAR, Mr. OBAMA, Mrs. BOXER, Ms. STABENOW, Mr. SCHUMER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. CARPER, Mr. JOHNSON, Mr. LEAHY, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of the amendment, insert the following:

**TITLE ____—KATRINA COMMISSION**

**SEC. _01. ESTABLISHMENT OF COMMISSION.**

There is established in the legislative branch the Katrina Commission (in this title referred to as the ''Commission'').

**SEC. _02. COMPOSITION OF COMMISSION.**

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the President, who shall serve as chairman of the Commission;

(2) 1 member shall be appointed by the leader of the Senate (majority or minority leader, as the case may be) of the Democratic Party, in consultation with the leader of the House of Representatives (majority or minority leader, as the case may be) of the Democratic Party, who shall serve as vice chairman of the Commission;

(3) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic Party;

(4) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party;

(5) 2 members shall be appointed by the senior member of the Senate leadership of the Republican Party; and

(6) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party.

(b) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens who represent a diverse range of citizens and enjoy national recognition and significant depth of experience in such professions as governmental service, emergency preparedness, mitigation planning, cataclysmic planning and response, intergovernmental management, resource planning, recovery operations and planning, Federal coordination, military coordination, and other extensive natural disaster and emergency response experience.

(4) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed on or before October 1, 2005.

(5) INITIAL MEETING.—The Commission shall meet and begin the operations of the Commission as soon as practicable.

(c) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

**SEC. __03. DUTIES.**

The duties of the Commission are to—

(1) examine and report upon the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf Region of the United States of America especially in the States of Louisiana, Mississippi, Alabama, and other areas impacted in the aftermath;

(2) ascertain, evaluate, and report on the information developed by all relevant governmental agencies regarding the facts and circumstances related to Hurricane Katrina prior to striking the United States and in the days and weeks following;

(3) build upon concurrent and prior investigations of other entities, and avoid unnecessary duplication concerning information related to existing vulnerabilities;

(4) make a full and complete accounting of the circumstances surrounding the approach of Hurricane Katrina to the Gulf States, and the extent of the United States government's preparedness for, and response to, the hurricane;

(5) planning necessary for future cataclysmic events requiring a significant marshaling of Federal resources, mitigation, response, and recovery to avoid significant loss of life;

(6) an analysis as to whether any decisions differed with respect to response and recovery for different communities, neighborhoods, parishes, and locations and what problems occurred as a result of a lack of a common plan, communication structure, and centralized command structure; and

(7) investigate and report to the President and Congress on its findings, conclusions, and recommendations for immediate corrective measures that can be taken to prevent problems with Federal response that occurred in the preparation for, and in the aftermath of, Hurricane Katrina so that future cataclysmic events are responded to adequately.

**SEC. __04. FUNCTIONS OF COMMISSION.**

(a) IN GENERAL.—The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the catastrophic impacts that Hurricane Katrina exacted upon the Gulf Region of the United States especially in New Orleans and surrounding parishes, and impacted areas of Mississippi and Alabama; and

(B) shall include relevant facts and circumstances relating to—

(i) Federal emergency response planning and execution at the Federal Emergency Management Agency, the Department of Homeland Security, the White House, and all other Federal entities with responsibility for assisting during, and responding to, natural disasters;

(ii) military and law enforcement response planning and execution;

(iii) Federal mitigation plans, programs, and policies including prior assessments of existing vulnerabilities and exercises designed to test those vulnerabilities;

(iv) Federal, State, and local communication interoperability successes and failures;

(v) past, present, and future Federal budgetary provisions for preparedness, mitigation, response, and recovery;

(vi) the Federal Emergency Management Agency's response capabilities as an independent agency and as part of the Department of Homeland Security;

(vii) the role of congressional oversight and resource allocation;

(viii) other areas of the public and private sectors determined relevant by the Commission for its inquiry; and

(ix) long-term needs for people impacted by Hurricane Katrina and other forms of Federal assistance necessary for large-scale recovery;

(2) identify, review, and evaluate the lessons learned from Hurricane Katrina including coordination, management policies, and procedures of the Federal Government, State and local governments, and nongovernmental entities, relative to detection, planning, mitigation, asset prepositioning, and responding to cataclysmic natural disasters such as Hurricane Katrina; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

**SEC. __05. POWERS OF COMMISSION.**

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—

(i) IN GENERAL.—A subpoena may be issued under this subsection only—

(I) by the agreement of the chairman and the vice chairman; or

(II) by the affirmative vote of 6 members of the Commission.

(ii) SIGNATURE.—Subject to clause (i), subpoenas issued under this subsection may be issued under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this Act. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same

manner and under the same conditions as departments and agencies of the United States.

**SEC. __06. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**

(a) IN GENERAL.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the reports required under section __10.

(c) PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

**SEC. __07. STAFF OF COMMISSION.**

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairman, in consultation with the vice chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

**SEC. __08. COMPENSATION AND TRAVEL EXPENSES.**

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

**SEC. __09. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.**

The appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this title without the appropriate security clearances.

**SEC. __10. REPORTS OF COMMISSION; TERMINATION.**

(a) INTERIM REPORTS.—The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than 6 months after the date of the enactment of this Act, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this Act, shall terminate 61 days after the date on which the final report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report.

**SEC. __11. FUNDING.**

(a) EMERGENCY APPROPRIATION OF FUNDS.—There are authorized to be appropriated $3,000,000 for purposes of the activities of the Commission under this title and such funding is designated as emergency spending under section 402 of H. Con. Res. 95 (109th Congress).

(b) DURATION OF AVAILABILITY.—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

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**SA 2717.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 2, line 3, strike ''Tax Relief Extension Reconciliation Act of 2005'' and insert ''More Tax Breaks for the Rich and More Debt for Our Grandchildren Deficit Expansion Reconciliation Act of 2006''.

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**SA 2718.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. SENSE OF THE SENATE REGARDING THE MEDICARE PART D PRESCRIPTION DRUG PROGRAM.**

(a) FINDINGS.—The Senate finds the following:

(1) It is not acceptable that startup issues under the new Medicare prescription drug program have resulted in some of our Nation's most vulnerable citizens having difficulties getting their prescription drugs covered under the program, and these issues must be addressed and resolved.

(2) The Department of Health and Human Services and the Centers for Medicare & Medicaid Services are working tirelessly to address these startup issues and have taken numerous steps to smooth the transition process.

(3) All prescription drug plans under part D of title XVIII of the Social Security Act and MA–PD plans under part C of such title (in this section referred to as ''Medicare prescription drug plans'') already have a ''first fill'' policy in place that provides a new enrollee with coverage for prescription drugs during at least the first 30 days of enrollment regardless of whether the particular prescription drug is on the plan's formulary, and the Centers for Medicare & Medicaid Services is enforcing this requirement.

(4) Under current law, full-benefit dual eligible individuals (as defined in section 1935(c)(6) of the Social Security Act (42 U.S.C. 1395u–5(c)(6)) are already automatically enrolled into Medicare prescription drug coverage so no change in law is necessary.

(5) Medicare prescription drug plans are already responsible for covering the cost of covered prescriptions filled for enrollees, including short term transition prescriptions.

(6) Medicare prescription drug plans are already responsible for reimbursing any enrollee, including full-benefit dual eligible individuals, for any out-of-pocket costs incurred by the enrollee that should have been covered by the plan.

(7) The Centers for Medicare & Medicaid Services is already reimbursing States for the reasonable administrative costs incurred by States that have temporarily covered some claims for prescription drug coverage during the transition period.

(8) Enrollment is exceeding projections, with at least 24,000,000 Medicare beneficiaries who now have drug coverage and another 90,000 are enrolling each day in the Medicare prescription drug program;

(9) In addition, the Secretary of Health and Human Services has taken many other actions to smooth the implementation of the Medicare prescription drug program, including the following:

(A) Establishing processes to ensure that full-benefit dual eligible individuals are not overcharged for their prescriptions and to require Medicare prescription drug plans to refund overcharges to such individuals.

(B) Establishing a reconciliation process to ensure that Medicare prescription drug plans reimburse pharmacies for costs incurred by pharmacies that are payable by such plans.

(C) Conducting extensive and continuing outreach to pharmacies and pharmacy associations on the implementation of the Medicare prescription drug benefit, particularly with respect to full-benefit dual eligible individuals, as well as establishing a special pharmacy telephone help line.

(D) Requiring Medicare prescription drug plans to have comprehensive formularies and procedures for enrollees to rapidly secure an exception to the limitation of coverage of a prescription drug when medical necessity is demonstrated.

(E) Permitting full-benefit dual eligible individuals to switch Medicare prescription drug plan under the Medicare prescription drug benefit at any time, for any reason, and improving data flows and communication with plans to ensure that plan switches by such individuals become fully effective as quickly as possible.

(F) Partnering with national, State, and local groups that work with full-benefit dual eligible individuals to educate such individuals about the Medicare prescription drug program, and assisting in their transition to, and enrollment under, such program.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Secretary of Health and Human Services is making significant progress in smoothing the implementation of the new Medicare prescription drug program, legislation changing the program is not needed at this time, and legislation at this time would also likely complicate implementation of the program and confuse beneficiaries;

(2) each of the implementation problems identified under the Medicare prescription drug program will be resolved more quickly through administrative actions, which the Secretary of Health and Human Services already has the authority to take under current law, rather than through Congressional action followed by administrative action;

(3) the Senate fully supports the efforts of the Secretary of Health and Human Services, Medicare prescription drug plans, pharmacists, and others to implement the Medicare prescription drug program and to resolve problems that have occurred during the implementation of the program; and

(4) the pace of enrollment in the Medicare prescription drug benefit indicates that extending the six-month enrollment period is not warranted and, by contrast, such an action could exacerbate implementation issues under the program.

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**SA 2719.** Mr. HARKIN (for himself, Mr. KENNEDY, Mr. KOHL, and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. RESTORATION OF THE PHASEOUT OF PERSONAL EXEMPTIONS AND THE OVERALL LIMITATION ON ITEMIZED DEDUCTION; EXPANSION OF CHILD AND DEPENDANT CARE CREDIT.**

(a) RESTORATION OF THE PHASEOUT OF PERSONAL EXEMPTIONS AND THE OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.—

(1) RESTORATION OF PHASEOUT OF PERSONAL EXEMPTIONS.—

(A) IN GENERAL.—Paragraph (3) of section 151(d) (relating to exemption amount) is amended by striking subparagraphs (E) and (F).

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply to taxable years beginning after December 31, 2005.

(2) RESTORATION OF PHASEOUT OF OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.—

(A) IN GENERAL.—Section 68 is amended by striking subsections (f) and (g).

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply to taxable years beginning after December 31, 2005.

(b) EXPANSION OF CHILD AND DEPENDANT CARE CREDIT.—

(1) INCREASE IN CREDIT.—Paragraph (2) of section 21(a) (relating to credit for expenses for household and dependent care services necessary for gainful employment) is amended to read as follows:

''(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term 'applicable percentage' means 35 percent reduced (but not below 20 percent) by 1 percentage point for each $3,000 (or fraction thereof) by which the taxpayer's adjusted gross income exceeds $60,000.''.

(2) INCREASE IN MAXIMUM AMOUNT CREDITABLE.—

(A) IN GENERAL.—Section 21(c) (relating to dollar limit on amount creditable) is amended—

(i) in paragraph (1), by striking ''$3,000'' and inserting ''$5,000''; and

(ii) in paragraph (2), by striking ''$6,000 '' and inserting ''$10,000''.

(B) PHASE-OUT FOR TAXPAYERS WITH ADJUSTED GROSS INCOME IN EXCESS OF $50,000.—

(i) IN GENERAL.—Section 21(c) is amended by adding at the end the following new paragraph:

''(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—If the taxpayer's adjusted gross income for the taxable year exceeds $50,000, the dollar amounts under paragraph (1) shall be reduced as follows:

''(A) The $5,000 amount under paragraph (1)(A) shall be reduced (but not below $3,000) by $50 for each $1,000 (or fraction thereof) of such excess.

''(B) The $10,000 amount under paragraph (1)(B) shall be reduced (but not below $6,000) by $100 for each $1,000 (or fraction thereof) of such excess.''.

(3) CONFORMING AMENDMENTS.—Section 21(c), as amended by paragraph (2), is amended—

(A) by striking ''The amount'' and inserting:

''(1) IN GENERAL.—The amount'';

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by striking ''paragraph (1) or (2)'' and inserting ''subparagraph (A) or (B)''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2006, and before January 1, 2010.

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**SA 2720.** Mr. BURNS (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. NONREFUNDABLE CREDIT FOR CERTAIN PRIMARY HEALTH SERVICES PROVIDERS SERVING HEALTH PROFESSIONAL SHORTAGE AREAS.**

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25D the following new section:

**''SEC. 25E. PRIMARY HEALTH SERVICES PROVIDERS SERVING HEALTH PROFESSIONAL SHORTAGE AREAS.**

''(a) ALLOWANCE OF CREDIT.—In the case of an individual who is a qualified primary health services provider for any month during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to $1,000 for each month during such taxable year—

''(1) which is part of the eligible service period of such individual, and

''(2) for which such individual is a qualified primary health services provider.

''(b) QUALIFIED PRIMARY HEALTH SERVICES PROVIDER.—For purposes of this section, the term 'qualified primary health services provider' means, with respect to any month, any physician who is certified for such month by the Bureau to be a primary health services provider or a licensed mental health provider who—

''(1) is providing primary health services full time and substantially all of whose primary health services are provided in a health professional shortage area,

''(2) is not receiving during the calendar year which includes such month a scholarship under the National Health Service Corps Scholarship Program or the Indian health professions scholarship program or a loan repayment under the National Health Service Corps Loan Repayment Program or the Indian Health Service Loan Repayment Program,

''(3) is not fulfilling service obligations under such Programs, and

''(4) has not defaulted on such obligations.

Such term shall not include any individual who is described in paragraph (1) with respect to any of the 3 most recent months ending before the date of the enactment of this section.

''(c) ELIGIBLE SERVICE PERIOD.—For purposes of this section, the term 'eligible service period' means the period of 60 consecutive calendar months beginning with the first month the taxpayer is a qualified primary health services provider.

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

''(1) BUREAU.—The term 'Bureau' means the Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration of the United States Public Health Service.

''(2) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r) of the Social Security Act.

''(3) PRIMARY HEALTH SERVICES PROVIDER.—The term 'primary health services provider' means a provider of basic health services (as described in section 330(b)(1)(A)(i) of the Public Health Service Act).

''(4) HEALTH PROFESSIONAL SHORTAGE AREA.—

''(A) IN GENERAL.—The term 'health professional shortage area' means any area located in 1 or more qualifying counties which, as of the beginning of the eligible service period, is a health professional shortage area (as defined in section 332(a)(1) of the Public Health Service Act) taking into account only the category of health services provided by the qualified primary health services provider.

''(B) QUALIFYING COUNTY.—The term 'qualifying county' means any county which—

''(i) is outside a metropolitan statistical area (defined as such by the Office of Management and Budget), and

''(B) during the 20-year period ending with the calendar year preceding the date of enactment of this Act, has a net out-migration of inhabitants from the county of at least 10 percent of the population of the county at the beginning of such period.

''(5) ONLY 60 MONTHS TAKEN INTO ACCOUNT.—In no event shall more than 60 months be taken into account under subsection (a) by any individual for all taxable years.''

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Primary health services providers serving health professional shortage areas.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

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**SA 2721.** Ms. LANDRIEU submitted an amendment to be proposed by her to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. MODIFICATION OF HOUSING CREDIT FOR THE GULF OPPORTUNITY ZONE.**

(a) IN GENERAL.—Section 1400N(c) is amended by redesignating paragraphs (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) SPECIAL RULE FOR DETERMINING LOW-INCOME UNIT.—For purposes of section 42—

''(A) IN GENERAL.—In the case of property place in service during 2006, 2007, or 2008 in the Gulf Opportunity Zone, the term 'low-income unit' means any unit in a building if—

''(i) such unit is rent restricted (as defined in section 42 (g)(2)), and

''(ii) the individuals occupying such unit have an income of 100 percent or less of—

''(I) in the case of a unit located in a nonmetropolitan area (as defined in section 42(d)(5)(C)(iv)(IV), the nonmetropolitan area median gross income (determined under rules similar to the rules of section 142(d)(2)(B)), and

''(II) in the case of any other unit, the area median gross income (determined under the rules of section 142(d)(2)(B)).

''(B) EXCEPTIONS AND SPECIAL RULES.—For purposes of subparagraph (A), the rules of subparagraphs (B), (C), (D), and (E) of section 42(i)(3) shall apply.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 101 of the Gulf Opportunity Zone Act of 2005.

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**SA 2722.** Mr. DORGAN (for himself, Ms. MIKULSKI, Ms. STABENOW, Mr. DURBIN, Mr. LEVIN, Mr. FEINGOLD, Mr. KOHL, Mr. LEAHY, Mr. HARKIN, Mr. KENNEDY, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. ___. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.**

(a) GENERAL RULE.—Subsection (a) of section 954 (defining foreign base company income) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end the following new paragraph:

''(6) imported property income for the taxable year (determined under subsection (j) and reduced as provided in subsection (b)(5)).''.

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 is amended by adding at the end the following new subsection:

''(j) IMPORTED PROPERTY INCOME.—

''(1) IN GENERAL.—For purposes of subsection (a)(6), the term 'imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

''(A) manufacturing, producing, growing, or extracting imported property;

''(B) the sale, exchange, or other disposition of imported property; or

''(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

''(2) IMPORTED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

''(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

''(i) such property would be imported into the United States; or

''(ii) such property would be used as a component in other property which would be imported into the United States.

''(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

''(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States; or

''(ii) is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

''(3) DEFINITIONS AND SPECIAL RULES.—

''(A) IMPORT.—For purposes of this subsection, the term 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use intangible property (as defined in section 936(h)(3)(B)) in the United States.

''(B) UNITED STATES.—For purposes of this subsection, the term 'United States' includes the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(C) UNRELATED PERSON.—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation.

''(D) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income.''.

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) BEFORE 2007.—

(A) IN GENERAL.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income), as in effect for taxable years beginning before January 1, 2007, is amended by striking ''and'' at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

''(I) imported property income, and''.

(B) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d), as so in effect, is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

''(H) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(j)).''.

(C) LOOK-THRU RULES TO APPLY.—Subparagraph (F) of section 904(d)(3), as so in effect, is amended by striking ''or (D)'' and inserting ''(D), or (I)''.

(2) AFTER 2006.—

(A) IN GENERAL.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income), as in effect for taxable years beginning after December 31, 2006, is amended by striking ''and'' at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

''(B) imported property income, and''.

(B) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d), as so in effect, is amended by redesignating subparagraphs (I) and (J) as subparagraphs (J) and (K), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(j)).''.

(C) CONFORMING AMENDMENT.—Clause (ii) of section 904(d)(2)(A), as so in effect, is amended by inserting ''or imported property income'' after ''passive category income''.

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) (relating to certain prior year deficits may be taken into account) is amended—

(A) by redesignating subclauses (II), (III), (IV), and (V) as subclauses (III), (IV), (V), and (VI), and

(B) by inserting after subclause (I) the following new subclause:

''(II) imported property income,''.

(2) Paragraph (5) of section 954(b) (relating to deductions to be taken into account) is amended by striking ''and the foreign base company oil related income'' and inserting ''the foreign base company oil related income, and the imported property income''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (1), the amendments made by this section shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

(2) SUBSECTION (c).—The amendments made by subsection (c)(1) shall apply to taxable years beginning after the date of the enactment of this Act and before January 1, 2007, and the amendments made by subsection (c)(2) shall apply to taxable years beginning after December 31, 2006.

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**SA 2723.** Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 28, after line 11, insert the following:

**TITLE IV—HOMELAND SECURITY**

**Subtitle A—Appropriations**

**SEC. 401. HOMELAND SECURITY APPROPRIATIONS.**

There are appropriated—

(1) $140,000,000 for each of fiscal years 2006 through 2015, to the Federal Bureau of Investigation to hire additional agents to ensure that the Federal Bureau of Investigation can perform its dual capabilities of investigating crimes and preventing terrorism;

(2) $1,100,000,000 for fiscal year 2006, to the Secretary of Transportation for security upgrades for Amtrak passenger and freight rail and transit;

(3) $18,300,000 for each of fiscal years 2006 through 2015, to the Secretary of Transportation to provide a raise of 25 percent to Amtrak police officers and to hire 200 Amtrak police officers, including 40 canine officers;

(4) $1,100,000,000 for fiscal year 2006, to the Office of Community Oriented Policing Services to make grants for the hiring of officers to—

(A) provide security at high threat targets; and

(B) conduct joint operations with the Federal Bureau of Investigation on terrorism cases;

(5) $2,600,000,000 for each of fiscal years 2006 through 2015, to the Department of Homeland Security for—

(A) the Emergency Management Performance Grant program;

(B) the fire grant programs authorized by sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229, 2229a);

(C) the Law Enforcement Terrorism Prevention program;

(D) State and local training programs through the Office of State and Local Government Coordination and Preparedness; and

(E) the Metropolitan Medical Response System;

(6) $5,000,000,000 for fiscal year 2006, to the Department of Homeland Security to ensure interoperable communications for emergency response providers (as that term is defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) that allow emergency response providers to communicate in the event of an emergency;

(7) $70,000,000 for fiscal year 2006, to the Department of Homeland Security to enhance security at chemical plants;

(8) $80,000,000 for fiscal year 2006, to the Department of Homeland Security to conduct a threat assessment that shall address threats and vulnerabilities in the sectors of—

(A) telecommunications;

(B) energy;

(C) financial services;

(D) manufacturing;

(E) water;

(F) agriculture;

(G) transportation;

(H) health care; and

(I) emergency services;

(9) $50,000,000 for fiscal year 2006, to the Department of Homeland Security for the integration of terrorist watch lists;

(10) $175,000,000 for fiscal year 2006, to the Department of Justice to ensure the appropriate dissemination of information regarding threats to homeland security and investigations of terrorism;

(11) $55,000,000 for fiscal year 2006, to the Department of Homeland Security for screening of checked baggage and cargo on commercial airplanes;

(12) $5,000,000,000 for fiscal year 2006, to the Department of Homeland Security to enhance port security; and

(13) $10,800,000 for each of fiscal years 2006 through 2015, to the Department of Homeland Security for screening of shipping containers at ports.

