

105TH CONGRESS
1ST SESSION

H. R. 2014

AN ACT

To provide for reconciliation pursuant to sub-
sections (b)(2) and (d) of section 105 of the con-
current resolution on the budget for fiscal year
1998.

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IN THE SENATE OF THE UNITED STATES

JUNE 26, 1997

Received

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To provide for reconciliation pursuant to subsections (b)(2) and (d) of section 105 of the concurrent resolution on the budget for fiscal year 1998.

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

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

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Taxpayer Relief Act of 1997”.

4 (b) AMENDMENT OF 1986 CODE.—Except as other-
5 wise expressly provided, whenever in this Act an amend-
6 ment or repeal is expressed in terms of an amendment
7 to, or repeal of, a section or other provision, the reference
8 shall be considered to be made to a section or other provi-
9 sion of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; amendment of 1986 Code.

TITLE I—CHILD TAX CREDIT; TAX INCENTIVES FOR DEPENDENT
CARE AND HEALTH CARE FOR CHILDREN

Sec. 101. Child tax credit.

Sec. 102. Inflation adjustment of limits and other modifications of dependent
care credit.

TITLE II—EDUCATION INCENTIVES

Subtitle A—Tax Benefits Relating to Education Expenses

Sec. 201. Hope credit for higher education tuition and related expenses.

Sec. 202. Deduction for qualified higher education expenses.

Sec. 203. Penalty-free withdrawals from individual retirement plans for higher
education expenses.

Sec. 204. Expenses for education which supplements elementary and secondary
education.

Subtitle B—Expanded Education Investment Savings Opportunities

Sec. 211. Eligible educational institutions permitted to maintain qualified tui-
tion programs; other modifications of qualified State tuition
programs.

Sec. 212. Education investment accounts.

Subtitle C—Other Education Initiatives

Sec. 221. Extension of exclusion for employer-provided educational assistance.

Sec. 222. Increase in limitation on qualified 501(c)(3) bonds other than hos-
pital bonds.

Sec. 223. Contributions of computer technology and equipment for elementary
or secondary school purposes.

Sec. 224. Treatment of cancellation of certain student loans.

TITLE III—SAVINGS AND INVESTMENT INCENTIVES

Subtitle A—Retirement Savings

Sec. 301. Establishment of American Dream IRA.

Subtitle B—Capital Gains

PART I—INDIVIDUAL CAPITAL GAINS

Sec. 311. 20 percent maximum capital gains rate for individuals.

Sec. 312. Indexing of certain assets acquired after December 31, 2000, for purposes of determining gain.

Sec. 313. Exemption from tax for gain on sale of principal residence.

PART II—CORPORATE CAPITAL GAINS

Sec. 321. Reduction of alternative capital gain tax for corporations.

TITLE IV—ALTERNATIVE MINIMUM TAX REFORM

Sec. 401. Adjustment of exemption amounts for taxpayers other than corporations.

Sec. 402. Exemption from alternative minimum tax for small corporations.

Sec. 403. Repeal of adjustment for depreciation.

Sec. 404. Minimum tax not to apply to farmers' installment sales.

TITLE V—ESTATE, GIFT, AND GENERATION-SKIPPING TAX PROVISIONS

Subtitle A—Estate and Gift Tax Provisions

Sec. 501. Cost-of-living adjustments relating to estate and gift tax provisions.

Sec. 502. 20-year installment payment where estate consists largely of interest in closely held business.

Sec. 503. No interest on certain portion of estate tax extended under section 6166, reduced interest on remaining portion, and no deduction for such reduced interest.

Sec. 504. Extension of treatment of certain rents under section 2032A to lineal descendants.

Sec. 505. Clarification of judicial review of eligibility for extension of time for payment of estate tax.

Sec. 506. Gifts may not be revalued for estate tax purposes after expiration of statute of limitations.

Sec. 507. Termination of throwback rules for domestic trusts.

Sec. 508. Unified credit of decedent increased by unified credit of spouse used on split gift included in decedent's gross estate.

Sec. 509. Reformation of defective bequests, etc., to spouse of decedent.

Subtitle B—Generation-Skipping Tax Provisions

Sec. 511. Severing of trusts holding property having an inclusion ratio of greater than zero.

Sec. 512. Expansion of exception from generation-skipping transfer tax for transfers to individuals with deceased parents.

TITLE VI—EXTENSION AND MODIFICATION OF CERTAIN
EXPIRING PROVISIONS

- Sec. 601. Research tax credit.
- Sec. 602. Contributions of stock to private foundations.
- Sec. 603. Work opportunity tax credit.
- Sec. 604. Orphan drug tax credit.
- Sec. 605. Budgetary treatment of expiring preferential excise tax rates which are dedicated to trust funds.

TITLE VII—INCENTIVES FOR REVITALIZATION OF THE DISTRICT
OF COLUMBIA

- Sec. 701. Tax incentives for revitalization of the District of Columbia.
- Sec. 702. Incentives conditioned on other DC reform.

TITLE VIII—WELFARE-TO-WORK INCENTIVES

- Sec. 801. Incentives for employing long-term family assistance recipients.

TITLE IX—MISCELLANEOUS PROVISIONS

Subtitle A—Provisions Relating to Excise Taxes

- Sec. 901. Repeal of tax on diesel fuel used in recreational boats.
- Sec. 902. Continued application of tax on imported recycled Halon-1211.
- Sec. 903. Uniform rate of tax on vaccines.
- Sec. 904. Operators of multiple gasoline retail outlets treated as wholesale distributor for refund purposes.
- Sec. 905. Exemption of electric and other clean-fuel motor vehicles from luxury automobile classification.

Subtitle B—Provisions Relating to Pensions and Fringe Benefits

- Sec. 911. Section 401(k) plans for certain irrigation and drainage entities.
- Sec. 912. Extension of moratorium on application of certain nondiscrimination rules to State and local governments.
- Sec. 913. Treatment of certain disability benefits received by former police officers or firefighters.
- Sec. 914. Portability of permissive service credit under governmental pension plans.
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- Sec. 916. Treatment of certain transportation on non-commercially operated aircraft as a fringe benefit excludable from gross income.
- Sec. 917. Minimum pension accrued benefit distributable without consent increased to \$5,000.
- Sec. 918. Clarification of certain rules relating to employee stock ownership plans of S corporations.

Subtitle C—Revisions Relating to Disasters

- Sec. 921. Authority to postpone certain tax-related deadlines by reason of presidentially declared disaster.
- Sec. 922. Use of certain appraisals to establish amount of disaster loss.
- Sec. 923. Treatment of livestock sold on account of weather-related conditions.
- Sec. 924. Mortgage financing for residences located in disaster areas.

Subtitle D—Provisions Relating to Employment Taxes

- Sec. 931. Clarification of employment tax status of individuals distributing bakery products.
- Sec. 932. Clarification of standard to be used in determining employment tax status of retail securities brokers.
- Sec. 933. Clarification of exemption from self-employment tax for certain termination payments received by former insurance salesmen.
- Sec. 934. Standards for determining whether individuals are not employees.

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- Sec. 941. Waiver of penalty through 1998 on small businesses failing to make electronic fund transfers of taxes.
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Subtitle F—Other Provisions

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- Sec. 952. Assignment of workmen's compensation liability eligible for exclusion relating to personal injury liability assignments.
- Sec. 953. Tax-exempt status for certain State worker's compensation act companies.
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- Sec. 955. Exclusion from unrelated business taxable income for certain sponsorship payments.
- Sec. 956. Associations of holders of timeshare interests to be taxed like other homeowners associations.
- Sec. 957. Additional advance refunding of certain Virgin Island bonds.
- Sec. 958. Nonrecognition of gain on sale of stock to certain farmers' cooperatives.
- Sec. 959. Exception from reporting of real estate transactions for sales and exchanges of certain principal residences.
- Sec. 960. Increased deductibility of business meal expenses for individuals subject to Federal hours of service.
- Sec. 961. Qualified lessee construction allowances for short-term leases.
- Sec. 962. Tax treatment of consolidations of life insurance departments of mutual savings banks.
- Sec. 963. Offset of past-due, legally enforceable State tax obligations against overpayments.
- Sec. 964. Exemption of the incremental cost of a clean fuel vehicle from the limits on depreciation for vehicles.
- Sec. 965. Tax benefits for law enforcement officers killed in the line of duty.
- Sec. 966. Temporary suspension of taxable income limit on percentage depletion for marginal production.

Subtitle G—Extension of Duty-Free Treatment Under Generalized System of Preferences; Tariff Treatment of Certain Equipment and Repair of Vessels

- Sec. 971. Generalized system of preferences.
- Sec. 972. Equipment and repair of vessels.

Subtitle H—United States-Caribbean Basin Trade Partnership Act

- Sec. 981. Short title.
- Sec. 982. Findings and policy.
- Sec. 983. Definitions.

- Sec. 984. Temporary provisions to provide NAFTA parity to partnership countries.
- Sec. 985. Effect of NAFTA on sugar imports from beneficiary countries.
- Sec. 986. Duty-free treatment for certain beverages made with Caribbean rum.
- Sec. 987. Meetings of trade ministers and USTR.
- Sec. 988. Report on economic development and market oriented reforms in the Caribbean.

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- Sec. 1002. Limitation on exception for investment companies under section 351.
- Sec. 1003. Modification of rules for allocating interest expense to tax-exempt interest.
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- Sec. 1011. Tax treatment of certain extraordinary dividends.
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Subtitle C—Other Corporate Provisions

- Sec. 1021. Registration and other provisions relating to confidential corporate tax shelters.
- Sec. 1022. Certain preferred stock treated as boot.