**Subtitle B—Provisions Relating to Tax Shelters**

**SEC. 411. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.**

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) 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. 412. 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(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(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) and (3) 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) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

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

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting ''and noneconomic substance transaction understatements'' after ''reportable transaction understatements'' both places it appears,

(B) in paragraph (2)(A), by inserting ''and a noneconomic substance transaction understatement'' after ''reportable transaction understatement'',

(C) in paragraph (2)(B), by inserting ''6662B or'' before ''6663'',

(D) in paragraph (2)(C)(i), by inserting ''or section 6662B'' before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting ''and section 6662B'' after ''This section'',

(F) in paragraph (3), by inserting ''or noneconomic substance transaction understatement'' after ''reportable transaction understatement'', and

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

''(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).''.

(3) Subsection (e) of section 6707A is amended—

(A) by striking ''or'' at the end of subparagraph (B), and

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

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

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

(c) 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''.

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

**SEC. 413. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.**

(a) IN GENERAL.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking ''attributable'' and all that follows and inserting the following: ''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)).'', and

(2) by inserting ''AND NONECONOMIC SUBSTANCE TRANSACTIONS'' in the heading thereof after ''TRANSACTIONS''.

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

**SEC. 414. MODIFICATIONS OF EFFECTIVE DATES OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.**

(a) IN GENERAL.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by striking paragraphs (1) and (2), by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively, and by adding at the end the following new paragraph:

''(3) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2004, with respect to leases entered into on or before March 12, 2004.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

**SEC. 415. REVALUATION OF LIFO INVENTORIES OF LARGE INTEGRATED OIL COMPANIES.**

(a) GENERAL RULE.—Notwithstanding any other provision of law, if a taxpayer is an applicable integrated oil company for its last taxable year ending in calendar year 2005, the taxpayer shall—

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

(2) decrease its cost of goods sold for such taxable year by the aggregate amount of the increases under paragraph (1).

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

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

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

(A) $18.75, and

(B) the number of barrels of crude oil (or in the case of natural gas or other petroleum products, the number of barrel-of-oil equivalents) represented by the layer.

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

(c) APPLICATION OF REQUIREMENT.—

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

(2) UNDERPAYMENTS OF ESTIMATED TAX.—No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1986 (relating to failure by corporation to pay estimated tax) with respect to any underpayment of an installment required to be paid with respect to the taxable year described in subsection (a) to the extent such underpayment was created or increased by this section.

(d) APPLICABLE INTEGRATED OIL COMPANY.—For purposes of this section, the term ''applicable integrated oil company'' means an integrated oil company (as defined in section 291(b)(4) of the Internal Revenue Code of 1986) which—

(1) had gross receipts in excess of $1,000,000,000 for its last taxable year ending during calendar year 2005, and

(2) uses the last-in, first-out (LIFO) method of accounting with respect to its crude oil inventories for such taxable year.

For purposes of paragraph (1), all persons treated as a single employer under subsections (a) and (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as 1 person and, in the case of a short taxable year, the rule under section 448(c)(3)(B) shall apply.

**SEC. 416. MODIFICATION OF EFFECTIVE DATE OF EXCEPTION FROM SUSPENSION RULES FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.**

(a) IN GENERAL.—Paragraph (2) of section 903(d) of the American Jobs Creation Act of 2004 is amended to read as follows:

''(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—

''(A) IN GENERAL.—The amendments made by subsection (c) shall apply with respect to interest accruing after October 3, 2004.

''(B) SPECIAL RULE FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the amendments made by subsection (c) shall also apply with respect to interest accruing on or before October 3, 2004.

''(ii) PARTICIPANTS IN SETTLEMENT INITIATIVES.—Clause (i) shall not apply to any transaction if, as of January 23, 2006—

''(I) the taxpayer is participating in a settlement initiative described in Internal Revenue Service Announcement 2005-80 with respect to such transaction, or

''(II) the taxpayer has entered into a settlement agreement pursuant to such an initiative.

''(iii) TERMINATION OF EXCEPTION.—Clause (ii)(I) shall not apply to any taxpayer if, after January 23, 2006, the taxpayer withdraws from, or terminates, participation in the initiative or the Secretary of the Treasury or the Secretary's delegate determines that a settlement agreement will not be reached pursuant to the initiative within a reasonable period of time.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates.

**SEC. 417. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.**

(a) DETERMINATION OF PENALTY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such

arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) APPLICABLE TAXPAYER.—For purposes of this subsection—

(A) IN GENERAL.—The term ''applicable taxpayer'' means a taxpayer which—

(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of offshore payment mechanisms (including credit, debit, or charge cards) issued by banks or other entities in foreign jurisdictions, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has neither signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003-11 nor voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.

(B) AUTHORITY TO WAIVE.—The Secretary of the Treasury or the Secretary's delegate may waive the application of paragraph (1) to any taxpayer if the Secretary or the Secretary's delegate determines that the use of such offshore payment mechanisms is incidental to the transaction and, in addition, in the case of a trade or business, such use is conducted in the ordinary course of the type of trade or business of the taxpayer.

(C) ISSUES RAISED.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

(i) communicates to the taxpayer knowledge about the specific item, or

(ii) has made a request to the taxpayer for information and the taxpayer could not make a complete response to that request without giving the examiner knowledge of the specific item.

(b) DEFINITIONS AND RULES.—For purposes of this section—

(1) APPLICABLE PENALTY.—The term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) FEES AND EXPENSES.—The Secretary of the Treasury may retain and use an amount not in excess of 25 percent of all additional interest, penalties, additions to tax, and fines collected under this section to be used for enforcement and collection activities of the Internal Revenue Service. The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this paragraph.

(c) REPORT BY SECRETARY.—The Secretary shall each year conduct a study and report to Congress on the implementation of this section during the preceding year, including statistics on the number of taxpayers affected by such implementation and the amount of interest and applicable penalties asserted, waived, and assessed during such preceding year.

(d) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if, as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

**SEC. 418. 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.

### Subtitle C—Provisions to Close Corporate and Individual Loopholes

**SEC. 421. TAX TREATMENT OF INVERTED ENTITIES.**

(a) IN GENERAL.—Section 7874 is amended—

(1) by striking ''March 4, 2003'' in subsection (a)(2)(B)(i) and in the matter following subsection (a)(2)(B)(iii) and inserting ''March 20, 2002'',

(2) by striking ''at least 60 percent'' in subsection (a)(2)(B)(ii) and inserting ''more than 50 percent'',

(3) by striking ''80 percent'' in subsection (b) and inserting ''at least 80 percent'',

(4) by striking ''60 percent'' in subsection (b) and inserting ''more than 50 percent'',

(5) by adding at the end of subsection (a)(2) the following new sentence: ''Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (B) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.'', and

(6) by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) SPECIAL RULES APPLICABLE TO EXPATRIATED ENTITIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an expatriated entity—

''(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

''(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an expatriated entity, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after March 20, 2002.

**SEC. 422. GRANT OF TREASURY REGULATORY AUTHORITY TO ADDRESS FOREIGN TAX CREDIT TRANSACTIONS INVOLVING INAPPROPRIATE SEPARATION OF FOREIGN TAXES FROM RELATED FOREIGN INCOME.**

(a) IN GENERAL.—Section 901 (relating to taxes of foreign countries and of possessions of United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) REGULATIONS.—The Secretary may prescribe regulations disallowing a credit under subsection (a) for all or a portion of any foreign tax, or allocating a foreign tax among 2 or more persons, in cases where the foreign tax is imposed on any person in respect of income of another person or in other cases involving the inappropriate separation of the foreign tax from the related foreign income.''.

(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. 423. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.**

(a) IN GENERAL.—Section 1275(d) (relating to regulation authority) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'', and

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

''(2) TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT.—

''(A) IN GENERAL.—In the case of a debt instrument which—

''(i) is convertible into stock of the issuing corporation, into stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1)), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

''(ii) provides for contingent payments,

any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed-rate debt instrument shall be applied as if the regulations require that such comparable yield be determined by reference to a noncontingent fixed-rate debt instrument which is convertible into stock.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.''.

(b) CROSS REFERENCE.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

''For the treatment of contingent payment convertible debt, see section 1275(d)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued on or after the date of the enactment of this Act.

**SEC. 424. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE CORPORATIONS.**

(a) IN GENERAL.—Section 163(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) TREATMENT OF CORPORATE PARTNERS.—Except to the extent provided by regulations, in applying this subsection to a corporation which owns (directly or indirectly) an interest in a partnership—

''(A) such corporation's distributive share of interest income paid or accrued to such partnership shall be treated as interest income paid or accrued to such corporation,

''(B) such corporation's distributive share of interest paid or accrued by such partnership shall be treated as interest paid or accrued by such corporation, and

''(C) such corporation's share of the liabilities of such partnership shall be treated as liabilities of such corporation.''.

(b) ADDITIONAL REGULATORY AUTHORITY.—Section 163(j)(9) (relating to regulations), as redesignated by subsection (a), is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) regulations providing for the reallocation of shares of partnership indebtedness, or distributive shares of the partnership's interest income or interest expense, as may be appropriate to carry out the purposes of this subsection.''.

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

**SEC. 425. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.**

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

Identification pursuant to subparagraph (B) alone shall not satisfy the requirement under subparagraph (A). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.''.

(b) REPORTING OF DEDUCTIBLE AMOUNTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6050T the following new section:

**''SEC. 6050U. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.**

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050T the following new item:

''Sec. 6050U. Information with respect to certain fines, penalties, and other amounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

**SEC. 426. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.**

(a) DISALLOWANCE OF DEDUCTION.—

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

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

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

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

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

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

**''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.**

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

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

''(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

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

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages

paid or incurred on or after the date of the enactment of this Act.

**SEC. 427. LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES.**

(a) IN GENERAL.—Paragraph (2) of section 274(e) (relating to expenses treated as compensation) is amended to read as follows:

''(2) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities, to the extent that the expenses do not exceed the amount of the expenses which are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to an employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).''.

(b) PERSONS NOT EMPLOYEES.—Paragraph (9) of section 274(e) is amended by striking ''to the extent that the expenses are includible in the gross income'' and inserting ''to the extent that the expenses do not exceed the amount of the expenses which are includible in the gross income''.

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

**SEC. 428. 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 2005, 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 2004' 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:

''(49) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(21) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(3) EFFECTIVE DATES.—The amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(h) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after 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:

''(C) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4) Section 6039G(a) is amended by inserting ''or 877A'' after ''section 877(b)''.

(5) The second sentence of section 6039G(d) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''section 877(a))''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after 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 on or 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.

**SEC. 429. MODIFICATION OF EXCLUSION FOR CITIZENS LIVING ABROAD.**

(a) INFLATION ADJUSTMENT OF FOREIGN EARNED INCOME LIMITATION.—Clause (ii) of section 911(b)(2)(D) (relating to inflation adjustment) is amended—

(1) by striking ''2007'' and inserting ''2005'', and

(2) by striking ''2006'' in subclause (II) and inserting ''2004''.

(b) MODIFICATION OF HOUSING COST AMOUNT.—

(1) MINIMUM AMOUNT.—Clause (i) of section 911(c)(1)(B) is amended to read as follows:

''(i) 16 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which such taxable year begins, multiplied by''.

(2) MAXIMUM AMOUNT OF EXCLUSION.—

(A) IN GENERAL.—Subparagraph (A) of section 911(c)(1) is amended by inserting ''to the extent such expenses do not exceed the amount determined under paragraph (2)'' after ''the taxable year''.

(B) LIMITATION.—Subsection (c) of section 911 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) LIMITATION.—The amount determined under this paragraph is an amount equal to the product of—

''(A) 30 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which the taxable year of the individual begins, multiplied by

''(B) the number of days of such taxable year within the applicable period described

in subparagraph (A) or (B) of subsection (d)(1).''.

(C) CONFORMING AMENDMENTS.—

(i) Section 911(d)(4) is amended by striking ''and (c)(1)(B)(ii)'' and inserting '', (c)(1)(B)(ii), and (c)(2)(B)''

(ii) Section 911(d)(7) is amended by striking ''subsection (c)(3)'' and inserting ''subsection (c)(4)''.

(c) RATES OF TAX APPLICABLE TO NONEXCLUDED INCOME.—Section 911 (relating to exclusion of certain income of citizens and residents of the United States living abroad) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) DETERMINATION OF TAX LIABILITY ON NONEXCLUDED AMOUNTS.—If any amount is excluded from the gross income of a taxpayer under subsection (a) for any taxable year, then, notwithstanding section 1 or 55—

''(1) the tax imposed by section 1 on the taxpayer for such taxable year shall be equal to the excess (if any) of—

''(A) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were equal to the sum of—

''(i) the taxpayer's taxable income for the taxable year (determined without regard to this subsection), plus

''(ii) the amount excluded under subsection (a) for the taxable year, over

''(B) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were equal to the amount excluded under subsection (a) for the taxable year, and

''(2) the tax imposed by section 55 for such taxable year shall be equal to the excess (if any) of—

''(A) the amount which would be the tentative minimum tax under section 55 for the taxable year if the taxpayer's alternative minimum taxable income were equal to the sum of—

''(i) the taxpayer's alternative minimum taxable income for the taxable year (determined without regard to this subsection), plus

''(ii) the amount excluded under subsection (a) for the taxable year, over

''(B) the sum of—

''(i) the amount which would be the tentative minimum tax under section 55 for the taxable year if the taxpayer's alternative minimum taxable income were equal to the amount excluded under subsection (a) for the taxable year, plus

''(ii) the amount which would be the regular tax for the taxable year if the tax imposed by section 1 were the tax computed under paragraph (1).

For purposes of this subsection, the amount excluded under subsection (a) shall be reduced by the aggregate amount of any deductions or exclusions disallowed under subsection (d)(6) with respect to such excluded amount.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 430. LIMITATION ON ANNUAL AMOUNTS WHICH MAY BE DEFERRED UNDER NONQUALIFIED DEFERRED COMPENSATION ARRANGEMENTS.**

(a) IN GENERAL.—Section 409A (relating to inclusion of gross income under nonqualified deferred compensation plans) is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) ANNUAL LIMITATION ON AGGREGATE DEFERRED AMOUNTS.—

''(1) LIMITATION.—If the aggregate amount of compensation which—

''(A) is deferred for any taxable year with respect to a participant under 1 or more nonqualified deferred compensation plans maintained by the same employer, and

''(B) is not otherwise includible in gross income of the participant for the taxable year, exceeds the applicable dollar amount for the taxable year, then such excess shall be included in the participant's gross income for the taxable year.

''(2) INCLUSION OF EARNINGS.—If—

''(A) an amount is includible under paragraph (1) in the gross income of a participant for any taxable year, and

''(B) any portion of any assets set aside in a trust or other arrangement under a nonqualified deferred compensation plan are properly allocable to such amount,

then any increase in value in, or earnings with respect to, such portion for the taxable year or any succeeding taxable year shall be included in gross income of the participant for such taxable year or succeeding taxable year.

''(3) APPLICABLE DOLLAR AMOUNT.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'applicable dollar amount' means, with respect to any participant, the lesser of—

''(i) the average annual compensation which—

''(I) was payable during the base period to the participant by the employer described in paragraph (1)(A), and

''(II) was includible in the participant's gross income for taxable years in the base period, or

''(ii) $1,000,000.

''(B) BASE PERIOD.—The term 'base period' means, with respect to any computation year, the 5-taxable year period ending with the taxable year preceding the taxable year in which the election described in subsection (a)(4)(B) is made by the participant to have compensation for services performed in the computation year deferred under a nonqualified deferred compensation plan, except that if the election is made after the beginning of the computation year, such period shall be the 5-taxable year period ending with the taxable year preceding the computation year. For purposes of this subparagraph, the term 'computation year' means any taxable year of the participant for which the limitation under paragraph (1) is being determined.''.

(b) CONFORMING AMENDMENTS.—Sections 6041(g)(1) and 6051(a)(13) are each amended by striking ''409A(d)'' and inserting ''409A(e)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005, except that taxable years beginning on or before such date shall be taken into account in determining the average annual compensation of a participant during any base period for purposes of section 409A(c)(2) of the Internal Revenue Code of 1986 (as added by such amendments).

**SEC. 431. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.**

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

(b) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—Section 1(g)(4) (relating to net unearned income) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—For purposes of this subsection, in the case of any child who is a beneficiary of a qualified disability trust (as defined in section 642(b)(2)(C)(ii)), any amount included in the income of such child under sections 652 and 662 during a taxable year shall be considered earned income of such child for such taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**Subtitle D—Oil and Gas Provisions**

**SEC. 441. EXTENSION OF SUPERFUND TAXES.**

(a) EXCISE TAXES.—Section 4611(e) is amended to read as follows:

''(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after December 31, 2005, and before January 1, 2015.''

(b) CORPORATE ENVIRONMENTAL INCOME TAX.—Section 59A(e) is amended to read as follows:

''(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 2005, and before January 1, 2015.''

(c) EFFECTIVE DATES.—

(1) EXCISE TAXES.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) INCOME TAX.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 2005.

**SEC. 442. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO DUAL CAPACITY TAXPAYERS.**

(a) IN GENERAL.—Section 901 (relating to credit for taxes of foreign countries and of possessions of the United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULES RELATING TO DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer to a foreign country or possession of the United States for any period shall not be considered a tax—

''(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

''(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

''(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

''(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

''(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

''(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

''(i) persons who are not dual capacity taxpayers, and

''(ii) persons who are citizens or residents of the foreign country or possession.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

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

**SEC. 443. RULES RELATING TO FOREIGN OIL AND GAS INCOME.**

(a) SEPARATE BASKET FOR FOREIGN TAX CREDIT.—

(1) SEPARATE BASKET.—

(A) YEARS BEFORE 2007.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income), as in effect for years beginning before 2007, is amended by striking ''and'' at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

''(I) foreign oil and gas income, and''.

(B) 2007 AND AFTER.—Paragraph (1) of section 904(d), as in effect for years beginning after 2006, is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) foreign oil and gas income.''

(2) DEFINITION.—

(A) YEARS BEFORE 2007.—Paragraph (2) of section 904(d), as in effect for years beginning before 2007, is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

''(H) FOREIGN OIL AND GAS INCOME.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).''

(B) 2007 AND AFTER.—Section 904(d)(2), as in effect for years after 2006, is amended by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L) and by inserting after subparagraph (I) the following:

''(J) FOREIGN OIL AND GAS INCOME.—For purposes of this section—

''(i) IN GENERAL.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).

''(ii) COORDINATION.—Passive category income and general category income shall not include foreign oil and gas income (as so defined).''

(3) CONFORMING AMENDMENTS.—

(A) Section 904(d)(3)(F)(i) is amended by striking ''or (E)'' and inserting ''(E), or (I)''.

(B) Section 907(a) is hereby repealed.

(C) Section 907(c)(4) is hereby repealed.

(D) Section 907(f) is hereby repealed.

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(B) YEARS AFTER 2006.—The amendments made by paragraphs (1)(B) and (2)(B) shall apply to taxable years beginning after December 31, 2006.

(C) TRANSITIONAL RULES.—

(i) SEPARATE BASKET TREATMENT.—Any taxes paid or accrued in a taxable year beginning on or before the date of the enactment of this Act, with respect to income which was described in subparagraph (I) of section 904(d)(1) of such Code (as in effect on the day before the date of the enactment of this Act), shall be treated as taxes paid or accrued with respect to foreign oil and gas income to the extent the taxpayer establishes to the satisfaction of the Secretary of the Treasury that such taxes were paid or accrued with respect to foreign oil and gas income.

(ii) CARRYOVERS.—Any unused oil and gas extraction taxes which under section 907(f) of such Code (as so in effect) would have been allowable as a carryover to the taxpayer's first taxable year beginning after the date of the enactment of this Act (without regard to the limitation of paragraph (2) of such section 907(f) for first taxable year) shall be allowed as carryovers under section 904(c) of such Code in the same manner as if such taxes were unused taxes under such section 904(c) with respect to foreign oil and gas extraction income.

(iii) LOSSES.—The amendment made by paragraph (3)(C) shall not apply to foreign oil and gas extraction losses arising in taxable years beginning on or before the date of the enactment of this Act.

(b) ELIMINATION OF DEFERRAL FOR FOREIGN OIL AND GAS EXTRACTION INCOME.—

(1) GENERAL RULE.—Paragraph (1) of section 954(g) (defining foreign base company oil related income) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'foreign oil and gas income' means any income of a kind which would be taken into account in determining the amount of—

''(A) foreign oil and gas extraction income (as defined in section 907(c)), or

''(B) foreign oil related income (as defined in section 907(c)).''

(2) CONFORMING AMENDMENTS.—

(A) Subsections (a)(5), (b)(5), and (b)(6) of section 954, and section 952(c)(1)(B)(ii)(I), are each amended by striking ''base company oil related income'' each place it appears (including in the heading of subsection (b)(8)) and inserting ''oil and gas income''.

(B) Subsection (b)(4) of section 954 is amended by striking ''base company oil-related income'' and inserting ''oil and gas income''.