Subtitle D—Administrative Provisions

- Sec. 1031. Reporting of certain payments made to attorneys.
- Sec. 1032. Decrease of threshold for reporting payments to corporations performing services for Federal agencies.
- Sec. 1033. Disclosure of return information for administration of certain veterans programs.
- Sec. 1034. Continuous levy on certain payments.
- Sec. 1035. Modification of levy exemption.
- Sec. 1036. Confidentiality and disclosure of returns and return information.
- Sec. 1037. Returns of beneficiaries of estates and trusts required to file returns consistent with estate or trust return or to notify secretary of inconsistency.

Subtitle E—Excise Tax Provisions

- Sec. 1041. Extension and modification of Airport and Airway Trust Fund taxes.
- Sec. 1042. Kerosene taxed as diesel fuel.
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Subtitle F—Provisions Relating to Tax-Exempt Entities

Sec. 1051. Expansion of look-thru rule for interest, annuities, royalties, and rents derived by subsidiaries of tax-exempt organizations.

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Sec. 1053. Modifications to exception from reporting, etc. of lobbying activities.

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Subtitle G—Other Revenue Provisions

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Sec. 1062. Modification of taxable years to which net operating losses may be carried.

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Sec. 1064. Allocation of basis among properties distributed by partnership.

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Sec. 1067. Restrictions on availability of earned income credit for taxpayers who improperly claimed credit in prior year.

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Sec. 1069. Repeal of special rule for rental use of vacation homes, etc., for less than 15 days.

Sec. 1070. Expansion of requirement that involuntarily converted property be replaced with property acquired from an unrelated person.

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- Sec. 1141. Clarification of application of return requirement to foreign partnerships.
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- Sec. 1143. Modifications relating to returns required to be filed by reason of changes in ownership interests in foreign partnership.
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- Sec. 1151. Determination of foreign or domestic status of partnerships.

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- Sec. 1162. Repeal of stock and securities safe harbor requirement that principal office be outside the United States.

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- Sec. 1171. Definition of foreign personal holding company income.
- Sec. 1172. Personal property used predominantly in the United States treated as not property of a like kind with respect to property used predominantly outside the United States.
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- Sec. 1225. Treatment of partnership items of individual retirement accounts.
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- Sec. 1231. Treatment of partnership items in deficiency proceedings.
- Sec. 1232. Partnership return to be determinative of audit procedures to be followed.
- Sec. 1233. Provisions relating to statute of limitations.
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- Sec. 1235. Exclusion of partial settlements from 1-year limitation on assessment.
- Sec. 1236. Extension of time for filing a request for administrative adjustment.
- Sec. 1237. Availability of innocent spouse relief in context of partnership proceedings.
- Sec. 1238. Determination of penalties at partnership level.
- Sec. 1239. Provisions relating to court jurisdiction, etc.
- Sec. 1240. Treatment of premature petitions filed by notice partners or 5-percent groups.
- Sec. 1241. Bonds in case of appeals from certain proceeding.
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PART III—PROVISION RELATING TO CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER, ETC.

- Sec. 1246. Closing of partnership taxable year with respect to deceased partner, etc.

Subtitle D—Provisions Relating to Real Estate Investment Trusts

- Sec. 1251. Clarification of limitation on maximum number of shareholders.
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- Sec. 1254. Credit for tax paid by REIT on retained capital gains.
- Sec. 1255. Repeal of 30-percent gross income requirement.
- Sec. 1256. Modification of earnings and profits rules for determining whether REIT has earnings and profits from non-REIT year.
- Sec. 1257. Treatment of foreclosure property.
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- Sec. 1262. Wholly owned subsidiaries.
- Sec. 1263. Effective date.

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- Sec. 1271. Repeal of 30-percent gross income limitation.

Subtitle F—Taxpayer Protections

- Sec. 1281. Reasonable cause exception for certain penalties.
- Sec. 1282. Clarification of period for filing claims for refunds.
- Sec. 1283. Repeal of authority to disclose whether prospective juror has been audited.
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- Sec. 1286. Penalty for unauthorized inspection of tax returns or tax return information.
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TITLE XIII—SIMPLIFICATION PROVISIONS RELATING TO ESTATE AND GIFT TAXES

- Sec. 1301. Gifts to charities exempt from gift tax filing requirements.
- Sec. 1302. Clarification of waiver of certain rights of recovery.
- Sec. 1303. Transitional rule under section 2056A.
- Sec. 1304. Clarifications relating to disclaimers.
- Sec. 1305. Increase of amount of lapse of general power of appointment not treated as release for purposes of estate and gift tax (5 or 5 power).
- Sec. 1306. Treatment for estate tax purposes of short-term obligations held by nonresident aliens.
- Sec. 1307. Certain revocable trusts treated as part of estate.
- Sec. 1308. Distributions during first 65 days of taxable year of estate.
- Sec. 1309. Separate share rules available to estates.
- Sec. 1310. Executor of estate and beneficiaries treated as related persons for disallowance of losses, etc.
- Sec. 1311. Limitation on taxable year of estates.
- Sec. 1312. Treatment of funeral trusts.
- Sec. 1313. Adjustments for gifts within 3 years of decedent's death.
- Sec. 1314. Clarification of treatment of survivor annuities under qualified terminable interest rules.
- Sec. 1315. Treatment under qualified domestic trust rules of forms of ownership which are not trusts.

- Sec. 1316. Opportunity to correct certain failures under section 2032A.
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TITLE XIV—SIMPLIFICATION PROVISIONS RELATING TO EXCISE TAXES, TAX-EXEMPT BONDS, AND OTHER MATTERS

Subtitle A—Excise Tax Simplification

PART I—EXCISE TAXES ON HEAVY TRUCKS AND LUXURY CARS

- Sec. 1401. Increase in de minimis limit for after-market alterations for heavy trucks and luxury cars.
 Sec. 1402. Credit for tire tax in lieu of exclusion of value of tires in computing price.

PART II—PROVISIONS RELATED TO DISTILLED SPIRITS, WINES, AND BEER

- Sec. 1411. Credit or refund for imported bottled distilled spirits returned to distilled spirits plant.
 Sec. 1412. Authority to cancel or credit export bonds without submission of records.
 Sec. 1413. Repeal of required maintenance of records on premises of distilled spirits plant.
 Sec. 1414. Fermented material from any brewery may be received at a distilled spirits plant.
 Sec. 1415. Repeal of requirement for wholesale dealers in liquors to post sign.
 Sec. 1416. Refund of tax to wine returned to bond not limited to unmerchantable wine.
 Sec. 1417. Use of additional ameliorating material in certain wines.
 Sec. 1418. Domestically produced beer may be withdrawn free of tax for use of foreign embassies, legations, etc.
 Sec. 1419. Beer may be withdrawn free of tax for destruction.
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PART III—OTHER EXCISE TAX PROVISIONS

- Sec. 1431. Authority to grant exemptions from registration requirements.
 Sec. 1432. Repeal of expired provisions.

Subtitle B—Tax-Exempt Bond Provisions

- Sec. 1441. Repeal of \$100,000 limitation on unspent proceeds under 1-year exception from rebate.
 Sec. 1442. Exception from rebate for earnings on bona fide debt service fund under construction bond rules.
 Sec. 1443. Repeal of debt service-based limitation on investment in certain non-purpose investments.
 Sec. 1444. Repeal of expired provisions.
 Sec. 1445. Effective date.

Subtitle C—Tax Court Procedures

- Sec. 1451. Overpayment determinations of Tax Court.
 Sec. 1452. Redetermination of interest pursuant to motion.
 Sec. 1453. Application of net worth requirement for awards of litigation costs.
 Sec. 1454. Proceedings for determination of employment status.

Subtitle D—Other Provisions

- Sec. 1461. Extension of due date of first quarter estimated tax payment by private foundations.
 Sec. 1462. Clarification of authority to withhold Puerto Rico income taxes from salaries of Federal employees.
 Sec. 1463. Certain notices disregarded under provision increasing interest rate on large corporate underpayments.

TITLE XV—TECHNICAL AMENDMENTS RELATED TO SMALL BUSINESS JOB PROTECTION ACT OF 1996 AND OTHER LEGISLATION

- Sec. 1501. Amendments related to Small Business Job Protection Act of 1996.
 Sec. 1502. Amendments related to Health Insurance Portability and Accountability Act of 1996.
 Sec. 1503. Amendments related to Taxpayer Bill of Rights 2.
 Sec. 1504. Miscellaneous provisions.

1 **TITLE I—CHILD TAX CREDIT;**
 2 **MODIFICATION OF DEPEND-**
 3 **ENT CARE CREDIT**

4 **SEC. 101. CHILD TAX CREDIT.**

5 (a) IN GENERAL.—Subpart A of part IV of sub-
 6 chapter A of chapter 1 (relating to nonrefundable personal
 7 credits) is amended by inserting after section 23 the fol-
 8 lowing new section:

9 **“SEC. 24. CHILD TAX CREDIT.**

10 “(a) ALLOWANCE OF CREDIT.—There shall be al-
 11 lowed as a credit against the tax imposed by this chapter
 12 for the taxable year an amount equal to \$500 multiplied
 13 by the number of qualifying children of the taxpayer.

14 “(b) LIMITATIONS.—

1 “(1) LIMITATION BASED ON ADJUSTED GROSS
2 INCOME.—For limitation based on adjusted gross in-
3 come, see section 26(c).

4 “(2) REDUCTION FOR DEPENDENT CARE CRED-
5 IT.—In the case of taxable years beginning after De-
6 cember 31, 1999—

7 “(A) IN GENERAL.—The credit allowed by
8 subsection (a) for the taxable year (determined
9 after paragraph (1) but before paragraph (3))
10 shall be reduced by the amount equal to 50 per-
11 cent of the credit allowed under section 21 for
12 such taxable year (determined after section
13 26(c)).

14 “(B) EXCEPTION BASED ON ADJUSTED
15 GROSS INCOME.—

16 “(i) IN GENERAL.—Subparagraph (A)
17 shall not apply to a taxpayer whose modi-
18 fied adjusted gross income for the taxable
19 year does not exceed the threshold amount.

20 “(ii) PHASEIN OF REDUCTION.—If the
21 modified adjusted gross income of the tax-
22 payer for the taxable year exceeds the
23 threshold amount by less than \$5,000, the
24 amount of the reduction under subpara-
25 graph (A) shall be an amount which bears

1 the same ratio to the amount of such re-
2 duction (determined without regard to this
3 clause) as the excess of the taxpayer's
4 modified adjusted gross income over the
5 threshold amount bears to \$5,000. In the
6 case of a joint return, the preceding sen-
7 tence shall be applied by substituting
8 '\$10,000' for '\$5,000' each place it ap-
9 pears.

10 “(iii) THRESHOLD AMOUNT.—For
11 purposes of this subparagraph, the term
12 ‘threshold amount’ means—

13 “(I) \$60,000 in the case of a
14 joint return,

15 “(II) \$33,000 in the case of an
16 individual who is not married, and

17 “(III) \$25,000 in the case of a
18 married individual filing a separate
19 return.

20 For purposes of this clause, marital status
21 shall be determined under section 7703.

22 “(iv) MODIFIED ADJUSTED GROSS IN-
23 COME.—For purposes of this subpara-
24 graph, the term ‘modified adjusted gross

1 income' has the meaning given such term
2 by section 26(c).”.

3 “(C) NO REDUCTION FOR DEPENDENT
4 CARE OF INDIVIDUALS INCAPABLE OF SELF-
5 CARE.—Subparagraph (A) shall not apply to so
6 much of the credit which would have been al-
7 lowed under section 21 (determined without re-
8 gard to section 26(c)) if only qualifying individ-
9 uals described in subparagraph (B) or (C) of
10 section 21(b)(1) were taken into account.

11 “(3) LIMITATION BASED ON AMOUNT OF
12 TAX.—The credit allowed by subsection (a) (deter-
13 mined after paragraphs (1) and (2)) shall not exceed
14 the excess (if any) of—

15 “(A) the taxpayer’s regular tax liability for
16 the taxable year reduced by the credits allow-
17 able against such tax under this subpart (other
18 than this section), over

19 “(B) the sum of—

20 “(i) the taxpayer’s tentative minimum
21 tax for such taxable year (determined with-
22 out regard to the alternative minimum tax
23 foreign tax credit), plus

24 “(ii) the credit allowed for the taxable
25 year under section 32.

1 “(c) QUALIFYING CHILD.—For purposes of this sec-
2 tion—

3 “(1) IN GENERAL.—The term ‘qualifying child’
4 means any individual if—

5 “(A) the taxpayer is allowed a deduction
6 under section 151 with respect to such individ-
7 ual for the taxable year,

8 “(B) such individual has not attained the
9 age of 17 as of the close of the calendar year
10 in which the taxable year of the taxpayer be-
11 gins, and

12 “(C) such individual bears a relationship to
13 the taxpayer described in section 32(c)(3)(B).

14 “(2) EXCEPTION FOR CERTAIN NONCITIZENS.—
15 The term ‘qualifying child’ shall not include any in-
16 dividual who would not be a dependent if the first
17 sentence of section 152(b)(3) were applied without
18 regard to all that follows ‘resident of the United
19 States’.

20 “(d) TAXABLE YEAR MUST BE FULL TAXABLE
21 YEAR.—Except in the case of a taxable year closed by rea-
22 son of the death of the taxpayer, no credit shall be allow-
23 able under this section in the case of a taxable year cover-
24 ing a period of less than 12 months.

1 “(e) PHASEIN OF CREDIT.—In the case of taxable
2 years beginning in 1998, subsection (a) shall be applied
3 by substituting ‘\$400’ for ‘\$500’.”.

4 (b) HIGH RISK POOLS PERMITTED TO COVER DE-
5 PENDENTS OF HIGH RISK INDIVIDUALS.—Paragraph
6 (26) of section 501(c) is amended by adding at the end
7 the following flush sentence:

8 “A qualifying child (as defined in section 24(c)) of
9 an individual described in subparagraph (B) (with-
10 out regard to this sentence) shall be treated as de-
11 scribed in subparagraph (B).”.

12 (c) CONFORMING AMENDMENTS.—

13 (1) Subsection (a) of section 26 is amended by
14 inserting “(other than the credit allowed by section
15 24)” after “credits allowed by this subpart”.

16 (2) The table of sections for subpart A of part
17 IV of subchapter A of chapter 1 is amended by in-
18 sserting after the item relating to section 23 the fol-
19 lowing new item:

“Sec. 24. Child tax credit.”.

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

23 (e) NOTICE OF CREDIT.—The Secretary of the
24 Treasury or his delegate shall include in any booklet of
25 instructions for Form 1040, 1040A, or 1040EZ prepared

1 by such Secretary for filing individual income tax returns
2 for taxable years beginning in 1998 a notice which states
3 only the following: “The Taxpayer Relief Act of 1997
4 which was recently passed by the Congress has fulfilled
5 its promise to provide tax relief to American families. The
6 Act’s child tax credit allows American families to reduce
7 their taxes by \$400 per child for 1998 and \$500 per child
8 after 1998. You may wish to check with your employer
9 about changing your tax withholding.”.

10 (f) ADJUSTMENTS TO WITHHOLDING.—

11 (1) IN GENERAL.—The Secretary of the Treas-
12 ury or his delegate shall modify the tables and pro-
13 cedures under section 3402 of the Internal Revenue
14 Code of 1986 such that every employer making pay-
15 ment of wages during calendar year 1998 to any
16 specified employee—

17 (A) shall reduce the amount deducted and
18 withheld as tax under chapter 24 of such Code
19 for any payroll or other period during such year
20 to reflect such period’s proportionate share of
21 the child care credit amount, and

22 (B) shall, before implementing such reduc-
23 tion, provide reasonable notice to such employ-
24 ees that such a reduction will apply to each
25 specified employee who does not provide the

1 employer with the notice referred to in para-
2 graph (5).

3 (2) SPECIFIED EMPLOYEE.—For purposes of
4 this subsection, the term “specified employee”
5 means any employee—

6 (A) whose wages from the employer on an
7 annualized basis are reasonably expected to be
8 at least \$30,000 but not more than \$100,000,
9 and

10 (B) who claims more than the base num-
11 ber of withholding exemptions on the withhold-
12 ing exemption certificate furnished to the em-
13 ployer.

14 For purposes of the preceding sentence, the term
15 “base number” means 1 withholding exemption if
16 the certificate reflects withholding for an unmarried
17 individual and 2 withholding exemptions if the cer-
18 tificate reflects withholding for a married individual.

19 (3) CHILD CARE CREDIT AMOUNT.—For pur-
20 poses of this subsection, the term “child care credit
21 amount” means the lesser of \$800 or the amount
22 equal to the product of—

23 (A) \$400, and

24 (B) the number of withholding exemptions
25 claimed by the employee on the withholding ex-

1 emption certificate furnished to the employer to
2 the extent such number exceeds the base num-
3 ber (as defined in paragraph (2)) of such ex-
4 emptions.

5 (4) PROPORTIONATE SHARE.—For purposes of
6 this subsection, except as provided by the Secretary
7 of the Treasury or his delegate, a period’s propor-
8 tionate share of the child care credit amount is the
9 amount which bears the same ratio to the child care
10 credit amount as the number of days in such period
11 bears to 365.

12 (5) NOTICE TO HAVE SUBSECTION NOT APPLY
13 TO EMPLOYEE.—This subsection shall not apply to
14 any employee who provides written notice (in such
15 form as the Secretary shall prescribe) to the em-
16 ployer of such employee’s decision not to have this
17 subsection apply to such employee.

18 (6) DEFINITIONS.—Terms used in this sub-
19 section which are also used in chapter 24 of the In-
20 ternal Revenue Code of 1986 shall have the respec-
21 tive meanings given such terms by such chapter.

22 **SEC. 102. INFLATION ADJUSTMENT OF LIMITS AND OTHER**
23 **MODIFICATIONS OF DEPENDENT CARE CRED-**
24 **IT.**

25 (a) INFLATION ADJUSTMENT.—

1 (1) IN GENERAL.—Subsection (c) of section 21
2 (relating to expenses for household and dependent
3 care services necessary for gainful employment) is
4 amended to read as follows:

5 “(c) DOLLAR LIMIT ON AMOUNT CREDITABLE.—

6 “(1) IN GENERAL.—The amount of the employ-
7 ment-related expenses incurred during any taxable
8 year which may be taken into account under sub-
9 section (a) shall not exceed—

10 “(A) \$2,400 if there is 1 qualifying indi-
11 vidual with respect to the taxpayer for such tax-
12 able year, or

13 “(B) \$4,800 if there are 2 or more qualify-
14 ing individuals with respect to the taxpayer for
15 such taxable year.

16 The amount determined under subparagraph (A) or
17 (B) (whichever is applicable) shall be reduced by the
18 aggregate amount excludable from gross income
19 under section 129 for the taxable year.

20 “(2) INFLATION ADJUSTMENT.—In the case of
21 taxable years beginning in a calendar year after
22 1997, each of the dollar amounts contained in para-
23 graph (1) shall be increased by an amount equal
24 to—

25 “(A) such dollar amount, multiplied by

1 “(B) the cost-of-living adjustment deter-
2 mined under section 1(f)(3) for such calendar
3 year by substituting ‘calendar year 1996’ for
4 ‘calendar year 1992’ in subparagraph (B)
5 thereof.

6 If any amount as adjusted under the preceding sen-
7 tence is not a multiple of \$50, such amount shall be
8 rounded to the next lowest multiple of \$50.”.