(C) The subsection heading for subsection (g) of section 954 is amended by striking ''FOREIGN BASE COMPANY OIL RELATED INCOME'' and inserting ''FOREIGN OIL AND GAS INCOME''.

(D) Subparagraph (A) of section 954(g)(2) is amended by striking ''foreign base company oil related income'' and inserting ''foreign oil and gas income''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders ending with or within such taxable years of foreign corporations.

**SEC. 444. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.**

(a) TAXABLE YEARS ENDING BEFORE 2006.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 29(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 29(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005.—Section 29(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar year 2005 and the amount in effect under subsection (a) for sales in such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(b) TAXABLE YEARS ENDING AFTER 2005.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 45K(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 45K(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005, 2006, AND 2007.—Section 45K(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar years 2005, 2006, and 2007 and the amount in effect under subsection (a) for sales in each such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(3) TREATMENT OF COKE AND COKE GAS.—

(A) NONAPPLICATION OF PHASEOUT.—Section 45K(g)(2) is amended by adding at the end the following new subparagraph:

''(D) NONAPPLICATION OF PHASEOUT.—Subsection (b)(1) shall not apply.''.

(B) APPLICATION OF INFLATION ADJUSTMENT .—Section 45K(g)(2)(B) is amended by inserting ''and the last sentence of subsection (b)(2) shall not apply.''.

(C) CLARIFICATION OF QUALIFYING FACILITY.—Section 45K(g)(1) is amended by inserting ''(other than from petroleum based products)'' after ''coke or coke gas''.

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

**SEC. 445. ELIMINATION OF AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR MAJOR INTEGRATED OIL COMPANIES.**

(a) IN GENERAL.—Section 167(h) is amended by adding at the end the following new paragraph:

''(5) NONAPPLICATION TO MAJOR INTEGRATED OIL COMPANIES.—This subsection shall not apply with respect to any expenses paid or incurred for any taxable year by any integrated oil company (as defined in section 291(b)(4)) which has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 1329(a) of the Energy Policy Act of 2005.

**Subtitle E—Tax Administration Provisions**

**SEC. 451. IMPOSITION OF WITHHOLDING ON CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES.**

(a) IN GENERAL.—Section 3402 is amended by adding at the end the following new subsection:

''(t) EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES.—

''(1) GENERAL RULE.—The Government of the United States, every State, every political subdivision thereof, and every instrumentality of the foregoing (including multi-State agencies) making any payment for goods and services which is subject to withholding shall deduct and withhold form such payment a tax in an amount equal to 3 percent of such payment.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any payment—

''(A) except as provided in subparagraph (B), which is subject to withholding under any other provision of this chapter or chapter 3,

''(B) which is subject to withholding under section 3406 and from which amounts are being withheld under such section,

''(C) of interest,

''(D) for real property,

''(E) to any tax-exempt entity, foreign government, or other entity subject to the requirements of paragraph (1),

''(F) made pursuant to a classified or confidential contract (as defined in section 6050M(e)(3)), and

''(G) made by a political subdivision of a State (or any instrumentality thereof) which makes less than $100,000,000 of such payments annually.

''(3) COORDINATION WITH OTHER SECTIONS.—For purposes of sections 3403 and 3404 and for purposes of so much of subtitle F (except section 7205) as relates to this chapter, payments to any person of any payment for goods and services which is subject to withholding shall be treated as if such payments were wages paid by an employer to an employee.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2005.

**SEC. 452. INCREASE IN CERTAIN CRIMINAL PENALTIES.**

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking ''Any person who—'' and inserting ''(a) IN GENERAL.—Any person who—'', and

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

''(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.''.

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''5 years'' and inserting ''10 years''.

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking ''Any person'' and inserting the following:

''(a) IN GENERAL.—Any person'', and

(ii) by striking ''$25,000'' and inserting ''$50,000'',

(B) in the third sentence, by striking ''section'' and inserting ''subsection'', and

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

''(b) AGGRAVATED FAILURE TO FILE.—

''(1) IN GENERAL.—In the case of any failure described in paragraph (2), the first sentence of subsection (a) shall be applied by substituting—

''(A) 'felony' for 'misdemeanor',

''(B) '$500,000 ($1,000,000' for '$25,000 ($100,000', and

''(C) '10 years' for '1 year'.

''(2) FAILURE DESCRIBED.—A failure described in this paragraph is a failure to make a return described in subsection (a) for a period of 3 or more consecutive taxable years.''.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''3 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions, and failures to act, occurring after the date of the enactment of this Act.

**SEC. 453. REPEAL OF SUSPENSION OF INTEREST AND CERTAIN PENALTIES WHERE SECRETARY FAILS TO CONTACT TAXPAYER.**

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by striking subsection (g) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns of tax filed after December 31, 2005.

**SEC. 454. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.**

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking ''$750'' and inserting ''$1,250'', and

(2) by striking ''$15'' and inserting ''$25''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

**SEC. 455. 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. 456. PARTIAL PAYMENTS REQUIRED WITH SUBMISSION OF OFFERS-IN-COMPROMISE.**

(a) IN GENERAL.—Section 7122 (relating to compromises), as amended by this Act, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) RULES FOR SUBMISSION OF OFFERS-IN-COMPROMISE.—

''(1) PARTIAL PAYMENT REQUIRED WITH SUBMISSION.—

''(A) LUMP-SUM OFFERS.—

''(i) IN GENERAL.—The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of amount of such offer.

''(ii) LUMP-SUM OFFER-IN-COMPROMISE.—For purposes of this section, the term 'lump-sum offer-in-compromise' means any offer of payments made in 5 or fewer installments.

''(B) PERIODIC PAYMENT OFFERS.—The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment and each proposed installment due during the period such offer is being evaluated for acceptance and has not been rejected by the Secretary. Any failure to make a payment required under the preceding sentence shall be deemed a withdrawal of the offer-in-compromise.

''(2) RULES OF APPLICATION.—

''(A) USE OF PAYMENT.—The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

''(B) NO USER FEE IMPOSED.—Any user fee which would otherwise be imposed under this section shall not be imposed on any offer-in-compromise accompanied by a payment required under this subsection.

''(C) WAIVER AUTHORITY.—The Secretary may issue regulations waiving any payment required under paragraph (1) in a manner consistent with the practices established in accordance with the requirements under subsection (d)(3).''.

(b) ADDITIONAL RULES RELATING TO TREATMENT OF OFFERS.—

(1) UNPROCESSABLE OFFER IF PAYMENT REQUIREMENTS ARE NOT MET.—Paragraph (3) of section 7122(d) (relating to standards for evaluation of offers), as redesignated by subsection (a), is amended by striking ''; and'' at the end of subparagraph (A) and inserting a comma, by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any offer-in-compromise which does not meet the requirements of subsection (c) shall be returned to the taxpayer as unprocessable.''.

(2) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Section 7122, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(g) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer (12 months for offers-in-compromise submitted after the date which is 5 years after the date of the enactment of this subsection). For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken in to account in determining the expiration of the 24-month period (or 12-month period, if applicable).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted on and after the date which is 60 days after the date of the enactment of this Act.

**SEC. 457. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.**

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

''(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date which is 180 days after the date of the enactment of this Act.

**SEC. 458. TERMINATION OF INSTALLMENT AGREEMENTS.**

(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

''(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

''(D) to file a return of tax imposed under this title by its due date (including extensions), or''.

(b) CONFORMING AMENDMENT.—The heading for section 6159(b)(4) is amended by striking ''FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION'' and inserting ''FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

**Subtitle F—Additional Provisions**

**SEC. 461. MODIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR.**

(a) IN GENERAL.—The table contained in section 6654(d)(1)(C) is amended by striking ''2002 or thereafter'' and inserting ''2002, 2003, 2004, or 2005'' and by adding at the end the following new items:

| | |
|---|---|
| ''2006 | 111 |
| 2007 or thereafter | 110''. |

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 2005.

**SEC. 462. LOAN AND REDEMPTION REQUIREMENTS ON POOLED FINANCING REQUIREMENTS.**

(a) STRENGTHENED REASONABLE EXPECTATION REQUIREMENT.—Subparagraph (A) of section 149(f)(2) (relating to reasonable expectation requirement) is amended to read as follows:

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to an issue if the issuer reasonably expects that—

''(i) as of the close of the 1-year period beginning on the date of issuance of the issue, at least 50 percent of the net proceeds of the issue (as of the close of such period) will have been used directly or indirectly to make or finance loans to ultimate borrowers, and

''(ii) as of the close of the 3-year period beginning on such date of issuance, at least 95 percent of the net proceeds of the issue (as of the close of such period) will have been so used.''.

(b) WRITTEN LOAN COMMITMENT AND REDEMPTION REQUIREMENTS.—Section 149(f) (relating to treatment of certain pooled financing bonds) is amended by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively, and by inserting after paragraph (3) the following new paragraphs:

''(4) WRITTEN LOAN COMMITMENT REQUIREMENT.—

''(A) IN GENERAL.—The requirement of this paragraph is met with respect to an issue if the issuer receives prior to issuance written loan commitments identifying the ultimate potential borrowers of at least 50 percent of the net proceeds of such issue.

''(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any issuer which is a State (or an integral part of a State) issuing pooled financing bonds to make or finance loans to subordinate governmental units of such State or to State-created entities providing financing for water-infrastructure projects through the federally-sponsored State revolving fund program.

''(5) REDEMPTION REQUIREMENT.—The requirement of this paragraph is met if to the extent that less than the percentage of the proceeds of an issue required to be used under clause (i) or (ii) of paragraph (2)(A) is used by the close of the period identified in such clause, the issuer uses an amount of proceeds equal to the excess of—

''(A) the amount required to be used under such clause, over

''(B) the amount actually used by the close of such period,

to redeem outstanding bonds within 90 days after the end of such period.''.

(c) ELIMINATION OF DISREGARD OF POOLED BONDS IN DETERMINING ELIGIBILITY FOR SMALL ISSUER EXCEPTION TO ARBITRAGE REBATE.—Section 148(f)(4)(D)(ii) (relating to aggregation of issuers) is amended by striking subclause (II) and by redesignating subclauses (III) and (IV) as subclauses (II) and (III), respectively.

(d) CONFORMING AMENDMENTS.—

(1) Section 149(f)(1) is amended by striking ''paragraphs (2) and (3)'' and inserting ''paragraphs (2), (3), (4), and (5)''.

(2) Section 149(f)(7)(B), as redesignated by subsection (b), is amended by striking ''paragraph (4)(A)'' and inserting ''paragraph (6)(A)''.

(3) Section 54(l)(2) is amended by striking ''section 149(f)(4)(A)'' and inserting ''section 149(f)(6)(A)''.

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

**SEC. 463. REPORTING OF INTEREST ON TAX-EXEMPT BONDS.**

(a) IN GENERAL.—Section 6049(b)(2) (relating to exceptions) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) CONFORMING AMENDMENT.—Section 6049(b)(2)(C), as redesignated by subsection (a), is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest earned after December 31, 2005.

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**SA 2724.** Mrs. CLINTON (for herself, Ms. MIKULSKI, Mr. HARKIN, Mr. LAUTENBERG, Mr. REED, Mr. SALAZAR, Mr. OBAMA, Mrs. BOXER, Ms. STABENOW, Mr.

SCHUMER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. CARPER, Mr. JOHNSON, Mr. LEAHY, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2710 proposed by Mr. FRIST (for himself, Mr. GRASSLEY, and Mr. BAUCUS) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

**TITLE ___—KATRINA COMMISSION**

**SEC. _01. ESTABLISHMENT OF COMMISSION.**

There is established in the legislative branch the Katrina Commission (in this title referred to as the ''Commission'').

**SEC. _02. COMPOSITION OF COMMISSION.**

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the President, who shall serve as chairman of the Commission;

(2) 1 member shall be appointed by the leader of the Senate (majority or minority leader, as the case may be) of the Democratic Party, in consultation with the leader of the House of Representatives (majority or minority leader, as the case may be) of the Democratic Party, who shall serve as vice chairman of the Commission;

(3) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic Party;

(4) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party;

(5) 2 members shall be appointed by the senior member of the Senate leadership of the Republican Party; and

(6) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party.

(b) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens who represent a diverse range of citizens and enjoy national recognition and significant depth of experience in such professions as governmental service, emergency preparedness, mitigation planning, cataclysmic planning and response, intergovernmental management, resource planning, recovery operations and planning, Federal coordination, military coordination, and other extensive natural disaster and emergency response experience.

(4) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed on or before October 1, 2005.

(5) INITIAL MEETING.—The Commission shall meet and begin the operations of the Commission as soon as practicable.

(c) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

**SEC. _03. DUTIES.**

The duties of the Commission are to—

(1) examine and report upon the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf Region of the United States of America especially in the States of Louisiana, Mississippi, Alabama, and other areas impacted in the aftermath;

(2) ascertain, evaluate, and report on the information developed by all relevant governmental agencies regarding the facts and circumstances related to Hurricane Katrina prior to striking the United States and in the days and weeks following;

(3) build upon concurrent and prior investigations of other entities, and avoid unnecessary duplication concerning information related to existing vulnerabilities;

(4) make a full and complete accounting of the circumstances surrounding the approach of Hurricane Katrina to the Gulf States, and the extent of the United States government's preparedness for, and response to, the hurricane;

(5) planning necessary for future cataclysmic events requiring a significant marshaling of Federal resources, mitigation, response, and recovery to avoid significant loss of life;

(6) an analysis as to whether any decisions differed with respect to response and recovery for different communities, neighborhoods, parishes, and locations and what problems occurred as a result of a lack of a common plan, communication structure, and centralized command structure; and

(7) investigate and report to the President and Congress on its findings, conclusions, and recommendations for immediate corrective measures that can be taken to prevent problems with Federal response that occurred in the preparation for, and in the aftermath of, Hurricane Katrina so that future cataclysmic events are responded to adequately.

**SEC. _04. FUNCTIONS OF COMMISSION.**

(a) IN GENERAL.—The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the catastrophic impacts that Hurricane Katrina exacted upon the Gulf Region of the United States especially in New Orleans and surrounding parishes, and impacted areas of Mississippi and Alabama; and

(B) shall include relevant facts and circumstances relating to—

(i) Federal emergency response planning and execution at the Federal Emergency Management Agency, the Department of Homeland Security, the White House, and all other Federal entities with responsibility for assisting during, and responding to, natural disasters;

(ii) military and law enforcement response planning and execution;

(iii) Federal mitigation plans, programs, and policies including prior assessments of existing vulnerabilities and exercises designed to test those vulnerabilities;

(iv) Federal, State, and local communication interoperability successes and failures;

(v) past, present, and future Federal budgetary provisions for preparedness, mitigation, response, and recovery;

(vi) the Federal Emergency Management Agency's response capabilities as an independent agency and as part of the Department of Homeland Security;

(vii) the role of congressional oversight and resource allocation;

(viii) other areas of the public and private sectors determined relevant by the Commission for its inquiry; and

(ix) long-term needs for people impacted by Hurricane Katrina and other forms of Federal assistance necessary for large-scale recovery;

(2) identify, review, and evaluate the lessons learned from Hurricane Katrina including coordination, management policies, and procedures of the Federal Government, State and local governments, and nongovernmental entities, relative to detection, planning, mitigation, asset prepositioning, and responding to cataclysmic natural disasters such as Hurricane Katrina; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

**SEC. _05. POWERS OF COMMISSION.**

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—

(i) IN GENERAL.—A subpoena may be issued under this subsection only—

(I) by the agreement of the chairman and the vice chairman; or

(II) by the affirmative vote of 6 members of the Commission.

(ii) SIGNATURE.—Subject to clause (i), subpoenas issued under this subsection may be issued under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government,

information, suggestions, estimates, and statistics for the purposes of this Act. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

**SEC. __06. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**

(a) IN GENERAL.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the reports required under section __10.

(c) PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

**SEC. __07. STAFF OF COMMISSION.**

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairman, in consultation with the vice chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

**SEC. __08. COMPENSATION AND TRAVEL EXPENSES.**

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

**SEC. __09. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.**

The appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this title without the appropriate security clearances.

**SEC. __10. REPORTS OF COMMISSION; TERMINATION.**

(a) INTERIM REPORTS.—The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than 6 months after the date of the enactment of this Act, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this Act, shall terminate 61 days after the date on which the final report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report.

**SEC. __11. FUNDING.**

(a) EMERGENCY APPROPRIATION OF FUNDS.—There are authorized to be appropriated $3,000,000 for purposes of the activities of the Commission under this title and such funding is designated as emergency spending under section 402 of H. Con. Res. 95 (109th Congress).

(b) DURATION OF AVAILABILITY.—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

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**SA 2725.** Mr. SPECTER submitted an amendment intended to be proposed by her to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 28, after line 11, insert the following:

**SEC. 307. SALE OF PROPERTY BY JUDICIAL OFFICERS AND EMPLOYEES.**

Section 1043(b) of the Internal Revenue Code of 1986 (relating to the sale of property to comply with conflict-of-interest requirements) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting ''or the judicial branch'' after ''an officer or employee of the executive branch''; and

(B) in subparagraph (B), by inserting ''judicial canon,'' after ''any statute, regulation, rule,'';

(2) in paragraph (2)—

(A) in subparagraph (A), by inserting ''judicial canon,'' after ''any Federal conflict of interest statute, regulation, rule,''; and

(B) in subparagraph (B), by inserting after ''the Director of the Office of Government Ethics,'' the following: ''in the case of executive branch officers or employees, or by the Judicial Conference of the United States (or its designee), in the case of judicial branch officers and employees,''; and

(3) in paragraph (5)(B), by inserting ''judicial canon,'' after ''any statute, regulation, rule,''.

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**SA 2726.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 19 of the bill, strike lines 19 through 22, and insert the following:

**SEC. 203. REPEAL OF STATE OPTIONS FOR ALTERNATIVE PREMIUMS AND COST SHARING AND FLEXIBILITY IN BENEFIT PACKAGES UNDER THE MEDICAID PROGRAM.**

(a) REPEAL OF STATE OPTION FOR ALTERNATIVE PREMIUMS AND COST SHARING.—

(1) REPEAL.—Section 1916A of the Social Security Act, as added by sections 6041(a), 6042(a), and 6043(a) of the Deficit Reduction Act of 2005, is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (y) of section 1903 of the Social Security Act (42 U.S.C. 1396b), as added by section 6043(b) of the Deficit Reduction Act of 2005, is repealed.

(B) Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended—

(i) in subsection (f), by striking ''and section 1916A'' after ''(b)(3)''; and

(ii) by striking subsection (h).

(C) Section 1938(c) of the Social Security Act, as added by section 6082 of the Deficit Reduction Act of 2005, is amended—

(i) in paragraph (3), by striking ''and 1916A''; and

(ii) in paragraph (5), by striking ''sections 1916 and 1916A'' and inserting ''section 1916''.

(b) REPEAL OF STATE OPTION OF PROVIDING BENCHMARK BENEFIT PACKAGES.—

(1) REPEAL.—Section 1937 of the Social Security Act, as added by section 6044(a) of the Deficit Reduction Act of 2005, is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Sections 1938 and 1939 of the Social Security Act, as added and redesignated, respectively, by section 6082 of the Deficit Reduction Act of 2005, are redesignated as sections 1937 and 1938, respectively, of the Social Security Act.

(B) 1937(b)(3) of the Social Security Act, as redesignated by subparagraph (A), is amended by inserting ''(as added by section 6044(a) of S. 1932 of the 109th Congress, as passed by the Senate on December 21, 2005)''.

(c) EFFECTIVE DATE.—The repeals and amendments made by subsections (a) and (b) shall take effect as if included in the enactment of the Deficit Reduction Act of 2005.

**SEC. 203A. ADDITIONAL FUNDING FOR THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM.**

(a) IN GENERAL.—Section 2104(a) of the Social Security Act (42 U.S.C. 1397dd(a)) is amended—

(1) in paragraph (9), by striking ''$4,050,000,000'' and inserting ''$6,550,000,000''; and

(2) in paragraph (10), by striking ''$5,000,000,000'' and inserting ''$7,500,000,000''.

(b) FUNDS IN ADDITION TO FUNDS PROVIDED TO ELIMINATE FISCAL YEAR 2006 SHORTFALLS.—The Secretary of Health and Human Services shall carry out subsection (d) of section 2104 of the Social Security Act (42 U.S.C. 1397dd(d)), as added by section 6101(a) of the Deficit Reduction Act of 2005, (including the determination of a State's allotment for fiscal year 2006 under paragraph (2)(C) of that subsection), without regard to the amendment made by subsection (a)(1) providing increased funding for State allotments for fiscal year 2006.

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**SA 2727.** Mr. FRIST (for Mr. TALENT) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place insert the following:

**SEC. _____. SENSE OF THE SENATE REGARDING THE PERMANENT EXTENSION OF EGTRRA AND JGTRRA PROVISIONS RELATING TO CHILD TAX CREDIT.**

It is the sense of the Senate that the conferees for the Tax Relief Act of 2006 should strive to permanently extend the amendments to the child tax credit under section 24 of the Internal Revenue Code of 1986 made by the Economic Growth and Tax Relief Reconciliation Act of 2001 and the Jobs and Growth Tax Relief Reconciliation Act of 2003.

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**SA 2728.** Mr. BAUCUS (for Mr. BYRD (for himself, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. KERRY, Mr. DURBIN, Mr. OBAMA, Mr. MCCONNELL, and Mr. BUNNING)) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place insert the following:

**SEC. ___. PARTIAL EXPENSING FOR ADVANCED MINE SAFETY EQUIPMENT.**

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 179D the following new section:

**''SEC. 179E. ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT.**

''(a) TREATMENT AS EXPENSES.—A taxpayer may elect to treat 50 percent of the cost of any qualified advanced mine safety equipment property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified advanced mine safety equipment property is placed in service.