9 (2) CONFORMING AMENDMENT.—Paragraph (2)
10 of section 21(d) is amended by striking “(c)(1)” and
11 inserting “(c)(1)(A)” and by striking “(c)(2)” and
12 inserting “(c)(1)(B)”.

13 (b) REDUCTION OF BENEFIT BASED ON ADJUSTED
14 GROSS INCOME.—

15 (1) IN GENERAL.—Section 26 is amended by
16 redesignating subsection (c) as subsection (d) and by
17 inserting after subsection (b) the following new sub-
18 section:

19 “(c) REDUCTION OF DEPENDENT CARE CREDIT AND
20 CHILD CREDIT BASED ON ADJUSTED GROSS INCOME.—

21 “(1) IN GENERAL.—The aggregate amount
22 which would (but for subsection (a), this subsection,
23 and paragraphs (2) and (3) of section 24(b)) be al-
24 lowed under sections 21 and 24 shall be reduced
25 (but not below zero) by \$25 for each \$1,000 (or

1 fraction thereof) by which the taxpayer’s modified
2 adjusted gross income exceeds the threshold amount.
3 For purposes of the preceding sentence, the term
4 ‘modified adjusted gross income’ means adjusted
5 gross income increased by any amount excluded
6 from gross income under section 911, 931, or 933.

7 “(2) THRESHOLD AMOUNT.—For purposes of
8 paragraph (1), the term ‘threshold amount’ means—

9 “(A) \$110,000 in the case of a joint re-
10 turn,

11 “(B) \$75,000 in the case of an individual
12 who is not married, and

13 “(C) \$55,000 in the case of a married in-
14 dividual filing a separate return.

15 For purposes of this paragraph, marital status shall
16 be determined under section 7703.

17 “(3) REMAINING CREDIT TREATED AS ATTRIB-
18 UTABLE TO DEPENDENT CARE TAX CREDIT.—The
19 aggregate amount allowable under sections 21 and
20 24 after the application of paragraph (1) shall be
21 treated as allowable solely under section 21 to the
22 extent such amount does not exceed the amount al-
23 lowable under section 21 (determined without regard
24 to section 21(a)(3)).”.

25 (2) CONFORMING AMENDMENTS.—

1 (A) Subsection (a) of section 21 is amend-
2 ed by adding at the end the following new para-
3 graph:

4 “(3) LIMITATION BASED ON ADJUSTED GROSS
5 INCOME.—

**“For limitation based on adjusted gross income,
 see section 26(c).”.**

6 (B) The section heading for section 26 is
7 amended by inserting before the period “;
8 **PHASEOUT OF CERTAIN CREDITS BASED**
9 **ON INCOME”.**

10 (C) The item relating to section 26 in the
11 table of sections for subpart A of part IV of
12 subchapter A of chapter 1 is amended by in-
13 serting before the period “; phaseout of certain
14 credits based on income”.

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

1 **TITLE II—EDUCATION**
2 **INCENTIVES**
3 **Subtitle A—Tax Benefits Relating**
4 **to Education Expenses**

5 **SEC. 201. HOPE CREDIT FOR HIGHER EDUCATION TUITION**
6 **AND RELATED EXPENSES.**

7 (a) IN GENERAL.—Subpart A of part IV of sub-
8 chapter A of chapter 1 (relating to nonrefundable personal
9 credits) is amended by inserting after section 25 the fol-
10 lowing new section:

11 **“SEC. 25A. HIGHER EDUCATION TUITION AND RELATED EX-**
12 **PENSES.**

13 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
14 dividual, there shall be allowed as a credit against the tax
15 imposed by this chapter for the taxable year the amount
16 equal to 50 percent of qualified tuition and related ex-
17 penses paid by the taxpayer during such taxable year for
18 education furnished during any academic period beginning
19 in such year.

20 “(b) LIMITATIONS.—

21 “(1) DOLLAR LIMITATION.—The amount al-
22 lowed as a credit under subsection (a) for any tax-
23 able year with respect to the qualified tuition and re-
24 lated expenses of any 1 individual shall not exceed
25 \$1,500.

1 “(2) CREDIT ALLOWED ONLY FOR 2 TAXABLE
2 YEARS.—No credit shall be allowed under subsection
3 (a) for a taxable year with respect to the qualified
4 tuition and related expenses of an individual unless
5 the taxpayer elects to have this section apply with
6 respect to such individual for such year. An election
7 under this paragraph shall not take effect with re-
8 spect to an individual for any taxable year if an elec-
9 tion under this paragraph (by the taxpayer or any
10 other individual) is in effect with respect to such in-
11 dividual for any 2 prior taxable years.

12 “(3) CREDIT ALLOWED FOR YEAR ONLY IF IN-
13 DIVIDUAL IS AT LEAST $\frac{1}{2}$ TIME STUDENT FOR POR-
14 TION OF YEAR.—No credit shall be allowed under
15 subsection (a) for a taxable year with respect to the
16 qualified tuition and related expenses of an individ-
17 ual unless such individual is an eligible student for
18 at least one academic period which begins during
19 such year.

20 “(4) CREDIT ALLOWED ONLY FOR FIRST TWO
21 YEARS OF POSTSECONDARY EDUCATION.—No credit
22 shall be allowed under subsection (a) for a taxable
23 year with respect to the qualified tuition and related
24 expenses of an individual if the individual has com-
25 pleted (before the beginning of such taxable year)

1 the first 2 years of postsecondary education at an el-
2 igible educational institution.

3 “(c) LIMITATION BASED ON MODIFIED ADJUSTED
4 GROSS INCOME.—

5 “(1) IN GENERAL.—The amount which would
6 (but for this subsection) be taken into account under
7 subsection (a) for the taxable year shall be reduced
8 (but not below zero) by the amount determined
9 under paragraph (2).

10 “(2) AMOUNT OF REDUCTION.—The amount
11 determined under this paragraph is the amount
12 which bears the same ratio to the amount which
13 would be so taken into account as—

14 “(A) the excess of—

15 “(i) the taxpayer’s modified adjusted
16 gross income for such taxable year, over

17 “(ii) \$40,000 (\$80,000 in the case of
18 a joint return), bears to

19 “(B) \$10,000 (\$20,000 in the case of a
20 joint return).

21 “(3) MODIFIED ADJUSTED GROSS INCOME.—

22 The term ‘modified adjusted gross income’ means
23 the adjusted gross income of the taxpayer for the
24 taxable year increased by any amount excluded from
25 gross income under section 911, 931, or 933.

1 “(d) DEFINITIONS.—For purposes of this section—

2 “(1) QUALIFIED TUITION AND RELATED EX-
3 PENSES.—

4 “(A) IN GENERAL.—The term ‘qualified
5 tuition and related expenses’ means tuition and
6 fees required for the enrollment or attendance
7 of—

8 “(i) the taxpayer,

9 “(ii) the taxpayer’s spouse, or

10 “(iii) any dependent of the taxpayer
11 with respect to whom the taxpayer is al-
12 lowed a deduction under section 151,
13 at an eligible educational institution and books
14 required for courses of instruction of such indi-
15 vidual at such institution.

16 “(B) EXCEPTION FOR EDUCATION INVOLV-
17 ING SPORTS, ETC.—Such term does not include
18 expenses with respect to any course or other
19 education involving sports, games, or hobbies,
20 unless such course or other education is part of
21 the individual’s degree program.

22 “(C) EXCEPTION FOR NONACADEMIC
23 FEES.—Such term does not include student ac-
24 tivity fees, athletic fees, insurance expenses, or

1 other expenses unrelated to an individual's aca-
2 demic course of instruction.

3 “(2) ELIGIBLE EDUCATIONAL INSTITUTION.—

4 The term ‘eligible educational institution’ means an
5 institution—

6 “(A) which is described in section 481 of
7 the Higher Education Act of 1965 (20 U.S.C.
8 1088), as in effect on the date of the enactment
9 of this section, and

10 “(B) which is eligible to participate in a
11 program under title IV of such Act.

12 “(3) ELIGIBLE STUDENT.—The term ‘eligible
13 student’ means, with respect to any academic period,
14 a student who—

15 “(A) meets the requirements of section
16 484(a)(1) of the Higher Education Act of 1965
17 (20 U.S.C. 1091(a)(1)), as in effect on the date
18 of the enactment of this section, and

19 “(B) is carrying at least $\frac{1}{2}$ the normal
20 full-time work load for the course of study the
21 student is pursuing.

22 “(4) OTHER TERMS RELATING TO THE HIGHER
23 EDUCATION ACT.—The following terms shall have
24 the meanings prescribed in regulations under section
25 481(g) of the Higher Education Act of 1965 (20

1 U.S.C. 1088(g)), as added by the Student Financial
2 Aid Improvements Act of 1997:

3 “(A) Academic period.

4 “(B) Normal full-time workload.

5 “(C) First two years of postsecondary edu-
6 cation.

7 “(e) TREATMENT OF EXPENSES PAID BY DEPEND-
8 ENT.—If a deduction under section 151 with respect to
9 an individual is allowed to another taxpayer for a taxable
10 year beginning in the calendar year in which such individ-
11 ual’s taxable year begins—

12 “(1) no credit shall be allowed under subsection
13 (a) to such individual for such individual’s taxable
14 year, and

15 “(2) qualified tuition and related expenses paid
16 by such individual during such individual’s taxable
17 year shall be treated for purposes of this section as
18 paid by such other taxpayer.

19 “(f) TREATMENT OF CERTAIN PREPAYMENTS.—If
20 qualified tuition and related expenses are paid by the tax-
21 payer during a taxable year for an academic period which
22 begins during the first 3 months following such taxable
23 year, such academic period shall be treated for purposes
24 of this section as beginning during such taxable year.

25 “(g) SPECIAL RULES.—

1 “(1) IDENTIFICATION REQUIREMENT.—No
2 credit shall be allowed under subsection (a) to a tax-
3 payer with respect to the qualified tuition and relat-
4 ed expenses of an individual unless the taxpayer in-
5 cludes the name and taxpayer identification number
6 of such individual on the return of tax for the tax-
7 able year.

8 “(2) ADJUSTMENT FOR CERTAIN SCHOLAR-
9 SHIPS, ETC.—The amount of qualified tuition and
10 related expenses otherwise taken into account under
11 subsection (a) with respect to an individual for an
12 academic period shall be reduced (before the applica-
13 tion of subsections (b) and (c)) by the sum of any
14 amounts paid for the benefit of such individual
15 which are allocable to such period as—

16 “(A) a qualified scholarship which is ex-
17 cludable from gross income under section 117,

18 “(B) an educational assistance allowance
19 under chapter 30, 31, 32, 34, or 35 of title 38,
20 United States Code, or under chapter 1606 of
21 title 10, United States Code, and

22 “(C) a payment (other than a gift, be-
23 quest, devise, or inheritance within the meaning
24 of section 102(a)) for such individual’s edu-
25 cational expenses, or attributable to such indi-

1 vidual’s enrollment at an eligible educational in-
2 stitution, which is excludable from gross income
3 under any law of the United States.

4 “(3) DENIAL OF CREDIT IF STUDENT CON-
5 VICTED OF A FELONY DRUG OFFENSE.—No credit
6 shall be allowed under subsection (a) for qualified
7 tuition and related expenses for the enrollment or
8 attendance of a student for any academic period if
9 such student has been convicted of a Federal or
10 State felony offense consisting of the possession or
11 distribution of a controlled substance before the end
12 of the taxable year with or within which such period
13 ends.

14 “(4) DENIAL OF DOUBLE BENEFIT.—No credit
15 shall be allowed under this section for any expense
16 for which a deduction is allowed under any other
17 provision of this chapter.

18 “(5) NO CREDIT FOR MARRIED INDIVIDUALS
19 FILING SEPARATE RETURNS.—If the taxpayer is a
20 married individual (within the meaning of section
21 7703), this section shall apply only if the taxpayer
22 and the taxpayer’s spouse file a joint return for the
23 taxable year.

24 “(6) NONRESIDENT ALIENS.—If the taxpayer is
25 a nonresident alien individual for any portion of the

1 taxable year, this section shall apply only if such in-
2 dividual is treated as a resident alien of the United
3 States for purposes of this chapter by reason of an
4 election under subsection (g) or (h) of section 6013.

5 “(h) INFLATION ADJUSTMENTS.—

6 “(1) DOLLAR LIMITATION ON AMOUNT OF
7 CREDIT.—

8 “(A) IN GENERAL.—In the case of a tax-
9 able year beginning after 1998, the \$1,500
10 amount in subsection (b)(1) shall be increased
11 by an amount equal to—

12 “(i) such dollar amount, multiplied by

13 “(ii) the cost-of-living adjustment de-
14 termined under section 1(f)(3) for the cal-
15 endar year in which the taxable year be-
16 gins, determined by substituting ‘calendar
17 year 1997’ for ‘calendar year 1992’ in sub-
18 paragraph (B) thereof.

19 “(B) ROUNDING.—If any amount as ad-
20 justed under subparagraph (A) is not a multiple
21 of \$50, such amount shall be rounded to the
22 next lowest multiple of \$50.

23 “(2) INCOME LIMITS.—

24 “(A) IN GENERAL.—In the case of a tax-
25 able year beginning after 2000, the \$40,000

1 and \$80,000 amounts in subsection (c)(2) shall
2 each be increased by an amount equal to—

3 “(i) such dollar amount, multiplied by

4 “(ii) the cost-of-living adjustment de-
5 termined under section 1(f)(3) for the cal-
6 endar year in which the taxable year be-
7 gins, determined by substituting ‘calendar
8 year 1999’ for ‘calendar year 1992’ in sub-
9 paragraph (B) thereof.

10 “(B) ROUNDING.—If any amount as ad-
11 justed under subparagraph (A) is not a multiple
12 of \$5,000, such amount shall be rounded to the
13 next lowest multiple of \$5,000.

14 “(i) REGULATIONS.—The Secretary may prescribe
15 such regulations as may be necessary or appropriate to
16 carry out this section, including regulations providing for
17 a recapture of credit allowed under this section in cases
18 where there is a refund in a subsequent taxable year of
19 any amount which was taken into account in determining
20 the amount of such credit.”.

21 (b) EXTENSION OF PROCEDURES APPLICABLE TO
22 MATHEMATICAL OR CLERICAL ERRORS.—Paragraph (2)
23 of section 6213(g) (relating to the definition of mathe-
24 matical or clerical errors) is amended by striking “and”
25 at the end of subparagraph (G), by striking the period

1 at the end of subparagraph (H) and inserting “, and”,
 2 and by inserting after subparagraph (H) the following new
 3 subparagraph:

4 “(I) an omission of a correct TIN required
 5 under section 25A(g)(1) (relating to higher edu-
 6 cation tuition and related expenses) to be in-
 7 cluded on a return.”.

8 (c) RETURNS RELATING TO TUITION AND RELATED
 9 EXPENSES.—

10 (1) IN GENERAL.—Subpart B of part III of
 11 subchapter A of chapter 61 (relating to information
 12 concerning transactions with other persons) is
 13 amended by inserting after section 6050R the fol-
 14 lowing new section:

15 **“SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION**
 16 **TUITION AND RELATED EXPENSES.**

17 “(a) IN GENERAL.—Any person—

18 “(1) which is an eligible educational institution
 19 which receives payments for qualified tuition and re-
 20 lated expenses with respect to any individual for any
 21 calendar year, or

22 “(2) which is engaged in a trade or business
 23 and which, in the course of such trade or business,
 24 makes payments during any calendar year to any in-
 25 dividual which constitute reimbursements or refunds

1 (or similar amounts) of qualified tuition and related
2 expenses of such individual,
3 shall make the return described in subsection (b) with re-
4 spect to the individual at such time as the Secretary may
5 by regulations prescribe.

6 “(b) FORM AND MANNER OF RETURNS.—A return
7 is described in this subsection if such return—

8 “(1) is in such form as the Secretary may pre-
9 scribe,

10 “(2) contains—

11 “(A) the name, address, and TIN of the
12 individual with respect to whom payments de-
13 scribed in subsection (a) were received from (or
14 were paid to),

15 “(B) the name, address, and TIN of any
16 individual certified by the individual described
17 in subparagraph (A) as the taxpayer who will
18 claim the individual as a dependent for pur-
19 poses of the deduction allowable under section
20 151 for any taxable year ending with or within
21 the calendar year, and

22 “(C) the—

23 “(i) aggregate amount of payments
24 for qualified tuition and related expenses
25 received with respect to the individual de-

1 scribed in subparagraph (A) during the
2 calendar year, and

3 “(ii) aggregate amount of reimburse-
4 ments or refunds (or similar amounts)
5 paid to such individual during the calendar
6 year, and

7 “(D) such other information as the Sec-
8 retary may prescribe.

9 “(c) APPLICATION TO GOVERNMENTAL UNITS.—For
10 purposes of this section—

11 “(1) a governmental unit or any agency or in-
12 strumentality thereof shall be treated as a person,
13 and

14 “(2) any return required under subsection (a)
15 by such governmental entity shall be made by the of-
16 ficer or employee appropriately designated for the
17 purpose of making such return.

18 “(d) STATEMENTS TO BE FURNISHED TO INDIVID-
19 UALS WITH RESPECT TO WHOM INFORMATION IS RE-
20 QUIRED.—Every person required to make a return under
21 subsection (a) shall furnish to each individual whose name
22 is required to be set forth in such return under subpara-
23 graph (A) or (B) of subsection (b)(2) a written statement
24 showing—

1 “(1) the name, address, and phone number of
2 the information contact of the person required to
3 make such return, and

4 “(2) the aggregate amounts described in sub-
5 section (b)(2)(C).

6 The written statement required under the preceding sen-
7 tence shall be furnished on or before January 31 of the
8 year following the calendar year for which the return
9 under subsection (a) was required to be made.

10 “(e) DEFINITIONS.—For purposes of this section, the
11 terms ‘eligible educational institution’ and ‘qualified tui-
12 tion and related expenses’ have the meanings given such
13 terms by section 25A.

14 “(f) RETURNS WHICH WOULD BE REQUIRED TO BE
15 MADE BY 2 OR MORE PERSONS.—Except to the extent
16 provided in regulations prescribed by the Secretary, in the
17 case of any amount received by any person on behalf of
18 another person, only the person first receiving such
19 amount shall be required to make the return under sub-
20 section (a).

21 “(g) REGULATIONS.—The Secretary shall prescribe
22 such regulations as may be necessary to carry out the pro-
23 visions of this section. No penalties shall be imposed under
24 section 6724 with respect to any return or statement re-

1 quired under this section until such time as such regula-
2 tions are issued.”.

3 (2) ASSESSABLE PENALTIES.—

4 (A) Subparagraph (B) of section
5 6724(d)(1) (relating to definitions) is amended
6 by redesignating clauses (ix) through (xiv) as
7 clauses (x) through (xv), respectively, and by
8 inserting after clause (viii) the following new
9 clause:

10 “(ix) section 6050S (relating to re-
11 turns relating to payments for qualified
12 tuition and related expenses),”.

13 (B) Paragraph (2) of section 6724(d) is
14 amended by striking “or” at the end of the next
15 to last subparagraph, by striking the period at
16 the end of the last subparagraph and inserting
17 “, or”, and by adding at the end the following
18 new subparagraph:

19 “(Z) section 6050S(d) (relating to returns
20 relating to qualified tuition and related ex-
21 penses).”.