''(b) ELECTION.—

''(1) IN GENERAL.—An election under this section for any taxable year shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year. Such election shall specify the advanced mine safety equipment property to which the election applies and shall be made in such manner as the Secretary may by regulations prescribe.

''(2) ELECTION IRREVOCABLE.—Any election made under this section may not be revoked except with the consent of the Secretary.

''(c) QUALIFIED ADVANCED MINE SAFETY EQUIPMENT PROPERTY.—For purposes of this section, the term 'qualified advanced mine safety equipment property' means any advanced mine safety equipment property for use in any underground mine located in the United States—

''(1) the original use of which commences with the taxpayer, and

''(2) which is placed in service by the taxpayer after the date of the enactment of this section.

''(d) ADVANCED MINE SAFETY EQUIPMENT PROPERTY.—For purposes of this section, the term 'advanced mine safety equipment property' means any of the following:

''(1) Emergency communication technology or device which is used to allow a miner to maintain constant communication with an individual who is not in the mine.

''(2) Electronic identification and location device which allows an individual who is not in the mine to track at all times the movements and location of miners working in or at the mine.

''(3) Emergency oxygen-generating, self-rescue device which provides oxygen for at least 90 minutes.

''(4) Pre-positioned supplies of oxygen which (in combination with self-rescue devices) can be used to provide each miner on a shift, in the event of an accident or other event which traps the miner in the mine or otherwise necessitates the use of such a self-rescue device, the ability to survive for at least 48 hours.

''(5) Comprehensive atmospheric monitoring system which monitors the levels of carbon monoxide, methane, and oxygen that are present in all areas of the mine and which can detect smoke in the case of a fire in a mine.

''(e) SPECIAL RULES.—

''(1) COORDINATION WITH SECTION 179.—No expenditures shall be taken into account under subsection (a) with respect to the portion of the cost of any property specified in an election under section 179.

''(2) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(f) REPORTING.—No deduction shall be allowed under subsection (a) to any taxpayer for any taxable year unless such taxpayer files with the Secretary a report containing such information with respect to the operation of the mines of the taxpayer as the Secretary shall require.

''(g) TERMINATION.—This section shall not apply to property placed in service after the date which is 3 years after the date of the enactment of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) is amended by striking ''or'' at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting '', or'', and by inserting after subparagraph (K) the following new subparagraph:

''(L) expenditures for which a deduction is allowed under section 179E.''.

(2) Section 312(k)(3)(B) is amended by striking ''or 179D'' each place it appears in the heading and text thereof and inserting ''179D, or 179E''.

(3) Section 1016(a) is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 179E(e)(2).''.

(4) Section 1245(a)(2)(C) is amended by inserting ''179E,'' after ''179D,''.

(5) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179D the following new item:

''Sec. 179E. Election to expense advanced mine safety equipment.''.

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

**SEC. ___. MINE RESCUE TEAM TRAINING TAX CREDIT.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

**''SEC. 45N. MINE RESCUE TEAM TRAINING CREDIT.**

''(a) AMOUNT OF CREDIT.—For purposes of section 38, the mine rescue team training credit determined under this section with respect to any eligible employer for any taxable year is an amount equal to the lesser of—

''(1) 20 percent of the amount paid or incurred by the taxpayer during the taxable year with respect to the training program costs of each qualified mine rescue team employee (including wages of such employee while attending such program), or

''(2) $10,000.

''(b) QUALIFIED MINE RESCUE TEAM EMPLOYEE.—For purposes of this section, the term 'qualified mine rescue team employee' means with respect to any taxable year any full-time employee of the taxpayer who is—

''(1) a miner eligible for more than 6 months of such taxable year to serve as a mine rescue team member as a result of completing, at a minimum, an initial 20-hour course of instruction as prescribed by the Mine Safety and Health Administration's Office of Educational Policy and Development, or

''(2) a miner eligible for more than 6 months of such taxable year to serve as a mine rescue team member by virtue of receiving at least 40 hours of refresher training in such instruction.

''(c) ELIGIBLE EMPLOYER.—For purposes of this section, the term 'eligible employer' means any taxpayer which employs individuals as miners in underground mines in the United States.

''(d) WAGES.—For purposes of this section, the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

''(e) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2008.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking ''and'' at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting '', and'', and by adding at the end the following new paragraph:

''(27) the mine rescue team training credit determined under section 45N(a).''.

(c) NO DOUBLE BENEFIT.—Section 280C is amended by adding at the end the following new subsection:

''(e) MINE RESCUE TEAM TRAINING CREDIT.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a

deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45N(a).''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45N. Mine rescue team training credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

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**SA 2729.** Mr. CONRAD (for himself and Mr. BINGAMAN) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

Strike all of Title V and insert the following:

**TITLE V—REVENUE PROVISIONS**

**Subtitle A—Provisions Relating to Tax Shelters**

**SEC. 401. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.**

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) 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. 402. 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(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(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) and (3) 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) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

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

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting ''and noneconomic substance transaction understatements'' after ''reportable transaction understatements'' both places it appears,

(B) in paragraph (2)(A), by inserting ''and a noneconomic substance transaction understatement'' after ''reportable transaction understatement'',

(C) in paragraph (2)(B), by inserting ''6662B or'' before ''6663'',

(D) in paragraph (2)(C)(i), by inserting ''or section 6662B'' before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting ''and section 6662B'' after ''This section'',

(F) in paragraph (3), by inserting ''or noneconomic substance transaction understatement'' after ''reportable transaction understatement'', and

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

''(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).''.

(3) Subsection (e) of section 6707A is amended—

(A) by striking ''or'' at the end of subparagraph (B), and

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

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

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

(c) 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''.

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

**SEC. 403. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.**

(a) IN GENERAL.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking ''attributable'' and all that follows and inserting the following: ''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)).'', and

(2) by inserting ''AND NONECONOMIC SUBSTANCE TRANSACTIONS'' in the heading thereof after ''TRANSACTIONS''.

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

**SEC. 404. MODIFICATIONS OF EFFECTIVE DATES OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.**

(a) IN GENERAL.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by striking paragraphs (1) and (2), by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively, and by adding at the end the following new paragraph:

''(3) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2004, with respect to leases entered into on or before March 12, 2004.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

**SEC. 405. REVALUATION OF LIFO INVENTORIES OF LARGE INTEGRATED OIL COMPANIES.**

(a) GENERAL RULE.—Notwithstanding any other provision of law, if a taxpayer is an applicable integrated oil company for its last taxable year ending in calendar year 2005, the taxpayer shall—

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

(2) decrease its cost of goods sold for such taxable year by the aggregate amount of the increases under paragraph (1).

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

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

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

(A) $18.75, and

(B) the number of barrels of crude oil (or in the case of natural gas or other petroleum products, the number of barrel-of-oil equivalents) represented by the layer.

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

(c) APPLICATION OF REQUIREMENT.—

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

(2) UNDERPAYMENTS OF ESTIMATED TAX.—No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1986 (relating to failure by corporation to pay estimated tax) with respect to any underpayment of an installment required to be paid with respect to the taxable year described in subsection (a) to the extent such underpayment was created or increased by this section.

(d) APPLICABLE INTEGRATED OIL COMPANY.—For purposes of this section, the term ''applicable integrated oil company'' means an integrated oil company (as defined in section 291(b)(4) of the Internal Revenue Code of 1986) which—

(1) had gross receipts in excess of $1,000,000,000 for its last taxable year ending during calendar year 2005, and

(2) uses the last-in, first-out (LIFO) method of accounting with respect to its crude oil inventories for such taxable year.

For purposes of paragraph (1), all persons treated as a single employer under subsections (a) and (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as 1 person and, in the case of a short taxable year, the rule under section 448(c)(3)(B) shall apply.

**SEC. 406. MODIFICATION OF EFFECTIVE DATE OF EXCEPTION FROM SUSPENSION RULES FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.**

(a) IN GENERAL.—Paragraph (2) of section 903(d) of the American Jobs Creation Act of 2004 is amended to read as follows:

''(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—

''(A) IN GENERAL.—The amendments made by subsection (c) shall apply with respect to interest accruing after October 3, 2004.

''(B) SPECIAL RULE FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the amendments made by subsection (c) shall also apply with respect to interest accruing on or before October 3, 2004.

''(ii) PARTICIPANTS IN SETTLEMENT INITIATIVES.—Clause (i) shall not apply to any transaction if, as of January 23, 2006—

''(I) the taxpayer is participating in a settlement initiative described in Internal Revenue Service Announcement 2005-80 with respect to such transaction, or

''(II) the taxpayer has entered into a settlement agreement pursuant to such an initiative.

''(iii) TERMINATION OF EXCEPTION.—Clause (ii)(I) shall not apply to any taxpayer if, after January 23, 2006, the taxpayer withdraws from, or terminates, participation in the initiative or the Secretary of the Treasury or the Secretary's delegate determines that a settlement agreement will not be reached pursuant to the initiative within a reasonable period of time.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates.

**SEC. 407. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.**

(a) DETERMINATION OF PENALTY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) APPLICABLE TAXPAYER.—For purposes of this subsection—

(A) IN GENERAL.—The term ''applicable taxpayer'' means a taxpayer which—

(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of offshore payment mechanisms (including credit, debit, or charge cards) issued by banks or other entities in foreign jurisdictions, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has neither signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003-11 nor voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.

(B) AUTHORITY TO WAIVE.—The Secretary of the Treasury or the Secretary's delegate may waive the application of paragraph (1) to any taxpayer if the Secretary or the Secretary's delegate determines that the use of such offshore payment mechanisms is incidental to the transaction and, in addition, in the case of a trade or business, such use is conducted in the ordinary course of the type of trade or business of the taxpayer.

(C) ISSUES RAISED.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

(i) communicates to the taxpayer knowledge about the specific item, or

(ii) has made a request to the taxpayer for information and the taxpayer could not make a complete response to that request without giving the examiner knowledge of the specific item.

(b) DEFINITIONS AND RULES.—For purposes of this section—

(1) APPLICABLE PENALTY.—The term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) FEES AND EXPENSES.—The Secretary of the Treasury may retain and use an amount not in excess of 25 percent of all additional interest, penalties, additions to tax, and fines collected under this section to be used for enforcement and collection activities of the Internal Revenue Service. The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this paragraph.

(c) REPORT BY SECRETARY.—The Secretary shall each year conduct a study and report to Congress on the implementation of this section during the preceding year, including statistics on the number of taxpayers affected by such implementation and the amount of interest and applicable penalties asserted, waived, and assessed during such preceding year.

(d) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if, as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

**SEC. 408. 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.

**Subtitle B—Provisions to Close Corporate and Individual Loopholes**

**SEC. 411. TAX TREATMENT OF INVERTED ENTITIES.**

(a) IN GENERAL.—Section 7874 is amended—

(1) by striking ''March 4, 2003'' in subsection (a)(2)(B)(i) and in the matter following subsection (a)(2)(B)(iii) and inserting ''March 20, 2002'',

(2) by striking ''at least 60 percent'' in subsection (a)(2)(B)(ii) and inserting ''more than 50 percent'',

(3) by striking ''80 percent'' in subsection (b) and inserting ''at least 80 percent'',

(4) by striking ''60 percent'' in subsection (b) and inserting ''more than 50 percent'',

(5) by adding at the end of subsection (a)(2) the following new sentence: ''Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (B) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.'', and

(6) by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) SPECIAL RULES APPLICABLE TO EXPATRIATED ENTITIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an expatriated entity—

''(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

''(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an expatriated entity, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after March 20, 2002.

**SEC. 412. GRANT OF TREASURY REGULATORY AUTHORITY TO ADDRESS FOREIGN TAX CREDIT TRANSACTIONS INVOLVING INAPPROPRIATE SEPARATION OF FOREIGN TAXES FROM RELATED FOREIGN INCOME.**

(a) IN GENERAL.—Section 901 (relating to taxes of foreign countries and of possessions of United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) REGULATIONS.—The Secretary may prescribe regulations disallowing a credit under subsection (a) for all or a portion of any foreign tax, or allocating a foreign tax among 2 or more persons, in cases where the foreign tax is imposed on any person in respect of income of another person or in other cases involving the inappropriate separation of the foreign tax from the related foreign income.''.

(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. 413. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.**

(a) IN GENERAL.—Section 1275(d) (relating to regulation authority) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'', and

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

''(2) TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT.—

''(A) IN GENERAL.—In the case of a debt instrument which—

''(i) is convertible into stock of the issuing corporation, into stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1)), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

''(ii) provides for contingent payments,

any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed-rate debt instrument shall be applied as if the regulations require that such comparable yield be determined by reference to a noncontingent fixed-rate debt instrument which is convertible into stock.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.''.

(b) CROSS REFERENCE.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

''For the treatment of contingent payment convertible debt, see section 1275(d)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued on or after the date of the enactment of this Act.

**SEC. 414. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE CORPORATIONS.**

(a) IN GENERAL.—Section 163(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) TREATMENT OF CORPORATE PARTNERS.—Except to the extent provided by regulations, in applying this subsection to a corporation which owns (directly or indirectly) an interest in a partnership—

''(A) such corporation's distributive share of interest income paid or accrued to such partnership shall be treated as interest income paid or accrued to such corporation,

''(B) such corporation's distributive share of interest paid or accrued by such partnership shall be treated as interest paid or accrued by such corporation, and

''(C) such corporation's share of the liabilities of such partnership shall be treated as liabilities of such corporation.''.

(b) ADDITIONAL REGULATORY AUTHORITY.—Section 163(j)(9) (relating to regulations), as redesignated by subsection (a), is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) regulations providing for the reallocation of shares of partnership indebtedness, or distributive shares of the partnership's interest income or interest expense, as may be appropriate to carry out the purposes of this subsection.''.

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

**SEC. 415. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.**

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

Identification pursuant to subparagraph (B) alone shall not satisfy the requirement under subparagraph (A). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.''.

(b) REPORTING OF DEDUCTIBLE AMOUNTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6050T the following new section:

**''SEC. 6050U. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.**

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050T the following new item:

''Sec. 6050U. Information with respect to certain fines, penalties, and other amounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

**SEC. 416. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.**

(a) DISALLOWANCE OF DEDUCTION.—

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

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

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

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

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

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

**''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.**

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

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

''(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

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

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

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

**SEC. 417. LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES.**

(a) IN GENERAL.—Paragraph (2) of section 274(e) (relating to expenses treated as compensation) is amended to read as follows:

''(2) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities, to the extent that the expenses do not exceed the amount of the expenses which are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to an employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).''.

(b) PERSONS NOT EMPLOYEES.—Paragraph (9) of section 274(e) is amended by striking ''to the extent that the expenses are includible in the gross income'' and inserting ''to the extent that the expenses do not exceed the amount of the expenses which are includible in the gross income''.

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

**SEC. 418. 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 2005, 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 2004' 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 18, 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:

''(49) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(21) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(3) EFFECTIVE DATES.—The amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(h) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after 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:

''(C) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4) Section 6039G(a) is amended by inserting ''or 877A'' after ''section 877(b)''.

(5) The second sentence of section 6039G(d) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''section 877(a))''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after 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 on or 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.

**SEC. 419. TAX TREATMENT OF CONTROLLED FOREIGN CORPORATIONS ESTABLISHED IN TAX HAVENS.**

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

**''SEC. 7875. CONTROLLED FOREIGN CORPORATIONS IN TAX HAVENS TREATED AS DOMESTIC CORPORATIONS.**

''(a) GENERAL RULE.—If a controlled foreign corporation is a tax-haven CFC, then, notwithstanding section 7701(a)(4), such corporation shall be treated for purposes of this title as a domestic corporation.

''(b) TAX-HAVEN CFC.—For purposes of this section—

''(1) IN GENERAL.—The term 'tax-haven CFC' means, with respect to any taxable year, a foreign corporation which—

''(A) was created or organized under the laws of a tax-haven country, and

''(B) is a controlled foreign corporation (determined without regard to this section) for an uninterrupted period of 30 days or more during the taxable year.

''(2) EXCEPTION.—The term 'tax-haven CFC' does not include a foreign corporation for any taxable year if substantially all of its income for the taxable year is derived from the active conduct of trades or businesses within the country under the laws of which the corporation was created or organized.

''(c) TAX-HAVEN COUNTRY.—For purposes of this section—

''(1) IN GENERAL.—The term 'tax-haven country' means any of the following:

''Andorra
Anguilla
Antigua and Barbuda
Aruba
Commonwealth of the Bahamas
Bahrain
Barbados
Belize
Bermuda
British Virgin Islands
Cayman Islands
Cook Islands
Cyprus
Commonwealth of the Dominica
Gibraltar
Grenada
Guernsey
Isle of Man
Jersey
Liberia
Principality of Liechtenstein
Republic of the Maldives
Malta
Republic of the Marshall Islands
Mauritius
Principality of Monaco
Montserrat
Republic of Nauru
Netherlands Antilles
Niue
Panama
Samoa
San Marino
Federation of Saint Christopher and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Republic of the Seychelles
Tonga
Turks and Caicos
Republic of Vanuatu

''(2) SECRETARIAL AUTHORITY.—The Secretary may remove or add a foreign jurisdiction from the list of tax-haven countries under paragraph (1) if the Secretary determines such removal or addition is consistent with the purposes of this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

''Sec. 7875. Controlled foreign corporations in tax havens treated as domestic corporations.''.

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

**SEC. 420. MODIFICATION OF EXCLUSION FOR CITIZENS LIVING ABROAD.**

(a) INFLATION ADJUSTMENT OF FOREIGN EARNED INCOME LIMITATION.—Clause (ii) of section 911(b)(2)(D) (relating to inflation adjustment) is amended—

(1) by striking ''2007'' and inserting ''2005'', and

(2) by striking ''2006'' in subclause (II) and inserting ''2004''.

(b) MODIFICATION OF HOUSING COST AMOUNT.—

(1) MINIMUM AMOUNT.—Clause (i) of section 911(c)(1)(B) is amended to read as follows:

''(i) 16 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which such taxable year begins, multiplied by''.

(2) MAXIMUM AMOUNT OF EXCLUSION.—

(A) IN GENERAL.—Subparagraph (A) of section 911(c)(1) is amended by inserting ''to the extent such expenses do not exceed the amount determined under paragraph (2)'' after ''the taxable year''.

(B) LIMITATION.—Subsection (c) of section 911 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) LIMITATION.—The amount determined under this paragraph is an amount equal to the product of—

''(A) 30 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which the taxable year of the individual begins, multiplied by

''(B) the number of days of such taxable year within the applicable period described in subparagraph (A) or (B) of subsection (d)(1).''.

(C) CONFORMING AMENDMENTS.—

(i) Section 911(d)(4) is amended by striking ''and (c)(1)(B)(ii)'' and inserting '', (c)(1)(B)(ii), and (c)(2)(B)''

(ii) Section 911(d)(7) is amended by striking ''subsection (c)(3)'' and inserting ''subsection (c)(4)''.

(c) RATES OF TAX APPLICABLE TO NONEXCLUDED INCOME.—Section 911 (relating to exclusion of certain income of citizens and residents of the United States living abroad) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) DETERMINATION OF TAX LIABILITY ON NONEXCLUDED AMOUNTS.—If any amount is excluded from the gross income of a taxpayer under subsection (a) for any taxable year, then, notwithstanding section 1 or 55—

''(1) the tax imposed by section 1 on the taxpayer for such taxable year shall be equal to the excess (if any) of—

''(A) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were equal to the sum of—

''(i) the taxpayer's taxable income for the taxable year (determined without regard to this subsection), plus

''(ii) the amount excluded under subsection (a) for the taxable year, over

''(B) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were equal to the amount excluded under subsection (a) for the taxable year, and

''(2) the tax imposed by section 55 for such taxable year shall be equal to the excess (if any) of—

''(A) the amount which would be the tentative minimum tax under section 55 for the taxable year if the taxpayer's alternative minimum taxable income were equal to the sum of—

''(i) the taxpayer's alternative minimum taxable income for the taxable year (determined without regard to this subsection), plus

''(ii) the amount excluded under subsection (a) for the taxable year, over

''(B) the sum of—

''(i) the amount which would be the tentative minimum tax under section 55 for the taxable year if the taxpayer's alternative minimum taxable income were equal to the amount excluded under subsection (a) for the taxable year, plus

''(ii) the amount which would be the regular tax for the taxable year if the tax imposed by section 1 were the tax computed under paragraph (1).

For purposes of this subsection, the amount excluded under subsection (a) shall be reduced by the aggregate amount of any deductions or exclusions disallowed under subsection (d)(6) with respect to such excluded amount.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 421. LIMITATION ON ANNUAL AMOUNTS WHICH MAY BE DEFERRED UNDER NONQUALIFIED DEFERRED COMPENSATION ARRANGEMENTS.**

(a) IN GENERAL.—Section 409A (relating to inclusion of gross income under nonqualified deferred compensation plans) is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) ANNUAL LIMITATION ON AGGREGATE DEFERRED AMOUNTS.—

''(1) LIMITATION.—If the aggregate amount of compensation which—

''(A) is deferred for any taxable year with respect to a participant under 1 or more nonqualified deferred compensation plans maintained by the same employer, and

''(B) is not otherwise includible in gross income of the participant for the taxable year, exceeds the applicable dollar amount for the taxable year, then such excess shall be included in the participant's gross income for the taxable year.

''(2) INCLUSION OF EARNINGS.—If—

''(A) an amount is includible under paragraph (1) in the gross income of a participant for any taxable year, and

''(B) any portion of any assets set aside in a trust or other arrangement under a nonqualified deferred compensation plan are properly allocable to such amount,

then any increase in value in, or earnings with respect to, such portion for the taxable year or any succeeding taxable year shall be included in gross income of the participant for such taxable year or succeeding taxable year.