22 (3) CLERICAL AMENDMENT.—The table of sec-
23 tions for subpart B of part III of subchapter A of
24 chapter 61 is amended by inserting after the item
25 relating to section 6050R the following new item:

“Sec. 6050S. Returns relating to higher education tuition and related expenses.”.

1 (d) COORDINATION WITH SECTION 135.—Subsection
2 (d) of section 135 is amended by redesignating paragraphs
3 (2) and (3) as paragraphs (3) and (4), respectively, and
4 by inserting after paragraph (1) the following new para-
5 graph:

6 “(2) COORDINATION WITH HIGHER EDUCATION
7 CREDIT.—The amount of the qualified higher edu-
8 cation expenses otherwise taken into account under
9 subsection (a) with respect to the education of an in-
10 dividual shall be reduced (before the application of
11 subsection (b)) by the amount of such expenses
12 which are taken into account in determining the
13 credit allowable to the taxpayer or any other person
14 under section 25A with respect to such expenses.”.

15 (e) CLERICAL AMENDMENT.—The table of sections
16 for subpart A of part IV of subchapter A of chapter 1
17 is amended by inserting after the item relating to section
18 25 the following new item:

“Sec. 25A. Higher education tuition and related expenses.”.

19 (f) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to expenses paid after December
21 31, 1997 (in taxable years ending after such date), for
22 education furnished in academic periods beginning after
23 such date.

1 **SEC. 202. DEDUCTION FOR QUALIFIED HIGHER EDUCATION**
2 **EXPENSES.**

3 (a) DEDUCTION ALLOWED.— Part VII of subchapter
4 B of chapter 1 (relating to additional itemized deductions
5 for individuals) is amended by redesignating section 221
6 as section 222 and by inserting after section 220 the fol-
7 lowing new section:

8 **“SEC. 221. QUALIFIED HIGHER EDUCATION EXPENSES.**

9 “(a) ALLOWANCE OF DEDUCTION.—In the case of an
10 individual, there shall be allowed as a deduction the
11 amount of qualified higher education expenses paid by the
12 taxpayer during the taxable year for education furnished
13 during any academic period (within the meaning of section
14 25A) beginning in such year.

15 “(b) LIMITATIONS.—

16 “(1) ANNUAL LIMIT.—The amount allowed as a
17 deduction under subsection (a) for any taxable year
18 with respect to expenses paid for education fur-
19 nished to any 1 individual shall not exceed the lesser
20 of—

21 “(A) \$10,000, or

22 “(B) the amount includible in the tax-
23 payer’s gross income for such taxable year by
24 reason of a distribution from a qualified tuition
25 program (as defined in section 529), or an edu-
26 cation investment account (as defined in section

1 530), the beneficiary of which is such individ-
2 ual.

3 “(2) AGGREGATE LIMIT.—The amount allowed
4 as a deduction under subsection (a) to the taxpayer
5 or any other individual with respect to expenses paid
6 for education furnished to any 1 individual shall not
7 exceed \$40,000 for all taxable years.

8 “(3) DEDUCTION ALLOWED FOR YEAR ONLY IF
9 INDIVIDUAL IS AT LEAST $\frac{1}{2}$ TIME STUDENT FOR
10 PORTION OF YEAR.—No deduction shall be allowed
11 under subsection (a) for a taxable year with respect
12 to the qualified higher education expenses of an indi-
13 vidual unless such individual is an eligible student
14 (as defined in section 25A(d)(3)) for at least one
15 academic period which begins during such year.

16 “(4) DEDUCTION ALLOWED ONLY FOR FIRST 4
17 YEARS OF POSTSECONDARY EDUCATION.—No deduc-
18 tion shall be allowed under subsection (a) for a tax-
19 able year with respect to the qualified higher edu-
20 cation expenses of an individual if the individual has
21 completed (before the beginning of such taxable
22 year) the equivalent of the first 4 years of post-
23 secondary education at an eligible educational insti-
24 tution (determined under the rules of section 25A).

1 “(5) COORDINATION WITH CREDIT FOR HIGHER
2 EDUCATION EXPENSES.—No deduction shall be al-
3 lowed under this section for a taxable year with re-
4 spect to the qualified higher education expenses of
5 an individual if an election is in effect under section
6 25A with respect to such individual for such taxable
7 year.

8 “(c) QUALIFIED HIGHER EDUCATION EXPENSES.—
9 The term ‘qualified higher education expenses’ means
10 qualified higher education expenses (as defined in section
11 529) for the education of—

12 “(1) the taxpayer,

13 “(2) the taxpayer’s spouse, or

14 “(3) any dependent of the taxpayer with respect
15 to whom the taxpayer is allowed a deduction under
16 section 151,

17 at an eligible educational institution (as defined in section
18 529(e)(5)).

19 “(d) TREATMENT OF EXPENSES PAID BY DEPEND-
20 ENT.—If a deduction under section 151 with respect to
21 an individual is allowed to another taxpayer for a taxable
22 year beginning in the calendar year in which such individ-
23 ual’s taxable year begins—

1 “(1) no deduction shall be allowed under sub-
2 section (a) to such individual for such individual’s
3 taxable year, and

4 “(2) qualified higher education expenses paid
5 by such individual during such individual’s taxable
6 year shall be treated for purposes of this section as
7 paid by such other taxpayer.

8 “(e) COORDINATION WITH AMOUNTS INCLUDIBLE IN
9 GROSS INCOME UNDER SECTION 529 OR 530.—If any de-
10 duction is allowed under subsection (a) with respect to the
11 qualified higher education expenses of an individual with
12 respect to whom the taxpayer is allowed a deduction under
13 section 151(c), any amount which would (but for this sub-
14 section) be includible in such individual’s gross income by
15 reason of section 529 or section 530 shall be includible
16 in the gross income of the taxpayer and not such individ-
17 ual.

18 “(f) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS,
19 ETC.—The amount of qualified higher education expenses
20 otherwise taken into account under subsection (a) with re-
21 spect to an individual for an academic period shall be re-
22 duced (before the application of subsection (b)) by the sum
23 of—

1 “(1) the aggregate amount of the reductions
2 under section 25A(g)(2) for the benefit of such indi-
3 vidual for such period, and

4 “(2) the amount excludable from gross income
5 under section 135 by reason of such expenses with
6 respect to such individual which are allocable to such
7 period.

8 “(g) DENIAL OF DEDUCTION IF STUDENT CON-
9 VICTED OF A FELONY DRUG OFFENSE.—No deduction
10 shall be allowed under subsection (a) for qualified higher
11 education expenses for the enrollment or attendance of a
12 student for any academic period if such student has been
13 convicted of a Federal or State felony offense consisting
14 of the possession or distribution of a controlled substance
15 before the end of the taxable year with or within which
16 such period ends.

17 “(h) DENIAL OF DOUBLE BENEFIT.—No deduction
18 shall be allowed under subsection (a) for any expense for
19 which a deduction is allowed to the taxpayer under any
20 other provision of this chapter.”.

21 (b) DEDUCTION ALLOWED WHETHER OR NOT TAX-
22 PAYER ITEMIZES OTHER DEDUCTIONS.—

23 (1) IN GENERAL.—Subsection (b) of section 63
24 is amended by striking “and” at the end of para-
25 graph (1), by striking the period at the end of para-

1 graph (2) and inserting “, and”, and by adding at
2 the end the following new paragraph:

3 “(3) the deduction allowed by section 221 (re-
4 lating to deduction for qualified higher education ex-
5 penses).”.

6 (2) CONFORMING AMENDMENT.—Subsection (d)
7 of section 63 is amended by striking “and” at the
8 end of paragraph (1), by striking the period at the
9 end of paragraph (2) and inserting “, and”, and by
10 adding at the end the following new paragraph:

11 “(3) the deduction allowed by section 221 (re-
12 lating to deduction for qualified higher education ex-
13 penses).”.

14 (c) PHASEOUT OF EXCLUSION FOR QUALIFIED TUI-
15 TION REDUCTIONS.—Subsection (d) of section 117 is
16 amended by redesignating the last paragraph as para-
17 graph (4) and by adding at the end the following new
18 paragraph:

19 “(5) PHASEOUT OF EXCLUSION.—

20 “(A) TERMINATION.—Paragraph (1) shall
21 not apply to any qualified tuition reduction for
22 any course of instruction beginning after De-
23 cember 31, 2001.

24 “(B) PHASEOUT.—The amount excludable
25 from gross income under paragraph (1) for any

1 course of instruction beginning in a calendar
 2 year after 1997 and before 2002 shall not ex-
 3 ceed the applicable percentage (determined in
 4 accordance with the following table) for such
 5 calendar year of the amount which would be so
 6 excludable but for this subparagraph:

| In the case of calendar year: | The applicable percentage is: |
|--|--|
| 1998 | 80 |
| 1999 | 60 |
| 2000 | 40 |
| 2001 | 20.”. |

7 (d) TECHNICAL AMENDMENTS.—

8 (1) Subparagraph (A) of section 529(e)(3) is
 9 amended by inserting “(except as provided in section
 10 221(e))” after “distributee”.

11 (2) The table of sections for part VII of sub-
 12 chapter B of chapter 1 is amended by striking the
 13 item relating to section 221 and inserting:

“Sec. 221. Qualified higher education expenses.
 “Sec. 222. Cross reference.”.

14 (e) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to expenses paid after December
 16 31, 1997 (in taxable years ending after such date), for
 17 education furnished in academic periods beginning after
 18 such date.