''(3) APPLICABLE DOLLAR AMOUNT.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'applicable dollar amount' means, with respect to any participant, the lesser of—

''(i) the average annual compensation which—

''(I) was payable during the base period to the participant by the employer described in paragraph (1)(A), and

''(II) was includible in the participant's gross income for taxable years in the base period, or

''(ii) $1,000,000.

''(B) BASE PERIOD.—The term 'base period' means, with respect to any computation year, the 5-taxable year period ending with the taxable year preceding the taxable year in which the election described in subsection (a)(4)(B) is made by the participant to have compensation for services performed in the computation year deferred under a nonqualified deferred compensation plan, except that if the election is made after the beginning of the computation year, such period shall be the 5-taxable year period ending with the taxable year preceding the computation year. For purposes of this subparagraph, the term 'computation year' means any taxable year of the participant for which the limitation under paragraph (1) is being determined.''.

(b) CONFORMING AMENDMENTS.—Sections 6041(g)(1) and 6051(a)(13) are each amended by striking ''409A(d)'' and inserting ''409A(e)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005, except that taxable years beginning on or before such date shall be taken into account in determining the average annual compensation of a participant during any base period for purposes of section 409A(c)(2) of the Internal Revenue Code of 1986 (as added by such amendments).

**SEC. 422. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.**

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

(b) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—Section 1(g)(4) (relating to net unearned income) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—For purposes of this subsection, in the case of any child who is a beneficiary of a qualified disability trust (as defined in section 642(b)(2)(C)(ii)), any amount included in the income of such child under sections 652 and 662 during a taxable year shall be considered earned income of such child for such taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**Subtitle C—Oil and Gas Provisions**

**SEC. 431. EXTENSION OF SUPERFUND TAXES.**

(a) EXCISE TAXES.—Section 4611(e) is amended to read as follows:

''(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after December 31, 2005, and before January 1, 2015.''

(b) CORPORATE ENVIRONMENTAL INCOME TAX.—Section 59A(e) is amended to read as follows:

''(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 2005, and before January 1, 2015.''

(c) EFFECTIVE DATES.—

(1) EXCISE TAXES.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) INCOME TAX.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 2005.

**SEC. 432. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO DUAL CAPACITY TAXPAYERS.**

(a) IN GENERAL.—Section 901 (relating to credit for taxes of foreign countries and of possessions of the United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULES RELATING TO DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer to a foreign country or possession of the United States for any period shall not be considered a tax—

''(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

''(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

''(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

''(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

''(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

''(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

''(i) persons who are not dual capacity taxpayers, and

''(ii) persons who are citizens or residents of the foreign country or possession.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

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

**SEC. 433. RULES RELATING TO FOREIGN OIL AND GAS INCOME.**

(a) SEPARATE BASKET FOR FOREIGN TAX CREDIT.—

(1) SEPARATE BASKET.—

(A) YEARS BEFORE 2007.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income), as in effect for years beginning before 2007, is amended by striking ''and'' at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

''(I) foreign oil and gas income, and''.

(B) 2007 AND AFTER.—Paragraph (1) of section 904(d), as in effect for years beginning after 2006, is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) foreign oil and gas income.''

(2) DEFINITION.—

(A) YEARS BEFORE 2007.—Paragraph (2) of section 904(d), as in effect for years beginning before 2007, is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

''(H) FOREIGN OIL AND GAS INCOME.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).''

(B) 2007 AND AFTER.—Section 904(d)(2), as in effect for years after 2006, is amended by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L) and by inserting after subparagraph (I) the following:

''(J) FOREIGN OIL AND GAS INCOME.—For purposes of this section—

''(i) IN GENERAL.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).

''(ii) COORDINATION.—Passive category income and general category income shall not include foreign oil and gas income (as so defined).''

(3) CONFORMING AMENDMENTS.—

(A) Section 904(d)(3)(F)(i) is amended by striking ''or (E)'' and inserting ''(E), or (I)''.

(B) Section 907(a) is hereby repealed.

(C) Section 907(c)(4) is hereby repealed.

(D) Section 907(f) is hereby repealed.

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(B) YEARS AFTER 2006.—The amendments made by paragraphs (1)(B) and (2)(B) shall apply to taxable years beginning after December 31, 2006.

(C) TRANSITIONAL RULES.—

(i) SEPARATE BASKET TREATMENT.—Any taxes paid or accrued in a taxable year beginning on or before the date of the enactment of this Act, with respect to income which was described in subparagraph (I) of section 904(d)(1) of such Code (as in effect on the day before the date of the enactment of this Act), shall be treated as taxes paid or accrued with respect to foreign oil and gas income to the extent the taxpayer establishes to the satisfaction of the Secretary of the Treasury that such taxes were paid or accrued with respect to foreign oil and gas income.

(ii) CARRYOVERS.—Any unused oil and gas extraction taxes which under section 907(f) of such Code (as so in effect) would have been allowable as a carryover to the taxpayer's first taxable year beginning after the date of the enactment of this Act (without regard to the limitation of paragraph (2) of such section 907(f) for first taxable year) shall be allowed as carryovers under section 904(c) of such Code in the same manner as if such taxes were unused taxes under such section 904(c) with respect to foreign oil and gas extraction income.

(iii) LOSSES.—The amendment made by paragraph (3)(C) shall not apply to foreign oil and gas extraction losses arising in taxable years beginning on or before the date of the enactment of this Act.

(b) ELIMINATION OF DEFERRAL FOR FOREIGN OIL AND GAS EXTRACTION INCOME.—

(1) GENERAL RULE.—Paragraph (1) of section 954(g) (defining foreign base company oil related income) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'foreign oil and gas income' means any income of a kind which would be taken into account in determining the amount of—

''(A) foreign oil and gas extraction income (as defined in section 907(c)), or

''(B) foreign oil related income (as defined in section 907(c)).''

(2) CONFORMING AMENDMENTS.—

(A) Subsections (a)(5), (b)(5), and (b)(6) of section 954, and section 952(c)(1)(B)(ii)(I), are each amended by striking ''base company oil related income'' each place it appears (including in the heading of subsection (b)(8)) and inserting ''oil and gas income''.

(B) Subsection (b)(4) of section 954 is amended by striking ''base company oil-related income'' and inserting ''oil and gas income''.

(C) The subsection heading for subsection (g) of section 954 is amended by striking ''FOREIGN BASE COMPANY OIL RELATED INCOME'' and inserting ''FOREIGN OIL AND GAS INCOME''.

(D) Subparagraph (A) of section 954(g)(2) is amended by striking ''foreign base company oil related income'' and inserting ''foreign oil and gas income''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders ending with or within such taxable years of foreign corporations.

**SEC. 434. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.**

(a) TAXABLE YEARS ENDING BEFORE 2006.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 29(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 29(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005.—Section 29(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar year 2005 and the amount in effect under subsection (a) for sales in such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(b) TAXABLE YEARS ENDING AFTER 2005.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 45K(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 45K(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005, 2006, AND 2007.—Section 45K(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar years 2005, 2006, and 2007 and the amount in effect under subsection (a) for sales in each such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(3) TREATMENT OF COKE AND COKE GAS.—

(A) NONAPPLICATION OF PHASEOUT.—Section 45K(g)(2) is amended by adding at the end the following new subparagraph:

''(D) NONAPPLICATION OF PHASEOUT.—Subsection (b)(1) shall not apply.''.

(B) APPLICATION OF INFLATION ADJUSTMENT .—Section 45K(g)(2)(B) is amended by inserting ''and the last sentence of subsection (b)(2) shall not apply.''.

(C) CLARIFICATION OF QUALIFYING FACILITY.—Section 45K(g)(1) is amended by inserting ''(other than from petroleum based products)'' after ''coke or coke gas''.

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

**SEC. 435. ELIMINATION OF AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR MAJOR INTEGRATED OIL COMPANIES.**

(a) IN GENERAL.—Section 167(h) is amended by adding at the end the following new paragraph:

''(5) NONAPPLICATION TO MAJOR INTEGRATED OIL COMPANIES.—This subsection shall not apply with respect to any expenses paid or incurred for any taxable year by any integrated oil company (as defined in section 291(b)(4)) which has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 1329(a) of the Energy Policy Act of 2005.

**Subtitle D—Tax Administration Provisions**

**SEC. 441. IMPOSITION OF WITHHOLDING ON CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES.**

(a) IN GENERAL.—Section 3402 is amended by adding at the end the following new subsection:

''(t) EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES.—

''(1) GENERAL RULE.—The Government of the United States, every State, every political subdivision thereof, and every instrumentality of the foregoing (including multi-State agencies) making any payment for goods and services which is subject to withholding shall deduct and withhold form such payment a tax in an amount equal to 3 percent of such payment.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any payment—

''(A) except as provided in subparagraph (B), which is subject to withholding under any other provision of this chapter or chapter 3,

''(B) which is subject to withholding under section 3406 and from which amounts are being withheld under such section,

''(C) of interest,

''(D) for real property,

''(E) to any tax-exempt entity, foreign government, or other entity subject to the requirements of paragraph (1),

''(F) made pursuant to a classified or confidential contract (as defined in section 6050M(e)(3)), and

''(G) made by a political subdivision of a State (or any instrumentality thereof) which makes less than $100,000,000 of such payments annually.

''(3) COORDINATION WITH OTHER SECTIONS.—For purposes of sections 3403 and 3404 and for purposes of so much of subtitle F (except section 7205) as relates to this chapter, payments to any person of any payment for goods and services which is subject to withholding shall be treated as if such payments were wages paid by an employer to an employee.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2005.

**SEC. 442. INCREASE IN CERTAIN CRIMINAL PENALTIES.**

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking ''Any person who—'' and inserting ''(a) IN GENERAL.—Any person who—'', and

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

''(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.''.

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''5 years'' and inserting ''10 years''.

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking ''Any person'' and inserting the following:

''(a) IN GENERAL.—Any person'', and

(ii) by striking ''$25,000'' and inserting ''$50,000'',

(B) in the third sentence, by striking ''section'' and inserting ''subsection'', and

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

''(b) AGGRAVATED FAILURE TO FILE.—

''(1) IN GENERAL.—In the case of any failure described in paragraph (2), the first sentence of subsection (a) shall be applied by substituting—

''(A) 'felony' for 'misdemeanor',

''(B) '$500,000 ($1,000,000' for '$25,000 ($100,000', and

''(C) '10 years' for '1 year'.

''(2) FAILURE DESCRIBED.—A failure described in this paragraph is a failure to make a return described in subsection (a) for a period of 3 or more consecutive taxable years.''.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''3 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions, and failures to act, occurring after the date of the enactment of this Act.

**SEC. 443. REPEAL OF SUSPENSION OF INTEREST AND CERTAIN PENALTIES WHERE SECRETARY FAILS TO CONTACT TAXPAYER.**

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by striking subsection (g) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns of tax filed after December 31, 2005.

**SEC. 444. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.**

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking ''$750'' and inserting ''$1,250'', and

(2) by striking ''$15'' and inserting ''$25''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

**SEC. 445. 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. 446. PARTIAL PAYMENTS REQUIRED WITH SUBMISSION OF OFFERS-IN-COMPROMISE.**

(a) IN GENERAL.—Section 7122 (relating to compromises), as amended by this Act, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) RULES FOR SUBMISSION OF OFFERS-IN-COMPROMISE.—

''(1) PARTIAL PAYMENT REQUIRED WITH SUBMISSION.—

''(A) LUMP-SUM OFFERS.—

''(i) IN GENERAL.—The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of amount of such offer.

''(ii) LUMP-SUM OFFER-IN-COMPROMISE.—For purposes of this section, the term 'lump-sum offer-in-compromise' means any offer of payments made in 5 or fewer installments.

''(B) PERIODIC PAYMENT OFFERS.—The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment and each proposed installment due during the period such offer is being evaluated for acceptance and has not been rejected by the Secretary. Any failure to make a payment required under the preceding sentence shall be deemed a withdrawal of the offer-in-compromise.

''(2) RULES OF APPLICATION.—

''(A) USE OF PAYMENT.—The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

''(B) NO USER FEE IMPOSED.—Any user fee which would otherwise be imposed under this section shall not be imposed on any offer-in-compromise accompanied by a payment required under this subsection.

''(C) WAIVER AUTHORITY.—The Secretary may issue regulations waiving any payment required under paragraph (1) in a manner consistent with the practices established in accordance with the requirements under subsection (d)(3).''.

(b) ADDITIONAL RULES RELATING TO TREATMENT OF OFFERS.—

(1) UNPROCESSABLE OFFER IF PAYMENT REQUIREMENTS ARE NOT MET.—Paragraph (3) of section 7122(d) (relating to standards for evaluation of offers), as redesignated by subsection (a), is amended by striking ''; and'' at the end of subparagraph (A) and inserting a comma, by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any offer-in-compromise which does not meet the requirements of subsection (c) shall be returned to the taxpayer as unprocessable.''.

(2) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Section 7122, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(g) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer (12 months for offers-in-compromise submitted after the date which is 5 years after the date of the enactment of this subsection). For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken in to account in determining the expiration of the 24-month period (or 12-month period, if applicable).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted on and after the date which is 60 days after the date of the enactment of this Act.

**SEC. 447. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.**

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

''(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date which is 180 days after the date of the enactment of this Act.

**SEC. 448. TERMINATION OF INSTALLMENT AGREEMENTS.**

(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

''(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

''(D) to file a return of tax imposed under this title by its due date (including extensions), or''.

(b) CONFORMING AMENDMENT.—The heading for section 6159(b)(4) is amended by striking ''FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION'' and inserting ''FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

**Subtitle E—Additional Provisions**

**SEC. 451. MODIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR.**

(a) IN GENERAL.—The table contained in section 6654(d)(1)(C) is amended by striking ''2002 or thereafter'' and inserting ''2002, 2003, 2004, or 2005'' and by adding at the end the following new items:

| | |
|---|---|
| ''2006 | 111 |
| 2007 or thereafter | 110''. |

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 2005.

**SEC. 452. LOAN AND REDEMPTION REQUIREMENTS ON POOLED FINANCING REQUIREMENTS.**

(a) STRENGTHENED REASONABLE EXPECTATION REQUIREMENT.—Subparagraph (A) of section 149(f)(2) (relating to reasonable expectation requirement) is amended to read as follows:

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to an issue if the issuer reasonably expects that—

''(i) as of the close of the 1-year period beginning on the date of issuance of the issue, at least 50 percent of the net proceeds of the issue (as of the close of such period) will have been used directly or indirectly to make or finance loans to ultimate borrowers, and

''(ii) as of the close of the 3-year period beginning on such date of issuance, at least 95

percent of the net proceeds of the issue (as of the close of such period) will have been so used.''.

(b) WRITTEN LOAN COMMITMENT AND REDEMPTION REQUIREMENTS.—Section 149(f) (relating to treatment of certain pooled financing bonds) is amended by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively, and by inserting after paragraph (3) the following new paragraphs:

''(4) WRITTEN LOAN COMMITMENT REQUIREMENT.—

''(A) IN GENERAL.—The requirement of this paragraph is met with respect to an issue if the issuer receives prior to issuance written loan commitments identifying the ultimate potential borrowers of at least 50 percent of the net proceeds of such issue.

''(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any issuer which is a State (or an integral part of a State) issuing pooled financing bonds to make or finance loans to subordinate governmental units of such State or to State-created entities providing financing for water-infrastructure projects through the federally-sponsored State revolving fund program.

''(5) REDEMPTION REQUIREMENT.—The requirement of this paragraph is met if to the extent that less than the percentage of the proceeds of an issue required to be used under clause (i) or (ii) of paragraph (2)(A) is used by the close of the period identified in such clause, the issuer uses an amount of proceeds equal to the excess of—

''(A) the amount required to be used under such clause, over

''(B) the amount actually used by the close of such period,

to redeem outstanding bonds within 90 days after the end of such period.''.

(c) ELIMINATION OF DISREGARD OF POOLED BONDS IN DETERMINING ELIGIBILITY FOR SMALL ISSUER EXCEPTION TO ARBITRAGE REBATE.—Section 148(f)(4)(D)(ii) (relating to aggregation of issuers) is amended by striking subclause (II) and by redesignating subclauses (III) and (IV) as subclauses (II) and (III), respectively.

(d) CONFORMING AMENDMENTS.—

(1) Section 149(f)(1) is amended by striking ''paragraphs (2) and (3)'' and inserting ''paragraphs (2), (3), (4), and (5)''.

(2) Section 149(f)(7)(B), as redesignated by subsection (b), is amended by striking ''paragraph (4)(A)'' and inserting ''paragraph (6)(A)''.

(3) Section 54(l)(2) is amended by striking ''section 149(f)(4)(A)'' and inserting ''section 149(f)(6)(A)''.

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

**SEC. 453. REPORTING OF INTEREST ON TAX-EXEMPT BONDS.**

(a) IN GENERAL.—Section 6049(b)(2) (relating to exceptions) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) CONFORMING AMENDMENT.—Section 6049(b)(2)(C), as redesignated by subsection (a), is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest earned after December 31, 2005.

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**SA 2730.** Mr. NELSON of Florida (for himself, Mr. BINGAMAN, Mrs. CLINTON, Mr. LIEBERMAN, Mr. SCHUMER, and Mr. SALAZAR) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place, insert the following:

**SEC. _____. TRANSITION REQUIREMENTS.**

(a) REQUIREMENT.—

(1) IN GENERAL.—Section 1860D–4(b) of the Social Security Act (42 U.S.C. 1395w–104(b)) is amended by adding at the end the following new paragraph:

''(4) FORMULARY TRANSITION.—The sponsor of a prescription drug plan is required to provide at least a 30-day supply of any drug that a new enrollee in the plan was taking prior to enrolling in such plan. For individuals residing in a long-term care setting, the sponsor of a prescription drug plan is required to provide at least a 90-day supply of any drug such individual was taking prior to enrolling in such plan. A formulary transition supply provided under this section shall be made by the sponsor of a prescription drug plan without imposing any prior authorization requirements or other access restrictions for individuals stabilized on a course of treatment and at the dosage previously prescribed by a physician or recommended by a physician going forward.

''(5) CUSTOMER SERVICE.—The sponsor of a prescription drug plan is required to provide—

''(A) accessible and trained customer service representatives available for full business hours from coast to coast to provide knowledgeable assistance to individuals seeking help with Medicare Part D including, but not limited to, beneficiaries, caseworkers, SHIP counselors, pharmacists, doctors, and caregivers;

''(B) at least one dedicated phone line for pharmacists with sufficient staff to reduce wait times for pharmacists seeking Medicare Part D assistance to no more than 20 minutes; and

''(C) sufficient staff to reduce wait times for all Medicare Part D-related calls to plan phone lines to no more than 20 minutes.''.

(2) APPLICATION.—The requirements under paragraphs (4) and (5) of section 1860D–4(b) of the Social Security Act (42 U.S.C. 1395w–104(b)), as added by subsection (a), shall apply to the plan serving as the national point of sale contractor under part D of title XVIII of such Act.

(b) EFFECTIVE DATE AND ENFORCEMENT.—

(1) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

(2) ENFORCEMENT.—The Secretary may impose a civil monetary penalty in an amount not to exceed $15,000 for conduct that a sponsor of a prescription drug plan or an organization offering an MA–PD plan knows or should know is a violation of the provisions of paragraph (4) or (5) of section 1860D–4(b) of the Social Security Act (42 U.S.C. 1395w–104(b)), as added by subsection (a). The provisions of section 1128A of the Social Security Act (42 U.S.C. a–7a), other than subsections (a) and (b) and the second sentence of subsection (f), shall apply to a civil monetary penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under subsection (a) of such section 1128A(a).

**SEC. _____. FEDERAL FALLBACK FOR FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS FOR 2006.**

(a) IN GENERAL.—

(1) IN GENERAL.—If a full-benefit dual eligible individual (as defined in section 1935(c)(6) of the Social Security Act (42 U.S.C. 1396u–5(c)(6))), or an individual who is presumed to be such an individual pursuant to subsection (b), presents a prescription for a covered part D drug (as defined in section 1860D–2(e) of such Act (42 U.S.C. 1395w–102(e))) at a pharmacy in 2006 and the pharmacy is unable to locate or verify the individual's enrollment through a reasonable effort, including the use of the pharmacy billing system or by calling an official Medicare hotline, or to bill for the prescription through the plan serving as the national point of sale contractor, the pharmacy may provide a 30-day supply of the drug to the individual.

(2) REFILL.—The pharmacy may provide an additional 30-day supply of a drug if the pharmacy continues to be unable to locate the individual's enrollment through such reasonable efforts or to bill for the prescription through the plan serving as the national point of sale contractor when a prescription is presented on or after the date that a prescription refill is appropriate, but in no case after December 31, 2006.

(3) COST-SHARING.—The cost-sharing for a prescription filled pursuant to this subsection shall be cost-sharing provided for under section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)).

(b) PRESUMPTIVE ELIGIBILITY.—An individual shall be presumed to be a full-benefit dual eligible individual (as so defined) if the individual presents at the pharmacy with—

(1) a government issued picture identification card;

(2) reliable evidence of Medicaid enrollment, such as a Medicaid card, recent history of Medicaid billing in the pharmacy patient profile, or a copy of a current Medicaid award letter; and

(3) reliable evidence of Medicare enrollment, such as a Medicare identification card, a Medicare enrollment approval letter, a Medicare Summary Notice, or confirmation from an official Medicare hotline.

(c) PAYMENTS TO PHARMACISTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall reimburse pharmacists, to the extent that such pharmacists are not otherwise reimbursed by States or plans, for the costs incurred in complying with the requirements under subsection (a), including acquisition costs, dispensing costs, and other overhead costs. Such payments shall be made in a timely manner from the Medicare Prescription Drug Account under section 1860D–16 of the Social Security Act (42 U.S.C. 1395w–116) and shall be deemed to be payments from such Account under subsection (b) of such section.

(2) RETROACTIVE APPLICATION TO BEGINNING OF 2006.—The costs incurred by a pharmacy which may be reimbursed under paragraph (1) shall include costs incurred during the period beginning on January 1, 2006, and before the date of enactment of this Act.

(d) RECOVERY OF COSTS FROM PLANS BY SECRETARY NOT PHARMACIES.—The Secretary of Health and Human Services shall establish a process for recovering the costs described in subsection (c)(1) from prescription drug plans (as defined in section 1860D–1(a)(3)(C) of the Social Security Act (42 U.S.C. 1394w–101(a)(3)(C))) and MA–PD plans (as defined in section 1860D–41(a)(14) of such Act (42 U.S.C. 1395w–151(a)(14))) if the Secretary determines that such plans should have incurred such costs. Amounts recovered pursuant to the preceding sentence shall be deposited in the Medicare Prescription Drug Account described in subsection (c)(1).

**SEC. _____. ENSURING THAT FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS ARE NOT OVERCHARGED.**

(a) IN GENERAL.—Section 1860D–14 of the Social Security Act (42 U.S.C. 1395w–114) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

''(d) ENSURING FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS ARE NOT OVERCHARGED.—

''(1) IN GENERAL.—The Secretary shall, as soon a possible after the date of enactment of this subsection, establish processes for the following:

''(A) TRACKING INAPPROPRIATE PAYMENTS.—The Secretary shall track full-benefit dual eligible individuals enrolled in a prescription drug plan or an MA–PD plan to determine whether such individuals were inappropriately subject under the plan to a deductible or cost-sharing that is greater than is required under section 1860D–14.

''(B) REDUCTION IN PAYMENTS TO PLANS AND REFUNDS TO INDIVIDUALS.—If the Secretary determines under subparagraph (A) that an individual was overcharged, the Secretary shall—

''(i) reduce payments to the sponsor of the prescription drug plan under section 1860D–15 or to the organization offering the MA–PD plan under section 1853 that inappropriately charged the individual by an amount equal to the inappropriate charges; and

''(ii) refund such amount to the individual within 60 days of the determination that the individual was inappropriately charged.

If the Secretary does not provide for the refund under clause (i) within the 60 days provided for under such clause, interest at the rate established under section 6621(a)(1) of the Internal Revenue Code of 1986 shall be payable from the end of such 60-day period until the date of the refund.

''(2) REQUIREMENT.—The processes established under paragraph (1) shall provide for the ability of an individual to notify the Secretary if the individual believes that they were inappropriately subject under the plan to a deductible or cost-sharing that is greater than is required under section 1860D–14.''.

(b) REPORT TO CONGRESS.—Not later than January 1, 2007, the Secretary of Health and Human Services shall submit a report to Congress on the implementation of the processes established under subsection (d) of section 1860D–14 of the Social Security Act (42 U.S.C. 1395w–114), as added by subsection (a).

**SEC. _____. REIMBURSEMENT OF STATES FOR 2006 TRANSITION COSTS.**

(a) REIMBURSEMENT.—

(1) IN GENERAL.—Notwithstanding section 1935(d) of the Social Security Act (42 U.S.C. 1396u–5(d) or any other provision of law, the Secretary of Health and Human Services shall reimburse States for 100 percent of the costs incurred by the State during 2006 for covered part D drugs (as defined in section 1860D–2(e) of such Act (42 U.S.C. 1395w–102(e))) for part D eligible individuals (as defined in section 1860D–1(a)(3)(A) of the Social Security Act (42 U.S.C. 1394w–101(a)(3)(A))) which the State reasonably expected would have been covered under such part but were not because the individual was unable to access on a timely basis prescription drug benefits to which they were entitled under such part. Such payments shall be made from the Medicare Prescription Drug Account under section 1860D–16 of the Social Security Act (42 U.S.C. 1395w–116) and shall be deemed to be payments from such Account under subsection (b) of such section.

(2) RETROACTIVE APPLICATION TO BEGINNING OF 2006.—The costs incurred by a State which may be reimbursed under paragraph (1) shall include costs incurred during the period beginning on January 1, 2006, and before the date of enactment of this Act.

(b) RECOVERY OF COSTS FROM PLANS BY SECRETARY NOT STATES.—The Secretary of Health and Human Services shall establish a process for recovering the costs described in subsection (a)(1) from prescription drug plans (as defined in section 1860D–1(a)(3)(C) of the Social Security Act (42 U.S.C. 1394w–101(a)(3)(C))) and MA–PD plans (as defined in section 1860D–41(a)(14) of such Act (42 U.S.C. 1395w–151(a)(14))) if the Secretary determines that such plans should have incurred such costs. Amounts recovered pursuant to the preceding sentence shall be deposited in the Medicare Prescription Drug Account described in subsection (a)(1).

(c) STATE.—For purposes of this section, the term ''State'' includes the District of Columbia.

**SEC. _____. FACILITATION OF IDENTIFICATION AND ENROLLMENT THROUGH PHARMACIES OF FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS IN THE MEDICARE PART D DRUG PROGRAM.**

(a) IN GENERAL.—The Secretary of Health and Human Services shall provide for outreach and education to every pharmacy that has participated in the Medicaid program under title XIV of the Social Security Act, particularly independent pharmacies, on the following:

(1) The needs of full-benefit dual eligible individuals and the challenges of meeting those needs.

(2) The processes for the transition from Medicaid prescription drug coverage to coverage under such part D for such individuals.

(3) The processes established by the Secretary to facilitate, at point of sale, identification of drug plan assignment of such population or enrollment of previously unidentified or new full-benefit dual eligible individuals into Medicare part D prescription drug coverage, including how pharmacies can use such processes to help ensure that such population makes a successful transition to Medicare part D without a lapse in prescription drug coverage.

(b) HOLDING PHARMACIES HARMLESS FOR CERTAIN COSTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall provide for such payments to pharmacies as may be necessary to reimburse pharmacies fully for—

(A) transaction fees associated with the point-of-sale facilitated identification and enrollment processes referred to in subsection (a)(3); and

(B) costs associated with technology or software upgrades necessary to make any identification and enrollment inquiries as part of the processes under subsection (a)(3).

(2) TIME.—Payments under paragraph (1) shall be made with respect to fees and costs incurred during the period beginning on December 1, 2005, and ending on June 1, 2006.

(3) PAYMENTS FROM ACCOUNT.—Payments under paragraph (1) shall be made from the Medicare Prescription Drug Account under section 1860D–16 of the Social Security Act (42 U.S.C. 1395w–116) and shall be deemed to be payments from such Account under subsection (b) of such section.

**SEC. _____. STATE COVERAGE OF NON-FORMULARY PRESCRIPTION DRUGS FOR FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS DURING 2006.**

(a) STATE COVERAGE OF NON-FORMULARY PRESCRIPTION DRUGS FOR FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS DURING 2006.—For prescriptions filled during 2006, notwithstanding section 1935(d) of the Social Security Act (42 U.S.C. 1396v(d)), a State (as defined for purposes of title XIX of such Act) may provide (and receive Federal financial participation for) medical assistance under such title with respect to prescription drugs provided to a full-benefit dual eligible individual (as defined in section 1935(c)(6) of such Act (42 U.S.C. 1396v(c)(6)) that are not on the formulary of the prescription drug plan under part D or the MA–PD plan under part C of title XVIII of such Act in which such individual is enrolled.

(b) APPLICATION.—

(1) MEDICARE AS PRIMARY PAYER.—Nothing in subsection (a) shall be construed as changing or affecting the primary payer status of a prescription drug plan under part D or an MA–PD plan under part C of title XVIII of the Social Security Act with respect to prescription drugs furnished to any full-benefit dual eligible individual (as defined in section 1935(c)(6) of such Act (42 U.S.C. 1396v(c)(6)) during 2006.

(2) THIRD PARTY LIABILITY.—Nothing in subsection (a) shall be construed as limiting the authority or responsibility of a State under section 1902(a)(25) of the Social Security Act (42 U.S.C. 1396a(a)(25)) to seek reimbursement from a prescription drug plan, an MA–PD plan, or any other third party, of the costs incurred by the State in providing prescription drug coverage during 2006.

**SEC. ___. PROTECTION FOR MEDICARE BENEFICIARIES WHO ENROLL IN THE PRESCRIPTION DRUG BENEFIT DURING 2006.**

(a) EXTENDED PERIOD OF OPEN ENROLLMENT DURING ALL OF 2006 WITHOUT LATE ENROLLMENT PENALTY.—Section 1851(e)(3)(B) of the Social Security Act (42 U.S.C. 1395w–21(e)(3)(B)) is amended—

(1) in clause (iii), by striking ''May 15, 2006'' and inserting ''December 31, 2006''; and

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

''An individual making an election during the period beginning on November 15, 2006, and ending on December 15, 2006, shall specify whether the election is to be effective with respect to 2006 or with respect to 2007 (or both).''.

(b) ONE-TIME CHANGE OF PLAN ENROLLMENT FOR MEDICARE PRESCRIPTION DRUG BENEFIT DURING ALL OF 2006.—

(1) IN GENERAL.—Section 1851(e) of the Social Security Act (42 U.S.C. 1395w–21(e)) is amended—

(A) in paragraph (2)(B)—

(i) in the heading, by striking ''FOR FIRST 6 MONTHS'';

(ii) in clause (i), by striking ''the first 6 months of 2006,'' and all that follows through ''is a Medicare+Choice eligible individual,'' and inserting ''2006,''; and

(iii) in clause (ii), by inserting ''(other than during 2006)'' after ''paragraph (3)''; and

(B) in paragraph (4), by striking ''2006'' and inserting ''2007'' each place it appears.

(2) CONFORMING AMENDMENT.—Section 1860D–1(b)(1)(B)(iii) of the Social Security Act (42 U.S.C. 1395w–101(b)(1)(B)(iii)) is amended by striking ''subparagraphs (B) and (C) of paragraph (2)'' and inserting ''paragraph (2)(C)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173).

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**SA 2731.** Mr. GRASSLEY proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place, insert the following:

**SEC. ___. SENSE OF THE SENATE REGARDING THE MEDICARE PART D PRESCRIPTION DRUG PROGRAM.**

(a) FINDINGS.—The Senate finds the following:

(1) It is not acceptable that startup issues under the new Medicare prescription drug program have resulted in some of our Nation's most vulnerable citizens having difficulties getting their prescription drugs covered under the program, and these issues must be addressed and resolved.

(2) The Department of Health and Human Services and the Centers for Medicare &

Medicaid Services are working tirelessly to address these startup issues and have taken numerous steps to smooth the transition process.

(3) All prescription drug plans under part D of title XVIII of the Social Security Act and MA–PD plans under part C of such title (in this section referred to as ''Medicare prescription drug plans'') already have a ''first fill'' policy in place that provides a new enrollee with coverage for prescription drugs during at least the first 30 days of enrollment regardless of whether the particular prescription drug is on the plan's formulary, and the Centers for Medicare & Medicaid Services is enforcing this requirement.

(4) Under current law, full-benefit dual eligible individuals (as defined in section 1935(c)(6) of the Social Security Act (42 U.S.C. 1395u–5(c)(6)) are already automatically enrolled into Medicare prescription drug coverage so no change in law is necessary.

(5) Medicare prescription drug plans are already responsible for covering the cost of covered prescriptions filled for enrollees, including short term transition prescriptions.

(6) Medicare prescription drug plans are already responsible for reimbursing any enrollee, including full-benefit dual eligible individuals, for any out-of-pocket costs incurred by the enrollee that should have been covered by the plan.

(7) The Centers for Medicare & Medicaid Services is already reimbursing States for the reasonable administrative costs incurred by States that have temporarily covered some claims for prescription drug coverage during the transition period.

(8) Enrollment is exceeding projections, with at least 24,000,000 Medicare beneficiaries who now have drug coverage and another 90,000 are enrolling each day in the Medicare prescription drug program;

(9) In addition, the Secretary of Health and Human Services has taken many other actions to smooth the implementation of the Medicare prescription drug program, including the following:

(A) Establishing processes to ensure that full-benefit dual eligible individuals are not overcharged for their prescriptions and to require Medicare prescription drug plans to refund overcharges to such individuals.

(B) Establishing a reconciliation process to ensure that Medicare prescription drug plans reimburse pharmacies for costs incurred by pharmacies that are payable by such plans.

(C) Conducting extensive and continuing outreach to pharmacies and pharmacy associations on the implementation of the Medicare prescription drug benefit, particularly with respect to full-benefit dual eligible individuals, as well as establishing a special pharmacy telephone help line.

(D) Requiring Medicare prescription drug plans to have comprehensive formularies and procedures for enrollees to rapidly secure an exception to the limitation of coverage of a prescription drug when medical necessity is demonstrated.

(E) Permitting full-benefit dual eligible individuals to switch Medicare prescription drug plan under the Medicare prescription drug benefit at any time, for any reason, and improving data flows and communication with plans to ensure that plan switches by such individuals become fully effective as quickly as possible.

(F) Partnering with national, State, and local groups that work with full-benefit dual eligible individuals to educate such individuals about the Medicare prescription drug program, and assisting in their transition to, and enrollment under, such program.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Secretary of Health and Human Services is making significant progress in smoothing the implementation of the new Medicare prescription drug program, legislation changing the program is not needed at this time, and legislation at this time would also likely complicate implementation of the program and confuse beneficiaries;

(2) each of the implementation problems identified under the Medicare prescription drug program will be resolved more quickly through administrative actions, which the Secretary of Health and Human Services already has the authority to take under current law, rather than through Congressional action followed by administrative action;

(3) the Senate fully supports the efforts of the Secretary of Health and Human Services, Medicare prescription drug plans, pharmacists, and others to implement the Medicare prescription drug program and to resolve problems that have occurred during the implementation of the program; and

(4) the pace of enrollment in the Medicare prescription drug benefit indicates that extending the six-month enrollment period is not warranted at this time, and, by contrast, such an action could exacerbate implementation issues under the program.

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**SA 2732.** Mr. GRASSLEY proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place, insert the following:

**SEC. ___. FUNDING FOR VETERANS HEALTH CARE AND DISABILITY COMPENSATION AND HOSPITAL INFRASTRUCTURE FOR VETERANS.**

(a) FUNDING FOR MEDICAL SERVICES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs for the Veterans Health Administration for Medical Care amounts as follows:

(A) $900,000,000 for fiscal year 2006.

(B) $1,300,000,000 for fiscal year 2007.

(C) $1,500,000,000 for fiscal year 2008.

(D) $1,600,000,000 for fiscal year 2009.

(E) $1,600,000,000 for fiscal year 2010.

(2) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by this subsection are in addition to any other amounts authorized to be appropriated for the Veterans Health Administration for Medical Care under any other provisions of law.

(b) FUNDING FOR DISABILITY COMPENSATION BENEFITS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs for the Veterans Benefits Administration for Compensation and Pensions amounts as follows:

(A) $2,300,000,000 for fiscal year 2006.

(B) $2,700,000,000 for fiscal year 2007.

(C) $3,000,000,000 for fiscal year 2008.

(D) $3,000,000,000 for fiscal year 2009.

(E) $3,000,000,000 for fiscal year 2010.

(2) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by this subsection are in addition to any other amounts authorized to be appropriated for the Veterans Benefits Administration for Compensation and Pensions under any other provisions of law.

(c) FUNDING FOR INFRASTRUCTURE IMPROVEMENTS FOR HOSPITALS PROVIDING HEALTH CARE AND SERVICES TO VETERANS.—

(1) ESTABLISHMENT OF FUND.—There is hereby established on the books of the Treasury an account to be known as the ''Veterans Hospital Improvement Fund'' (in this subsection referred to as the ''Fund'').

(2) ELEMENTS.—The Fund shall consist of the following:

(A) $1,000,000,000, which shall be deposited in the Fund upon the enactment of this subsection.

(B) Any other amounts authorized for transfer to or deposit in the Fund by law.

(3) ADMINISTRATION.—The Funds shall be administered by the Secretary of Veterans Affairs.

(4) USE OF FUNDS.—

(A) IN GENERAL.—Amounts in the Fund shall be available expenditures for improvements of health facilities treating veterans, including military medical treatment facilities, medical centers and other facilities administered by the Secretary of Veterans Affairs for the provision of medical care and services to veterans, and other State, local, and private facilities providing medical care and services to veterans.

(B) APPLICATION FOR FUNDS.—A non-Federal health facility seeking amounts from the Fund shall submit to the Secretary of Veterans Affairs an application therefor setting forth such information as the Secretary shall require.

(C) AVAILABILITY.—Amounts in the Fund shall remain available until expended.

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**SA 2733.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 19 of the bill, strike lines 19 through 22, and insert the following:

**SEC. 203. REPEAL OF STATE OPTIONS FOR ALTERNATIVE PREMIUMS AND COST SHARING AND FLEXIBILITY IN BENEFIT PACKAGES UNDER THE MEDICAID PROGRAM.**

(a) REPEAL OF STATE OPTION FOR ALTERNATIVE PREMIUMS AND COST SHARING.—

(1) REPEAL.—Section 1916A of the Social Security Act, as added by sections 6041(a), 6042(a), and 6043(a) of the Deficit Reduction Act of 2005, is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (y) of section 1903 of the Social Security Act (42 U.S.C. 1396b), as added by section 6043(b) of the Deficit Reduction Act of 2005, is repealed.

(B) Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended—

(i) in subsection (f), by striking ''and section 1916A'' after ''(b)(3)''; and

(ii) by striking subsection (h).

(C) Section 1938(c) of the Social Security Act, as added by section 6082 of the Deficit Reduction Act of 2005, is amended—

(i) in paragraph (3), by striking ''and 1916A''; and

(ii) in paragraph (5), by striking ''sections 1916 and 1916A'' and inserting ''section 1916''.

(b) REPEAL OF STATE OPTION OF PROVIDING BENCHMARK BENEFIT PACKAGES.—

(1) REPEAL.—Section 1937 of the Social Security Act, as added by section 6044(a) of the Deficit Reduction Act of 2005, is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Sections 1938 and 1939 of the Social Security Act, as added and redesignated, respectively, by section 6082 of the Deficit Reduction Act of 2005, are redesignated as sections 1937 and 1938, respectively, of the Social Security Act.

(B) 1937(b)(3) of the Social Security Act, as redesignated by subparagraph (A), is amended by inserting ''(as added by section 6044(a) of S. 1932 of the 109th Congress, as passed by the Senate on December 21, 2005)''.

(c) EFFECTIVE DATE.—The repeals and amendments made by subsections (a) and (b) shall take effect as if included in the enactment of the Deficit Reduction Act of 2005.

**SEC. 203A. ADDITIONAL FUNDING FOR THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM.**

(a) IN GENERAL.—Section 2104(a) of the Social Security Act (42 U.S.C. 1397dd(a)) is amended—

(1) in paragraph (9), by striking ''$4,050,000,000'' and inserting ''$6,550,000,000''; and

(2) in paragraph (10), by striking ''$5,000,000,000'' and inserting ''$7,500,000,000''.

(b) FUNDS IN ADDITION TO FUNDS PROVIDED TO ELIMINATE FISCAL YEAR 2006 SHORTFALLS.—The Secretary of Health and Human Services shall carry out subsection (d) of section 2104 of the Social Security Act (42 U.S.C. 1397dd(d)), as added by section 6101(a) of the Deficit Reduction Act of 2005, (including the determination of a State's allotment for fiscal year 2006 under paragraph (2)(C) of that subsection), without regard to the amendment made by subsection (a)(1) providing increased funding for State allotments for fiscal year 2006.

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**SA 2734.** Mr. MENENDEZ (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. HOPE SCHOLARSHIP CREDIT EXPANDED TO COVER EXPENSES FOR OTHER EDUCATIONAL EXPENSES.**

(a) EXPANSION OF CREDIT.—

(1) IN GENERAL.—Sections 25A(b) is amended by striking ''qualified tuition and related expenses'' each place it appears and inserting ''qualified higher education expenses''.

(2) CONFORMING AMENDMENTS.—

(A) Subsections (e) and (g)(1) of section 25A are each amended by inserting ''or the qualified higher education expenses'' after ''the qualified tuition and related expenses'' each place it appears.

(B) Paragraphs (2) and (3)(B) of section 25A(g) are each amended by inserting ''and qualified higher education expenses'' after ''qualified tuition and related expenses'' each place it appears.

(C) Subsection (g)(4) of section 25A is amended by inserting ''or qualified higher education expenses'' after ''qualified tuition and related expenses''.

(D) Section 6050S is amended by inserting ''and qualified higher education expenses'' after ''qualified tuition and related expenses'' each place it appears.

(b) QUALIFIED HIGHER EDUCATION EXPENSES.—Section 25A(f) is amended by adding at the end the following new paragraph:

''(3) QUALIFIED HIGHER EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified higher education expenses' means the tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

''(i) the taxpayer,

''(ii) the taxpayer's spouse, or

''(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an eligible educational institution for courses of instruction of such individual at such institution.

''(B) SPECIAL NEEDS SERVICES.—In the case of an individual described in subparagraph (A) with special needs, such term includes expenses for special needs services which are incurred in connection with such enrollment or attendance.

''(C) ROOM AND BOARD.—

''(i) IN GENERAL.—Such term shall also include reasonable costs for such period incurred by an individual described in subparagraph (A) for room and board while attending such institution.