1 **SEC. 203. PENALTY-FREE WITHDRAWALS FROM INDIVIDUAL**
2 **RETIREMENT PLANS FOR HIGHER EDU-**
3 **CATION EXPENSES.**

4 (a) IN GENERAL.—Paragraph (2) of section 72(t)
5 (relating to exceptions to 10-percent additional tax on
6 early distributions from qualified retirement plans) is
7 amended by adding at the end the following new subpara-
8 graph:

9 “(E) DISTRIBUTIONS FROM INDIVIDUAL
10 RETIREMENT PLANS FOR HIGHER EDUCATION
11 EXPENSES.—Distributions to an individual
12 from an individual retirement plan to the extent
13 such distributions do not exceed the qualified
14 higher education expenses (as defined in para-
15 graph (7)) of the taxpayer for the taxable year.
16 Distributions shall not be taken into account
17 under the preceding sentence if such distribu-
18 tions are described in subparagraph (A), (C), or
19 (D) or to the extent paragraph (1) does not
20 apply to such distributions by reason of sub-
21 paragraph (B).”.

22 (b) DEFINITION.—Section 72(t) is amended by add-
23 ing at the end the following new paragraph:

24 “(7) QUALIFIED HIGHER EDUCATION EX-
25 PENSES.—For purposes of paragraph (2)(E)—

1 “(A) IN GENERAL.—The term ‘qualified
2 higher education expenses’ means qualified
3 higher education expenses (as defined in section
4 529(e)(3) without regard to subparagraph (C)
5 thereof) for education furnished to—

6 “(i) the taxpayer,

7 “(ii) the taxpayer’s spouse, or

8 “(iii) any child (as defined in section
9 151(e)(3)) or grandchild of the taxpayer or
10 the taxpayer’s spouse,

11 at an eligible educational institution (as defined
12 in section 529(e)(5)).

13 “(B) COORDINATION WITH OTHER BENE-
14 FITS.—The amount of qualified higher edu-
15 cation expenses for any taxable year shall be re-
16 duced as provided in section 25A(g)(2).”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to distributions after December 31,
19 1997, with respect to expenses paid after such date (in
20 taxable years ending after such date), for education fur-
21 nished in academic periods beginning after such date.

1 **SEC. 204. EXPENSES FOR EDUCATION WHICH SUPPLE-**
2 **MENTS ELEMENTARY AND SECONDARY EDU-**
3 **CATION.**

4 (a) IN GENERAL.—Subpart A of part IV of sub-
5 chapter A of chapter 1 (relating to nonrefundable personal
6 credits) is amended by inserting after section 25A, as
7 added by this title, the following new section:

8 **“SEC. 25B. EXPENSES FOR EDUCATION WHICH SUPPLE-**
9 **MENTS ELEMENTARY AND SECONDARY EDU-**
10 **CATION.**

11 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
12 dividual, there shall be allowed a credit against the tax
13 imposed by this chapter for the taxable year an amount
14 equal to 50 percent of the qualifying educational assist-
15 ance expenses paid by the taxpayer during the taxable
16 year.

17 “(b) LIMITATIONS.—

18 “(1) DOLLAR LIMITATION.—The amount al-
19 lowed as a credit under subsection (a) for any tax-
20 able year with respect to the qualified educational
21 assistance expenses of any 1 individual shall not ex-
22 ceed \$150.

23 “(2) REDUCTION OF CREDIT BASED ON AD-
24 JUSTED GROSS INCOME.—

25 “(A) IN GENERAL.—The aggregate
26 amount which would (but for this paragraph)

1 be allowed by this section shall be reduced (but
2 not below zero) by \$25 for each \$1,000 (or
3 fraction thereof) by which the taxpayer's modi-
4 fied adjusted gross income exceeds the thresh-
5 old amount. For purposes of the preceding sen-
6 tence, the term 'modified adjusted gross in-
7 come' means adjusted gross income increased
8 by any amount excluded from gross income
9 under section 911, 931, or 933.

10 “(B) THRESHOLD AMOUNT.—For purposes
11 of subparagraph (A), the term 'threshold
12 amount' means—

13 “(i) \$80,000 in the case of a joint re-
14 turn,

15 “(ii) \$50,000 in the case of an indi-
16 vidual who is not married, and

17 “(iii) \$40,000 in the case of a married
18 individual filing a separate return.

19 For purposes of this subparagraph, marital sta-
20 tus shall be determined under section 7703.

21 “(c) QUALIFIED EDUCATIONAL ASSISTANCE EX-
22 PENSES.—For purposes of this section—

23 “(1) IN GENERAL.—The term 'qualified edu-
24 cational assistance expenses' means amounts paid to
25 a qualified entity to provide supplementary edu-

1 cation to any dependent (within the meaning of sec-
2 tion 152) of the taxpayer—

3 “(A) who is less than 18 years of age as
4 of the close of the taxable year, and

5 “(B) who is enrolled as a full-time student
6 in an elementary or secondary school.

7 “(2) SUPPLEMENTARY EDUCATION.—For pur-
8 poses of paragraph (1), supplementary education is
9 education provided with respect to reading, mathe-
10 matics, or any subject that the dependent student is
11 studying at the time in elementary or secondary
12 school classes. Eligible courses of study shall not in-
13 clude courses providing assistance with respect to
14 preparation for college entrance examinations.

15 “(3) QUALIFIED ENTITY.—The term ‘qualified
16 entity’ means a person that is accredited as a sup-
17 plementary education service provider by an accredi-
18 tation organization that is recognized by the Sec-
19 retary of Education or by any other agency, associa-
20 tion, or group that is certified by the Secretary for
21 purposes of this section.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 for subpart A of part IV of subchapter A of chapter 1
24 is amended by inserting after the item relating to section
25 25A the following new item:

“Sec. 25B. Expenses for education which supplements elementary and secondary education.”.

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

4 **Subtitle B—Expanded Education**
5 **Investment Savings Opportunities**

6 **SEC. 211. ELIGIBLE EDUCATIONAL INSTITUTIONS PER-**
7 **MITTED TO MAINTAIN QUALIFIED TUITION**
8 **PROGRAMS; OTHER MODIFICATIONS OF**
9 **QUALIFIED STATE TUITION PROGRAMS.**

10 (a) ELIGIBLE EDUCATIONAL INSTITUTIONS PER-
11 MITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS.—
12 Paragraph (1) of section 529(b) (defining qualified State
13 tuition program) is amended by inserting “or by one or
14 more eligible educational institutions” after “maintained
15 by a State or agency or instrumentality thereof”.

16 (b) QUALIFIED HIGHER EDUCATION EXPENSES TO
17 INCLUDE ROOM AND BOARD.—Paragraph (3) of section
18 529(e) (defining qualified higher education expenses) is
19 amended to read as follows:

20 “(3) QUALIFIED HIGHER EDUCATION EX-
21 PENSES.—

22 “(A) IN GENERAL.—The term ‘qualified
23 higher education expenses’ means tuition, fees,
24 books, supplies, and equipment required for the

1 enrollment or attendance of a designated bene-
2 ficiary at an eligible education institution.

3 “(B) ROOM AND BOARD INCLUDED FOR
4 STUDENTS WHO ARE AT LEAST HALF-TIME.—In
5 the case of an individual who is an eligible stu-
6 dent (as defined in section 25A(d)(3)) for any
7 academic period, such term shall also include
8 reasonable costs for such period (as determined
9 under the qualified tuition program) incurred
10 by the designated beneficiary for room and
11 board while attending such institution. The
12 amount treated as qualified higher education
13 expenses by reason of the preceding sentence
14 shall not exceed the minimum amount (applica-
15 ble to the student) included for room and board
16 for such period in the cost of attendance (as de-
17 fined in section 472 of the Higher Education
18 Act of 1965, 20 U.S.C. 1087ll, as in effect on
19 the date of the enactment of this paragraph)
20 for the eligible educational institution for such
21 period.

22 “(C) EXCLUSION FOR GRADUATE LEVEL
23 COURSES.—Such term shall not include ex-
24 penses for any graduate level course of a kind
25 normally taken by an individual pursuing a pro-

1 gram leading to a law, business, medical, or
2 other advanced academic or professional degree.
3 Such courses shall not be taken into account in
4 determining whether an individual is described
5 in subsection (f)(3)(A).”.

6 (c) ADDITIONAL MODIFICATIONS.—

7 (1) MEMBER OF FAMILY.—Paragraph (2) of
8 section 529(e) (relating to other definitions and spe-
9 cial rules) is amended to read as follows:

10 “(2) MEMBER OF FAMILY.—The term ‘member
11 of the family’ means—

12 “(A) an individual who bears a relationship
13 to another individual which is a relationship de-
14 scribed in paragraphs (1) through (8) of section
15 152(a), and

16 “(B) the spouse of any individual described
17 in subparagraph (A).”.

18 (2) ELIGIBLE EDUCATIONAL INSTITUTION.—
19 Section 529(e) is amended by adding at the end the
20 following:

21 “(5) ELIGIBLE EDUCATIONAL INSTITUTION.—
22 The term ‘eligible educational institution’ means an
23 institution—

24 “(A) which is described in section 481 of
25 the Higher Education Act of 1965 (20 U.S.C.

1 1088), as in effect on the date of the enactment
2 of this paragraph, and

3 “(B) which is eligible to participate in a
4 program under title IV of such Act.”.

5 (3) NO CONTRIBUTIONS AFTER BENEFICIARY
6 ATTAINS AGE 18; DISTRIBUTIONS REQUIRED IN CER-
7 TAIN CASES.—Subsection (b) of section 529 (as
8 amended by subsection (f) of this section) is amend-
9 ed by adding at the end the following new para-
10 graph:

11 “(7) RESTRICTIONS RELATING TO AGE OF BEN-
12 EFICIARY; COMPLETION OF EDUCATION.—

13 “(A) IN GENERAL.—A program shall be
14 treated as a qualified tuition program only if—

15 “(i) no contribution is accepted on be-
16 half of a designated beneficiary after the
17 date on which such beneficiary attains age
18 18, and

19 “(ii) any balance to the credit of a
20 designated beneficiary (if any) on the ac-
21 count termination date shall be distributed
22 within 30 days after such date to such
23 beneficiary (or in the case of death, the es-
24 tate of the beneficiary).