''(ii) LIMITATION.—The amount treated as qualified higher education expenses by reason of clause (i) shall not exceed—

''(I) the allowance (applicable to the individual) for room and board included in the cost of attendance (as defined in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll), as in effect on the date of the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001) as determined by the eligible educational institution for such period, or

''(II) if greater, the actual invoice amount the student residing in housing owned or operated by the eligible educational institution is charged by such institution for room and board costs for such period.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid after December 31, 2005, (in taxable years ending after such date) for education furnished in academic periods beginning after such date.

**SEC. ___. MODIFICATION OF EFFECTIVE DATE OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004 FOR FOREIGN ENTITITES .**

(a) IN GENERAL.—Section 849(b)(3) of the American Jobs Creation Act of 2004, as amended by this Act, is amended by striking ''December 31, 2005'' and inserting ''December 31, 2004''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

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**SA 2735.** Mr. DODD (for himself, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mrs. BOXER, Ms. MIKULSKI, Mr. AKAKA, Mr. REED, and Mr. SALAZAR) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place, insert the following:

**SEC. ___. FUNDING FOR VETERANS HEALTH CARE AND DISABILITY COMPENSATION AND HOSPITAL INFRASTRUCTURE FOR VETERANS.**

(a) FUNDING FOR MEDICAL SERVICES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs for the Veterans Health Administration for Medical Care amounts as follows:

(A) $900,000,000 for fiscal year 2006.

(B) $1,300,000,000 for fiscal year 2007.

(C) $1,500,000,000 for fiscal year 2008.

(D) $1,600,000,000 for fiscal year 2009.

(E) $1,600,000,000 for fiscal year 2010.

(2) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by this subsection are in addition to any other amounts authorized to be appropriated for the Veterans Health Administration for Medical Care under any other provisions of law.

(b) FUNDING FOR DISABILITY COMPENSATION BENEFITS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs for the Veterans Benefits Administration for Compensation and Pensions amounts as follows:

(A) $2,300,000,000 for fiscal year 2006.

(B) $2,700,000,000 for fiscal year 2007.

(C) $3,000,000,000 for fiscal year 2008.

(D) $3,000,000,000 for fiscal year 2009.

(E) $3,000,000,000 for fiscal year 2010.

(2) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by this subsection are in addition to any other amounts authorized to be appropriated for the Veterans Benefits Administration for Compensation and Pensions under any other provisions of law.

(c) FUNDING FOR INFRASTRUCTURE IMPROVEMENTS FOR HOSPITALS PROVIDING HEALTH CARE AND SERVICES TO VETERANS.—

(1) ESTABLISHMENT OF FUND.—There is hereby established on the books of the Treasury an account to be known as the ''Veterans Hospital Improvement Fund'' (in this subsection referred to as the ''Fund'').

(2) ELEMENTS.—The Fund shall consist of the following:

(A) $1,000,000,000, which shall be deposited in the Fund upon the enactment of this subsection.

(B) Any other amounts authorized for transfer to or deposit in the Fund by law.

(3) ADMINISTRATION.—The Funds shall be administered by the Secretary of Veterans Affairs.

(4) USE OF FUNDS.—

(A) IN GENERAL.—Amounts in the Fund shall be available expenditures for improvements of health facilities treating veterans, including military medical treatment facilities, medical centers and other facilities administered by the Secretary of Veterans Affairs for the provision of medical care and services to veterans, and other State, local, and private facilities providing medical care and services to veterans.

(B) APPLICATION FOR FUNDS.—A non-Federal health facility seeking amounts from the Fund shall submit to the Secretary of Veterans Affairs an application therefor setting forth such information as the Secretary shall require.

(C) AVAILABILITY.—Amounts in the Fund shall remain available until expended.

(d) OFFSET THROUGH MODIFICATION OF TAX RATES ON CAPITAL GAINS AND DIVIDENDS FOR INDIVIDUALS WITH $1,000,000 OR MORE OF TAXABLE INCOME.—

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

''(12) MODIFIED RATES FOR INDIVIDUALS WITH $1,000,000 OR MORE OF TAXABLE INCOME.—If a taxpayer has taxable income of $1,000,000 or more for any taxable year—

''(A) paragraph (11) (relating to dividends taxed as capital gain) shall not apply to any qualified dividend income of the taxpayer for the taxable year, and

''(B) paragraph (1)(C) shall be applied by substituting '20 percent' for '15 percent' with respect to the adjusted net capital gain of the taxpayer for the taxable year, determined by only taking into account gain or loss properly allocable to the portion of the taxable year after December 31, 2006.''

(2) APPLICATION TO MINIMUM TAX.—Section 55(b)(3) is amended by adding at the end the following new sentence: ''In the case of a taxpayer with alternative minimum taxable income of $1,000,000 or more for any taxable year, the rules of section 1(h)(12) shall apply for purposes of this paragraph.''

(3) EFFECTIVE DATES.—

(A) CAPITAL GAINS.—Section 1(h)(12)(B) of the Internal Revenue Code of 1986 (as added by paragraph (1)) shall apply to taxable years beginning after December 31, 2006.

(B) DIVIDEND RATES.—Section 1(h)(12)(A) of such Code (as added by paragraph (1)) shall

apply to dividends received after December 31, 2006.

(4) APPLICATION OF JGTRRA SUNSET.—The amendments made by this subsection shall be subject to section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

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**SA 2736.** Mr. GRASSLEY proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place:

**TITLE IV—STRENGTHENING AMERICA'S MILITARY**

**SEC. 401. SHORT TITLE.**

This title may be cited as the ''Strengthening America's Military Act''.

**Subtitle A—Military Funding**

**SEC. 402. FUNDING FOR MILITARY OPERATIONS.**

There is appropriated, out of any money in the Treasury which is not otherwise appropriated, for the fiscal years 2006 through 2010, the following amounts, to be used for resetting and recapitalizing equipment being used in theaters of operations:

(1) $16,900,000,000 for operations and maintenance of the Army.

(2) $1,800,000,000 for aircraft for the Army.

(3) $6,300,000,000 for other Army procurement.

(4) $10,000,000,000 for wheeled and tracked combat vehicles for the Army.

(5) $467,000,000 for the Army working capital fund.

(6) $6,000,000 for missiles for the Department of Defense.

(7) $100,000,000 for defense wide procurement for the Department of Defense.

(8) $4,500,000,000 for Marine Corps procurement.

(9) $4,500,000,000 for operations and maintenance of the Marine Corps.

(10) $2,700,000,000 for Navy aircraft procurement.

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**SA 2737.** Mr. REED (for himself, Ms. STABENOW, Mr. LAUTENBERG, Mrs. CLINTON, Mr. KERRY, and Mr. SALAZAR) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

On page 28, after line 11, insert the following:

**TITLE IV—STRENGTHENING AMERICA'S MILITARY**

**SEC. 401. SHORT TITLE.**

This title may be cited as the ''Strengthening America's Military Act''.

**Subtitle A—Military Funding**

**SEC. 411. FUNDING FOR MILITARY OPERATIONS.**

There is appropriated, out of any money in the Treasury which is not otherwise appropriated, for the fiscal years 2006 through 2010, the following amounts, to be used for resetting and recapitalizing equipment being used in theaters of operations:

(1) $16,900,000,000 for operations and maintenance of the Army.

(2) $1,800,000,000 for aircraft for the Army.

(3) $6,300,000,000 for other Army procurement.

(4) $10,000,000,000 for wheeled and tracked combat vehicles for the Army.

(5) $467,000,000 for the Army working capital fund.

(6) $6,000,000 for missiles for the Department of Defense.

(7) $100,000,000 for defense wide procurement for the Department of Defense.

(8) $4,500,000,000 for Marine Corps procurement.

(9) $4,500,000,000 for operations and maintenance of the Marine Corps.

(10) $2,700,000,000 for Navy aircraft procurement.

**Subtitle B—Repeal of Extension of Tax Rate for Capital Gains and Dividends**

**SEC. 421. REPEAL OF EXTENSION OF TAX RATE FOR CAPITAL GAINS AND DIVIDENDS.**

The amendment made by section 203 of this Act is repealed.

**Subtitle C—Provisions Relating to Tax Shelters**

**SEC. 431. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.**

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) 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. 432. 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(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(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) and (3) 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) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

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

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting ''and noneconomic substance transaction understatements'' after ''reportable transaction understatements'' both places it appears,

(B) in paragraph (2)(A), by inserting ''and a noneconomic substance transaction understatement'' after ''reportable transaction understatement'',

(C) in paragraph (2)(B), by inserting ''6662B or'' before ''6663'',

(D) in paragraph (2)(C)(i), by inserting ''or section 6662B'' before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting ''and section 6662B'' after ''This section'',

(F) in paragraph (3), by inserting ''or noneconomic substance transaction understatement'' after ''reportable transaction understatement'', and

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

''(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).''.

(3) Subsection (e) of section 6707A is amended—

(A) by striking ''or'' at the end of subparagraph (B), and

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

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

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

(c) 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''.

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

**SEC. 433. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.**

(a) IN GENERAL.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking ''attributable'' and all that follows and inserting the following: ''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)).'', and

(2) by inserting ''AND NONECONOMIC SUBSTANCE TRANSACTIONS'' in the heading thereof after ''TRANSACTIONS''.

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

**SEC. 434. MODIFICATIONS OF EFFECTIVE DATES OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.**

(a) IN GENERAL.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by striking paragraphs (1) and (2), by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively, and by adding at the end the following new paragraph:

''(3) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2004, with respect to leases entered into on or before March 12, 2004.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

**SEC. 435. REVALUATION OF LIFO INVENTORIES OF LARGE INTEGRATED OIL COMPANIES.**

(a) GENERAL RULE.—Notwithstanding any other provision of law, if a taxpayer is an applicable integrated oil company for its last taxable year ending in calendar year 2005, the taxpayer shall—

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

(2) decrease its cost of goods sold for such taxable year by the aggregate amount of the increases under paragraph (1).

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

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

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

(A) $18.75, and

(B) the number of barrels of crude oil (or in the case of natural gas or other petroleum products, the number of barrel-of-oil equivalents) represented by the layer.

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

(c) APPLICATION OF REQUIREMENT.—

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

(2) UNDERPAYMENTS OF ESTIMATED TAX.—No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1986 (relating to failure by corporation to pay estimated tax) with respect to any underpayment of an installment required to be paid with respect to the taxable year described in subsection (a) to the extent such underpayment was created or increased by this section.

(d) APPLICABLE INTEGRATED OIL COMPANY.—For purposes of this section, the term ''applicable integrated oil company'' means an integrated oil company (as defined in section 291(b)(4) of the Internal Revenue Code of 1986) which—

(1) had gross receipts in excess of $1,000,000,000 for its last taxable year ending during calendar year 2005, and

(2) uses the last-in, first-out (LIFO) method of accounting with respect to its crude oil inventories for such taxable year.

For purposes of paragraph (1), all persons treated as a single employer under subsections (a) and (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as 1 person and, in the case of a short taxable year, the rule under section 448(c)(3)(B) shall apply.

**SEC. 436. MODIFICATION OF EFFECTIVE DATE OF EXCEPTION FROM SUSPENSION RULES FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.**

(a) IN GENERAL.—Paragraph (2) of section 903(d) of the American Jobs Creation Act of 2004 is amended to read as follows:

''(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—

''(A) IN GENERAL.—The amendments made by subsection (c) shall apply with respect to interest accruing after October 3, 2004.

''(B) SPECIAL RULE FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the amendments made by subsection (c) shall also apply with respect to interest accruing on or before October 3, 2004.

''(ii) PARTICIPANTS IN SETTLEMENT INITIATIVES.—Clause (i) shall not apply to any transaction if, as of January 23, 2006—

''(I) the taxpayer is participating in a settlement initiative described in Internal Revenue Service Announcement 2005-80 with respect to such transaction, or

''(II) the taxpayer has entered into a settlement agreement pursuant to such an initiative.

''(iii) TERMINATION OF EXCEPTION.—Clause (ii)(I) shall not apply to any taxpayer if, after January 23, 2006, the taxpayer withdraws from, or terminates, participation in the initiative or the Secretary of the Treasury or the Secretary's delegate determines that a settlement agreement will not be reached pursuant to the initiative within a reasonable period of time.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates.

**SEC. 437. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.**

(a) DETERMINATION OF PENALTY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) APPLICABLE TAXPAYER.—For purposes of this subsection—

(A) IN GENERAL.—The term ''applicable taxpayer'' means a taxpayer which—

(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of offshore payment mechanisms (including credit, debit, or charge cards) issued by banks or other entities in foreign jurisdictions, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has neither signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003-11 nor voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.

(B) AUTHORITY TO WAIVE.—The Secretary of the Treasury or the Secretary's delegate may waive the application of paragraph (1) to any taxpayer if the Secretary or the Secretary's delegate determines that the use of such offshore payment mechanisms is incidental to the transaction and, in addition, in the case of a trade or business, such use is conducted in the ordinary course of the type of trade or business of the taxpayer.

(C) ISSUES RAISED.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

(i) communicates to the taxpayer knowledge about the specific item, or

(ii) has made a request to the taxpayer for information and the taxpayer could not make a complete response to that request without giving the examiner knowledge of the specific item.

(b) DEFINITIONS AND RULES.—For purposes of this section—

(1) APPLICABLE PENALTY.—The term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) FEES AND EXPENSES.—The Secretary of the Treasury may retain and use an amount not in excess of 25 percent of all additional interest, penalties, additions to tax, and fines collected under this section to be used for enforcement and collection activities of the Internal Revenue Service. The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this paragraph.

(c) REPORT BY SECRETARY.—The Secretary shall each year conduct a study and report to Congress on the implementation of this section during the preceding year, including statistics on the number of taxpayers affected by such implementation and the amount of interest and applicable penalties asserted, waived, and assessed during such preceding year.

(d) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if, as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

**SEC. 438. 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.

## Subtitle D—Provisions to Close Corporate and Individual Loopholes

**SEC. 441. TAX TREATMENT OF INVERTED ENTITIES.**

(a) IN GENERAL.—Section 7874 is amended—

(1) by striking ''March 4, 2003'' in subsection (a)(2)(B)(i) and in the matter following subsection (a)(2)(B)(iii) and inserting ''March 20, 2002'',

(2) by striking ''at least 60 percent'' in subsection (a)(2)(B)(ii) and inserting ''more than 50 percent'',

(3) by striking ''80 percent'' in subsection (b) and inserting ''at least 80 percent'',

(4) by striking ''60 percent'' in subsection (b) and inserting ''more than 50 percent'',

(5) by adding at the end of subsection (a)(2) the following new sentence: ''Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (B) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.'', and

(6) by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) SPECIAL RULES APPLICABLE TO EXPATRIATED ENTITIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an expatriated entity—

''(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

''(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an expatriated entity, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after March 20, 2002.

**SEC. 442. GRANT OF TREASURY REGULATORY AUTHORITY TO ADDRESS FOREIGN TAX CREDIT TRANSACTIONS INVOLVING INAPPROPRIATE SEPARATION OF FOREIGN TAXES FROM RELATED FOREIGN INCOME.**

(a) IN GENERAL.—Section 901 (relating to taxes of foreign countries and of possessions of United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) REGULATIONS.—The Secretary may prescribe regulations disallowing a credit under subsection (a) for all or a portion of any foreign tax, or allocating a foreign tax among 2 or more persons, in cases where the foreign tax is imposed on any person in respect of income of another person or in other cases involving the inappropriate separation of the foreign tax from the related foreign income.''.

(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. 443. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.**

(a) IN GENERAL.—Section 1275(d) (relating to regulation authority) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'', and

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

''(2) TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT.—

''(A) IN GENERAL.—In the case of a debt instrument which—

''(i) is convertible into stock of the issuing corporation, into stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1)), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

''(ii) provides for contingent payments,

any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed-rate debt instrument shall be applied as if the regulations require that such comparable yield be determined by reference to a noncontingent fixed-rate debt instrument which is convertible into stock.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.''.

(b) CROSS REFERENCE.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

''For the treatment of contingent payment convertible debt, see section 1275(d)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued on or after the date of the enactment of this Act.

**SEC. 444. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE CORPORATIONS.**

(a) IN GENERAL.—Section 163(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) TREATMENT OF CORPORATE PARTNERS.—Except to the extent provided by regulations, in applying this subsection to a corporation which owns (directly or indirectly) an interest in a partnership—

''(A) such corporation's distributive share of interest income paid or accrued to such partnership shall be treated as interest income paid or accrued to such corporation,

''(B) such corporation's distributive share of interest paid or accrued by such partnership shall be treated as interest paid or accrued by such corporation, and

''(C) such corporation's share of the liabilities of such partnership shall be treated as liabilities of such corporation.''.

(b) ADDITIONAL REGULATORY AUTHORITY.—Section 163(j)(9) (relating to regulations), as redesignated by subsection (a), is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) regulations providing for the reallocation of shares of partnership indebtedness, or distributive shares of the partnership's interest income or interest expense, as may be appropriate to carry out the purposes of this subsection.''.

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

**SEC. 445. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.**

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

Identification pursuant to subparagraph (B) alone shall not satisfy the requirement under subparagraph (A). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.''.

(b) REPORTING OF DEDUCTIBLE AMOUNTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6050T the following new section:

**''SEC. 6050U. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.**

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified by the Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050T the following new item:

''Sec. 6050U. Information with respect to certain fines, penalties, and other amounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

**SEC. 446. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.**

(a) DISALLOWANCE OF DEDUCTION.—

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

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

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

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

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

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

**"SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.**

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

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

''(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

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

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

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

**SEC. 447. LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES.**

(a) IN GENERAL.—Paragraph (2) of section 274(e) (relating to expenses treated as compensation) is amended to read as follows:

''(2) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities, to the extent that the expenses do not exceed the amount of the expenses which are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to an employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).''.

(b) PERSONS NOT EMPLOYEES.—Paragraph (9) of section 274(e) is amended by striking ''to the extent that the expenses are includible in the gross income'' and inserting ''to the extent that the expenses do not exceed the amount of the expenses which are includible in the gross income''.

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

**SEC. 448. 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 2005, 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 2004' 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:

''(49) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(21) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(3) EFFECTIVE DATES.—The amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(h) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after 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:

''(C) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4) Section 6039G(a) is amended by inserting ''or 877A'' after ''section 877(b)''.

(5) The second sentence of section 6039G(d) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''section 877(a))''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after 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 on or 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.

**SEC. 449. MODIFICATION OF EXCLUSION FOR CITIZENS LIVING ABROAD.**

(a) INFLATION ADJUSTMENT OF FOREIGN EARNED INCOME LIMITATION.—Clause (ii) of section 911(b)(2)(D) (relating to inflation adjustment) is amended—

(1) by striking ''2007'' and inserting ''2005'', and

(2) by striking ''2006'' in subclause (II) and inserting ''2004''.

(b) MODIFICATION OF HOUSING COST AMOUNT.—

(1) MINIMUM AMOUNT.—Clause (i) of section 911(c)(1)(B) is amended to read as follows:

''(i) 16 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which such taxable year begins, multiplied by''.

(2) MAXIMUM AMOUNT OF EXCLUSION.—

(A) IN GENERAL.—Subparagraph (A) of section 911(c)(1) is amended by inserting ''to the extent such expenses do not exceed the amount determined under paragraph (2)'' after ''the taxable year''.

(B) LIMITATION.—Subsection (c) of section 911 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) LIMITATION.—The amount determined under this paragraph is an amount equal to the product of—

''(A) 30 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which the taxable year of the individual begins, multiplied by

''(B) the number of days of such taxable year within the applicable period described in subparagraph (A) or (B) of subsection (d)(1).''.

(C) CONFORMING AMENDMENTS.—

(i) Section 911(d)(4) is amended by striking ''and (c)(1)(B)(ii)'' and inserting '', (c)(1)(B)(ii), and (c)(2)(B)''

(ii) Section 911(d)(7) is amended by striking ''subsection (c)(3)'' and inserting ''subsection (c)(4)''.

(c) RATES OF TAX APPLICABLE TO NONEXCLUDED INCOME.—Section 911 (relating to exclusion of certain income of citizens and residents of the United States living abroad) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) DETERMINATION OF TAX LIABILITY ON NONEXCLUDED AMOUNTS.—If any amount is excluded from the gross income of a taxpayer under subsection (a) for any taxable year, then, notwithstanding section 1 or 55—

''(1) the tax imposed by section 1 on the taxpayer for such taxable year shall be equal to the excess (if any) of—

''(A) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were equal to the sum of—

''(i) the taxpayer's taxable income for the taxable year (determined without regard to this subsection), plus

''(ii) the amount excluded under subsection (a) for the taxable year, over

''(B) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were equal to the amount excluded under subsection (a) for the taxable year, and

''(2) the tax imposed by section 55 for such taxable year shall be equal to the excess (if any) of—

''(A) the amount which would be the tentative minimum tax under section 55 for the taxable year if the taxpayer's alternative minimum taxable income were equal to the sum of—

''(i) the taxpayer's alternative minimum taxable income for the taxable year (determined without regard to this subsection), plus

''(ii) the amount excluded under subsection (a) for the taxable year, over

''(B) the sum of—

''(i) the amount which would be the tentative minimum tax under section 55 for the taxable year if the taxpayer's alternative minimum taxable income were equal to the amount excluded under subsection (a) for the taxable year, plus

''(ii) the amount which would be the regular tax for the taxable year if the tax imposed by section 1 were the tax computed under paragraph (1).

For purposes of this subsection, the amount excluded under subsection (a) shall be reduced by the aggregate amount of any deductions or exclusions disallowed under subsection (d)(6) with respect to such excluded amount.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 450. LIMITATION ON ANNUAL AMOUNTS WHICH MAY BE DEFERRED UNDER NONQUALIFIED DEFERRED COMPENSATION ARRANGEMENTS.**

(a) IN GENERAL.—Section 409A (relating to inclusion of gross income under nonqualified deferred compensation plans) is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) ANNUAL LIMITATION ON AGGREGATE DEFERRED AMOUNTS.—

''(1) LIMITATION.—If the aggregate amount of compensation which—

''(A) is deferred for any taxable year with respect to a participant under 1 or more nonqualified deferred compensation plans maintained by the same employer, and

''(B) is not otherwise includible in gross income of the participant for the taxable year, exceeds the applicable dollar amount for the taxable year, then such excess shall be included in the participant's gross income for the taxable year.

''(2) INCLUSION OF EARNINGS.—If—

''(A) an amount is includible under paragraph (1) in the gross income of a participant for any taxable year, and

''(B) any portion of any assets set aside in a trust or other arrangement under a nonqualified deferred compensation plan are properly allocable to such amount,

then any increase in value in, or earnings with respect to, such portion for the taxable year or any succeeding taxable year shall be included in gross income of the participant for such taxable year or succeeding taxable year.

''(3) APPLICABLE DOLLAR AMOUNT.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'applicable dollar amount' means, with respect to any participant, the lesser of—

''(i) the average annual compensation which—

''(I) was payable during the base period to the participant by the employer described in paragraph (1)(A), and

''(II) was includible in the participant's gross income for taxable years in the base period, or

''(ii) $1,000,000.

''(B) BASE PERIOD.—The term 'base period' means, with respect to any computation year, the 5-taxable year period ending with the taxable year preceding the taxable year in which the election described in subsection (a)(4)(B) is made by the participant to have compensation for services performed in the computation year deferred under a nonqualified deferred compensation plan, except that if the election is made after the beginning of the computation year, such period shall be the 5-taxable year period ending with the taxable year preceding the computation year. For purposes of this subparagraph, the term 'computation year' means any taxable year of the participant for which the limitation under paragraph (1) is being determined.''.

(b) CONFORMING AMENDMENTS.—Sections 6041(g)(1) and 6051(a)(13) are each amended by striking ''409A(d)'' and inserting ''409A(e)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005, except that taxable years beginning on or before such date shall be taken into account in determining the average annual compensation of a participant during any base period for purposes of section 409A(c)(2) of the Internal Revenue Code of 1986 (as added by such amendments).

**SEC. 451. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.**

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

(b) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—Section 1(g)(4) (relating to net unearned income) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—For purposes of this subsection, in the case of any child who is a beneficiary of a qualified disability trust (as defined in section 642(b)(2)(C)(ii)), any amount included in the income of such child under sections 652 and 662 during a taxable year shall be considered earned income of such child for such taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**Subtitle E—Oil and Gas Provisions**

**SEC. 461. EXTENSION OF SUPERFUND TAXES.**

(a) EXCISE TAXES.—Section 4611(e) is amended to read as follows:

''(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after December 31, 2005, and before January 1, 2015.''

(b) CORPORATE ENVIRONMENTAL INCOME TAX.—Section 59A(e) is amended to read as follows:

''(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 2005, and before January 1, 2015.''

(c) EFFECTIVE DATES.—

(1) EXCISE TAXES.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) INCOME TAX.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 2005.

**SEC. 462. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO DUAL CAPACITY TAXPAYERS.**

(a) IN GENERAL.—Section 901 (relating to credit for taxes of foreign countries and of possessions of the United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULES RELATING TO DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer to a foreign country or possession of the United States for any period shall not be considered a tax—

''(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

''(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

''(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

''(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

''(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

''(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

''(i) persons who are not dual capacity taxpayers, and

''(ii) persons who are citizens or residents of the foreign country or possession.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

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

**SEC. 463. RULES RELATING TO FOREIGN OIL AND GAS INCOME.**

(a) SEPARATE BASKET FOR FOREIGN TAX CREDIT.—

(1) SEPARATE BASKET.—

(A) YEARS BEFORE 2007.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income), as in effect for years beginning before 2007, is amended by striking ''and'' at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

''(I) foreign oil and gas income, and''.

(B) 2007 AND AFTER.—Paragraph (1) of section 904(d), as in effect for years beginning after 2006, is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) foreign oil and gas income.''

(2) DEFINITION.—

(A) YEARS BEFORE 2007.—Paragraph (2) of section 904(d), as in effect for years beginning before 2007, is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

''(H) FOREIGN OIL AND GAS INCOME.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).''

(B) 2007 AND AFTER.—Section 904(d)(2), as in effect for years after 2006, is amended by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L) and by inserting after subparagraph (I) the following:

''(J) FOREIGN OIL AND GAS INCOME.—For purposes of this section—

''(i) IN GENERAL.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).

''(ii) COORDINATION.—Passive category income and general category income shall not include foreign oil and gas income (as so defined).''

(3) CONFORMING AMENDMENTS.—

(A) Section 904(d)(3)(F)(i) is amended by striking ''or (E)'' and inserting ''(E), or (I)''.

(B) Section 907(a) is hereby repealed.

(C) Section 907(c)(4) is hereby repealed.

(D) Section 907(f) is hereby repealed.

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(B) YEARS AFTER 2006.—The amendments made by paragraphs (1)(B) and (2)(B) shall apply to taxable years beginning after December 31, 2006.

(C) TRANSITIONAL RULES.—

(i) SEPARATE BASKET TREATMENT.—Any taxes paid or accrued in a taxable year beginning on or before the date of the enactment of this Act, with respect to income which was described in subparagraph (I) of section 904(d)(1) of such Code (as in effect on the day before the date of the enactment of this Act), shall be treated as taxes paid or accrued with respect to foreign oil and gas income to the extent the taxpayer establishes to the satisfaction of the Secretary of the Treasury that such taxes were paid or accrued with respect to foreign oil and gas income.

(ii) CARRYOVERS.—Any unused oil and gas extraction taxes which under section 907(f) of such Code (as so in effect) would have been allowable as a carryover to the taxpayer's first taxable year beginning after the date of the enactment of this Act (without regard to the limitation of paragraph (2) of such section 907(f) for first taxable year) shall be allowed as carryovers under section 904(c) of such Code in the same manner as if such taxes were unused taxes under such section 904(c) with respect to foreign oil and gas extraction income.

(iii) LOSSES.—The amendment made by paragraph (3)(C) shall not apply to foreign oil and gas extraction losses arising in taxable years beginning on or before the date of the enactment of this Act.

(b) ELIMINATION OF DEFERRAL FOR FOREIGN OIL AND GAS EXTRACTION INCOME.—

(1) GENERAL RULE.—Paragraph (1) of section 954(g) (defining foreign base company oil related income) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'foreign oil and gas income' means any income of a kind which would be taken into account in determining the amount of—

''(A) foreign oil and gas extraction income (as defined in section 907(c)), or

''(B) foreign oil related income (as defined in section 907(c)).''

(2) CONFORMING AMENDMENTS.—

(A) Subsections (a)(5), (b)(5), and (b)(6) of section 954, and section 952(c)(1)(B)(ii)(I), are each amended by striking ''base company oil related income'' each place it appears (including in the heading of subsection (b)(8)) and inserting ''oil and gas income''.

(B) Subsection (b)(4) of section 954 is amended by striking ''base company oil-related income'' and inserting ''oil and gas income''.

(C) The subsection heading for subsection (g) of section 954 is amended by striking ''FOREIGN BASE COMPANY OIL RELATED INCOME'' and inserting ''FOREIGN OIL AND GAS INCOME''.

(D) Subparagraph (A) of section 954(g)(2) is amended by striking ''foreign base company oil related income'' and inserting ''foreign oil and gas income''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders ending with or within such taxable years of foreign corporations.

**SEC. 464. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.**

(a) TAXABLE YEARS ENDING BEFORE 2006.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 29(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 29(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005.—Section 29(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar year 2005 and the amount in effect under subsection (a) for sales in such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(b) TAXABLE YEARS ENDING AFTER 2005.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 45K(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 45K(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005, 2006, AND 2007.—Section 45K(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar years 2005, 2006, and 2007 and the amount in effect under subsection (a) for sales in each such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(3) TREATMENT OF COKE AND COKE GAS.—

(A) NONAPPLICATION OF PHASEOUT.—Section 45K(g)(2) is amended by adding at the end the following new subparagraph:

''(D) NONAPPLICATION OF PHASEOUT.—Subsection (b)(1) shall not apply.''.

(B) APPLICATION OF INFLATION ADJUSTMENT .—Section 45K(g)(2)(B) is amended by inserting ''and the last sentence of subsection (b)(2) shall not apply.''.

(C) CLARIFICATION OF QUALIFYING FACILITY.—Section 45K(g)(1) is amended by inserting ''(other than from petroleum based products)'' after ''coke or coke gas''.

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

**SEC. 465. ELIMINATION OF AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR MAJOR INTEGRATED OIL COMPANIES.**

(a) IN GENERAL.—Section 167(h) is amended by adding at the end the following new paragraph:

''(5) NONAPPLICATION TO MAJOR INTEGRATED OIL COMPANIES.—This subsection shall not apply with respect to any expenses paid or incurred for any taxable year by any integrated oil company (as defined in section 291(b)(4)) which has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 1329(a) of the Energy Policy Act of 2005.

**Subtitle F—Tax Administration Provisions**

**SEC. 471. IMPOSITION OF WITHHOLDING ON CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES.**

(a) IN GENERAL.—Section 3402 is amended by adding at the end the following new subsection:

''(t) EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES.—

''(1) GENERAL RULE.—The Government of the United States, every State, every political subdivision thereof, and every instrumentality of the foregoing (including multi-State agencies) making any payment for goods and services which is subject to withholding shall deduct and withhold from such payment a tax in an amount equal to 3 percent of such payment.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any payment—

''(A) except as provided in subparagraph (B), which is subject to withholding under any other provision of this chapter or chapter 3,

''(B) which is subject to withholding under section 3406 and from which amounts are being withheld under such section,

''(C) of interest,

''(D) for real property,

''(E) to any tax-exempt entity, foreign government, or other entity subject to the requirements of paragraph (1),

''(F) made pursuant to a classified or confidential contract (as defined in section 6050M(e)(3)), and

''(G) made by a political subdivision of a State (or any instrumentality thereof) which makes less than $100,000,000 of such payments annually.

''(3) COORDINATION WITH OTHER SECTIONS.—For purposes of sections 3403 and 3404 and for purposes of so much of subtitle F (except section 7205) as relates to this chapter, payments to any person of any payment for goods and services which is subject to withholding shall be treated as if such payments were wages paid by an employer to an employee.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2005.

**SEC. 472. INCREASE IN CERTAIN CRIMINAL PENALTIES.**

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking ''Any person who—'' and inserting ''(a) IN GENERAL.—Any person who—'', and

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

''(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.''.

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''5 years'' and inserting ''10 years''.

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking ''Any person'' and inserting the following:

''(a) IN GENERAL.—Any person'', and

(ii) by striking ''$25,000'' and inserting ''$50,000'',

(B) in the third sentence, by striking ''section'' and inserting ''subsection'', and

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

''(b) AGGRAVATED FAILURE TO FILE.—

''(1) IN GENERAL.—In the case of any failure described in paragraph (2), the first sentence of subsection (a) shall be applied by substituting—

''(A) 'felony' for 'misdemeanor',

''(B) '$500,000 ($1,000,000' for '$25,000 ($100,000', and

''(C) '10 years' for '1 year'.

''(2) FAILURE DESCRIBED.—A failure described in this paragraph is a failure to make a return described in subsection (a) for a period of 3 or more consecutive taxable years.''.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''3 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions, and failures to act, occurring after the date of the enactment of this Act.

**SEC. 473. REPEAL OF SUSPENSION OF INTEREST AND CERTAIN PENALTIES WHERE SECRETARY FAILS TO CONTACT TAXPAYER.**

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by striking subsection (g) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns of tax filed after December 31, 2005.

**SEC. 474. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.**

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking ''$750'' and inserting ''$1,250'', and

(2) by striking ''$15'' and inserting ''$25''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

**SEC. 475. 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. 476. PARTIAL PAYMENTS REQUIRED WITH SUBMISSION OF OFFERS-IN-COMPROMISE.**

(a) IN GENERAL.—Section 7122 (relating to compromises), as amended by this Act, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) RULES FOR SUBMISSION OF OFFERS-IN-COMPROMISE.—

''(1) PARTIAL PAYMENT REQUIRED WITH SUBMISSION.—

''(A) LUMP-SUM OFFERS.—

''(i) IN GENERAL.—The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of amount of such offer.

''(ii) LUMP-SUM OFFER-IN-COMPROMISE.—For purposes of this section, the term 'lump-sum offer-in-compromise' means any offer of payments made in 5 or fewer installments.

''(B) PERIODIC PAYMENT OFFERS.—The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment and each proposed installment due during the period such offer is being evaluated for acceptance and has not been rejected by the Secretary. Any failure to make a payment required under the preceding sentence shall be deemed a withdrawal of the offer-in-compromise.

''(2) RULES OF APPLICATION.—

''(A) USE OF PAYMENT.—The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

''(B) NO USER FEE IMPOSED.—Any user fee which would otherwise be imposed under this section shall not be imposed on any offer-in-compromise accompanied by a payment required under this subsection.

''(C) WAIVER AUTHORITY.—The Secretary may issue regulations waiving any payment required under paragraph (1) in a manner consistent with the practices established in accordance with the requirements under subsection (d)(3).''.

(b) ADDITIONAL RULES RELATING TO TREATMENT OF OFFERS.—

(1) UNPROCESSABLE OFFER IF PAYMENT REQUIREMENTS ARE NOT MET.—Paragraph (3) of section 7122(d) (relating to standards for evaluation of offers), as redesignated by subsection (a), is amended by striking ''; and'' at the end of subparagraph (A) and inserting a comma, by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any offer-in-compromise which does not meet the requirements of subsection (c) shall be returned to the taxpayer as unprocessable.''.

(2) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Section 7122, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(g) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer (12 months for offers-in-compromise submitted after the date which is 5 years after the date of the enactment of this subsection). For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken in to account in determining the expiration of the 24-month period (or 12-month period, if applicable).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted on and after the date which is 60 days after the date of the enactment of this Act.

**SEC. 477. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.**

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

''(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date which is 180 days after the date of the enactment of this Act.

**SEC. 478. TERMINATION OF INSTALLMENT AGREEMENTS.**

(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

''(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

''(D) to file a return of tax imposed under this title by its due date (including extensions), or''.

(b) CONFORMING AMENDMENT.—The heading for section 6159(b)(4) is amended by striking ''FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION'' and inserting ''FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

**Subtitle G—Additional Provisions**

**SEC. 481. MODIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR.**

(a) IN GENERAL.—The table contained in section 6654(d)(1)(C) is amended by striking ''2002 or thereafter'' and inserting ''2002, 2003, 2004, or 2005'' and by adding at the end the following new items:

| | |
|---|---|
| ''2006 | 111 |
| 2007 or thereafter | 110''. |

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 2005.

**SEC. 482. LOAN AND REDEMPTION REQUIREMENTS ON POOLED FINANCING REQUIREMENTS.**

(a) STRENGTHENED REASONABLE EXPECTATION REQUIREMENT.—Subparagraph (A) of section 149(f)(2) (relating to reasonable expectation requirement) is amended to read as follows:

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to an issue if the issuer reasonably expects that—

''(i) as of the close of the 1-year period beginning on the date of issuance of the issue, at least 50 percent of the net proceeds of the issue (as of the close of such period) will have been used directly or indirectly to make or finance loans to ultimate borrowers, and

''(ii) as of the close of the 3-year period beginning on such date of issuance, at least 95 percent of the net proceeds of the issue (as of the close of such period) will have been so used.''.

(b) WRITTEN LOAN COMMITMENT AND REDEMPTION REQUIREMENTS.—Section 149(f) (relating to treatment of certain pooled financing bonds) is amended by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively, and by inserting after paragraph (3) the following new paragraphs:

''(4) WRITTEN LOAN COMMITMENT REQUIREMENT.—

''(A) IN GENERAL.—The requirement of this paragraph is met with respect to an issue if the issuer receives prior to issuance written loan commitments identifying the ultimate potential borrowers of at least 50 percent of the net proceeds of such issue.

''(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any issuer which is a State (or an integral part of a State) issuing pooled financing bonds to make or finance loans to subordinate governmental units of such State or to State-created entities providing financing for water-infrastructure projects through the federally-sponsored State revolving fund program.

''(5) REDEMPTION REQUIREMENT.—The requirement of this paragraph is met if to the extent that less than the percentage of the proceeds of an issue required to be used under clause (i) or (ii) of paragraph (2)(A) is used by the close of the period identified in such clause, the issuer uses an amount of proceeds equal to the excess of—

''(A) the amount required to be used under such clause, over

''(B) the amount actually used by the close of such period,

to redeem outstanding bonds within 90 days after the end of such period.''.

(c) ELIMINATION OF DISREGARD OF POOLED BONDS IN DETERMINING ELIGIBILITY FOR SMALL ISSUER EXCEPTION TO ARBITRAGE REBATE.—Section 148(f)(4)(D)(ii) (relating to aggregation of issuers) is amended by striking

subclause (II) and by redesignating subclauses (III) and (IV) as subclauses (II) and (III), respectively.

(d) CONFORMING AMENDMENTS.—

(1) Section 149(f)(1) is amended by striking ''paragraphs (2) and (3)'' and inserting ''paragraphs (2), (3), (4), and (5)''.

(2) Section 149(f)(7)(B), as redesignated by subsection (b), is amended by striking ''paragraph (4)(A)'' and inserting ''paragraph (6)(A)''.

(3) Section 54(l)(2) is amended by striking ''section 149(f)(4)(A)'' and inserting ''section 149(f)(6)(A)''.

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

**SEC. 483. REPORTING OF INTEREST ON TAX-EXEMPT BONDS.**

(a) IN GENERAL.—Section 6049(b)(2) (relating to exceptions) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) CONFORMING AMENDMENT.—Section 6049(b)(2)(C), as redesignated by subsection (a), is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest earned after December 31, 2005.

## NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Wednesday, February 8, 2006, at 2 p.m., to conduct a hearing to examine procedures to bring greater transparency to the legislative process.

For further information regarding this hearing, please contact Susan Wells at the Rules and Administration Committee on 224–6352.

## PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. COLEMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs will hold a field hearing in St. Paul, MN, entitled ''Volatility in the Natural Gas Market: The Impact of High Natural Gas Prices on American Consumers,'' regarding the subcommittee's investigations into the natural gas market and allegations that price and supply manipulation have caused increasingly high and volatile natural gas prices. The subcommittee intends to hold a hearing to examine the impact higher prices have on the economy, business, and families, and the government's role in ensuring that natural gas prices are determined in a competitive and informed marketplace.

The subcommittee hearing is scheduled for Friday, February 10, 2006, at 10 a.m., at the James J. Hill Reference Library at 80 West 4th Street in St. Paul, MN. For further information, please contact Raymond V. Shepherd, III, staff director and chief counsel to the Permanent Subcommittee on Investigations, at 224–3721.

## AUTHORITIES FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on February 2, 2006, at 10 a.m., to conduct a hearing on ''Proposals to Reform the National Flood Insurance Program.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 2, 2006, at 9:30 a.m., to hold a hearing on tax treaties.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 2, 2006, at 2:30 p.m., to hold a hearing on nominations.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental affairs be authorized to meet on Thursday, February 2, 2006, at 10 a.m. for a hearing titled, ''Hurricane Katrina: The Role of the Governors in Managing the Catastrophe.''

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

COMMITTEE ON THE JUDICIARY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Executive Nominations'' on Thursday, February 2, 2006 at 10 a.m. in Hart Senate Office Building, Room 226.

Panel I: Members of Congress TBA

Panel II: Paul J. McNulty to be Deputy Attorney General

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, February 2, 2006, for a committee hearing titled ''The Jobs for Veterans Act Three Years Later: Are VETS' Employment Programs Working for Veterans?''

The hearing will take place in room 418 of the Russell Senate Office Building at 10:30 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on February 2, 2006 at 10 a.m. to hold an open hearing on the World Threat.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on February 2, 2006 at 2:30 p.m. to hold a closed hearing.

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

SPECIAL COMMITTEE ON AGING

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet tomorrow, February 2, 2006 from 10 a.m.–12 p.m. in Hart 216 for the purpose of conducting a hearing.

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

## PRIVILEGES OF THE FLOOR

Mr. DORGAN. Mr. President, on behalf of Senator SCHUMER, I ask unanimous consent that Tovah Calderon, a detailee from the Department of Justice, be granted the privilege of the floor during today's session.

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

## NATIONAL WEEK OF PRAYER FOR UGANDA

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 366, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 366) affirming the importance of increased international action and a national week of prayer for the Ugandan victims of Joseph Kony's Lord's Resistance Army, and expressing the sense of the Senate that Sudan, Uganda, and the international community bring justice and humanitarian assistance to Northern Uganda and that February 2 through 9, 2006 should be designated as a national week of prayer and reflection for the people of Uganda.

There being no objection, the Senate proceeded to consider the resolution.

Mr. INHOFE. Mr. President, I want to speak about a matter of urgency and extreme concern to me that is going on right now in Uganda.

As my colleagues may know, I have spent much time in Africa, particularly in Uganda, talking with President Museveni.

The major issue that he and I discussed is the ongoing terrorist tragedy in his country. The Lord's Resistance Army, LRA, is a rebel paramilitary group formed in 1987 operating mainly in northern Uganda and southern Sudan. The group is engaged in an armed rebellion against the Ugandan