1 “(B) ACCOUNT TERMINATION DATE.—For
2 purposes of subparagraph (A), the term ‘ac-
3 count termination date’ means whichever of the
4 following dates is the earliest:

5 “(i) The date on which the designated
6 beneficiary completes the equivalent of 4
7 years of post-secondary education (whether
8 or not at the same eligible educational in-
9 stitution).

10 “(ii) The date on which the des-
11 ignated beneficiary attains age 30.

12 “(iii) The date on which the des-
13 ignated beneficiary dies.”.

14 (4) ESTATE AND GIFT TAX TREATMENT.—

15 (A) GIFT TAX TREATMENT.—

16 (i) Paragraph (2) of section 529(c) is
17 amended to read as follows:

18 “(2) GIFT TAX TREATMENT OF CONTRIBU-
19 TIONS.—For purposes of chapters 12 and 13, any
20 contribution to a qualified tuition program on behalf
21 of any designated beneficiary—

22 “(A) shall be treated as a completed gift to
23 such beneficiary which is not a future interest
24 in property, and

1 “(B) shall not be treated as a qualified
2 transfer under section 2503(e).”.

3 (ii) Paragraph (5) of section 529(c) is
4 amended to read as follows:

5 “(5) OTHER GIFT TAX RULES.—For purposes
6 of chapters 12 and 13—

7 “(A) TREATMENT OF DISTRIBUTIONS.—In
8 no event shall a distribution from a qualified
9 tuition program be treated as a taxable gift.

10 “(B) TREATMENT OF DESIGNATION OF
11 NEW BENEFICIARY.—The taxes imposed by
12 chapters 12 and 13 shall apply to a transfer by
13 reason of a change in the designated beneficiary
14 under the program (or a rollover to the account
15 of a new beneficiary) only if the new beneficiary
16 is a generation below the generation of the old
17 beneficiary (determined in accordance with sec-
18 tion 2651).”.

19 (B) ESTATE TAX TREATMENT.—Para-
20 graph (4) of section 529(c) is amended to read
21 as follows:

22 “(4) ESTATE TAX TREATMENT.—

23 “(A) IN GENERAL.—No amount shall be
24 includible in the gross estate of any individual

1 for purposes of chapter 11 by reason of an in-
2 terest in a qualified tuition program.

3 “(B) AMOUNTS INCLUDIBLE IN ESTATE OF
4 DESIGNATED BENEFICIARY IN CERTAIN
5 CASES.—Subparagraph (A) shall not apply to
6 amounts distributed on account of the death of
7 a beneficiary.”.

8 (5) LIMITATION ON CONTRIBUTIONS TO QUALI-
9 FIED TUITION PROGRAMS NOT MAINTAINED BY A
10 STATE.—Subsection (b) of section 529 is amended
11 by adding at the end the following new paragraph:

12 “(9) LIMITATION ON CONTRIBUTIONS TO
13 QUALIFIED TUITION PROGRAMS NOT MAINTAINED BY
14 A STATE.—In the case of a program not maintained
15 by a State or agency or instrumentality thereof, such
16 program shall not be treated as a qualified tuition
17 program unless it limits the annual contribution to
18 the program on behalf of a designated beneficiary to
19 an amount equal to the lesser of—

20 “(A) \$5,000, or

21 “(B) the excess of—

22 “(i) \$50,000, over

23 “(ii) the aggregate amount contrib-
24 uted to such program on behalf of such
25 beneficiary for all prior taxable years.”.

1 (d) ADDITIONAL TAX ON AMOUNTS NOT USED FOR
2 HIGHER EDUCATION EXPENSES.—Section 529 is amend-
3 ed by adding at the end the following new subsection:

4 “(f) IMPOSITION OF ADDITIONAL TAX.—

5 “(1) IN GENERAL.—The tax imposed by this
6 chapter for any taxable year on any taxpayer who
7 receives a payment or distribution from a qualified
8 tuition program which is includible in gross income
9 shall be increased by 10 percent of the amount
10 which is so includible.

11 “(2) EXCEPTIONS.—Paragraph (1) shall not
12 apply if the payment or distribution is—

13 “(A) used for qualified higher education
14 expenses of the designated beneficiary,

15 “(B) made to a beneficiary (or to the es-
16 tate of the designated beneficiary) on or after
17 the death of the designated beneficiary,

18 “(C) attributable to the designated bene-
19 ficiary’s being disabled (within the meaning of
20 section 72(m)(7)), or

21 “(D) made on account of a scholarship, al-
22 lowance, or payment described in subparagraph
23 (A), (B), or (C) of section 135(d)(1) received by
24 the account holder to the extent the amount of
25 the payment or distribution does not exceed the

1 amount of the scholarship, allowance, or pay-
2 ment.

3 “(3) EXCESS CONTRIBUTIONS RETURNED BE-
4 FORE DUE DATE OF RETURN.—In the case of a
5 qualified tuition program not maintained by a State
6 or any agency or instrumentality thereof, paragraph
7 (1) shall not apply to the distribution to a contribu-
8 tor of any contribution made during a taxable year
9 on behalf of a designated beneficiary to the extent
10 that such contribution exceeds the limitation in sec-
11 tion 4973(e) if—

12 “(A) such distribution is received on or be-
13 fore the day prescribed by law (including exten-
14 sions of time) for filing such contributor’s re-
15 turn for such taxable year, and

16 “(B) such distribution is accompanied by
17 the amount of net income attributable to such
18 excess contribution.

19 Any net income described in subparagraph (B) shall
20 be included in the gross income of the contributor
21 for the taxable year in which such excess contribu-
22 tion was made.”.

23 (e) COORDINATION WITH EDUCATION SAVINGS
24 BOND.—Section 135(c)(2) (defining qualified higher edu-

1 cation expenses) is amended by adding at the end the fol-
2 lowing:

3 “(C) CONTRIBUTIONS TO QUALIFIED TUI-
4 TION PROGRAM.—Such term shall include any
5 contribution to a qualified tuition program (as
6 defined in section 529) on behalf of a des-
7 ignated beneficiary (as defined in such section)
8 who is an individual described in subparagraph
9 (A); but there shall be no increase in the invest-
10 ment in the contract for purposes of applying
11 section 72 by reason of the portion of such con-
12 tribution which is not includible in gross income
13 by reason of this subparagraph.”.

14 (f) TAX ON EXCESS CONTRIBUTIONS.—

15 (1) IN GENERAL.—Subsection (a) of section
16 4973 is amended by striking “or” at the end of
17 paragraph (2) and by inserting after paragraph (3)
18 the following new paragraphs:

19 “(4) a qualified tuition program (as defined in
20 section 529) not maintained by a State or any agen-
21 cy or instrumentality thereof, or

22 “(5) an education investment account (as de-
23 fined in section 530),”.

1 (2) EXCESS CONTRIBUTIONS DEFINED.—Sec-
2 tion 4973 is amended by adding at the end the fol-
3 lowing new subsection:

4 “(e) EXCESS CONTRIBUTIONS TO PRIVATE
5 QUALIFIED TUITION PROGRAM AND EDUCATION INVEST-
6 MENT ACCOUNTS.—For purposes of this section—

7 “(1) IN GENERAL.—In the case of private edu-
8 cation investment accounts maintained for the bene-
9 fit of any 1 beneficiary, the term ‘excess contribu-
10 tions’ means the amount by which the amount con-
11 tributed for the taxable year to such accounts ex-
12 ceeds the lesser of—

13 “(A) the excess of—

14 “(i) \$5,000, over

15 “(ii) the aggregate amount contrib-
16 uted to all qualified tuition programs (as
17 defined in section 529) maintained by a
18 State or any agency or instrumentality
19 thereof on behalf of such beneficiary for
20 such taxable year, or

21 “(B) the excess of—

22 “(i) \$50,000, over

23 “(ii) the sum of—

1 “(I) the aggregate amount con-
2 tributed to such accounts for all prior
3 taxable years, and

4 “(II) the aggregate amount con-
5 tributed to all qualified tuition pro-
6 grams (as defined in section 529)
7 maintained by a State or any agency
8 or instrumentality thereof on behalf of
9 such beneficiary for such taxable year
10 and all prior taxable years.

11 “(2) PRIVATE EDUCATION INVESTMENT AC-
12 COUNT.—For purposes of paragraph (1), the term
13 ‘private education investment account’ means—

14 “(A) a qualified tuition program (as de-
15 fined in section 529) not maintained by a State
16 or any agency or instrumentality thereof, and

17 “(B) an education investment account (as
18 defined in section 530).

19 “(3) SPECIAL RULES.—For purposes of para-
20 graph (1), the following contributions shall not be
21 taken into account:

22 “(A) Any contribution which is distributed
23 out of the education investment account in a
24 distribution to which section 530(c)(3)(B) ap-
25 plies.

1 “(B) Any contribution to a qualified tui-
2 tion program (as so defined) described in sec-
3 tion 530(b)(2)(B) from any such account.

4 “(C) Any rollover contribution.”.

5 (g) TECHNICAL AMENDMENTS.—

6 (1) Paragraph (2) of section 26(b) is amended
7 by redesignating subparagraphs (E) through (P) as
8 subparagraphs (F) through (Q), respectively, and by
9 inserting after subparagraph (D) the following new
10 subparagraph:

11 “(E) section 529(f) (relating to additional
12 tax on certain distributions from qualified tui-
13 tion programs),”.

14 (2) The text of section 529 is amended by strik-
15 ing “qualified State tuition program” each place it
16 appears and inserting “qualified tuition program”.

17 (3) Subsection (b) of section 529 is amended by
18 striking paragraph (3) and by redesignating para-
19 graphs (4) through (7) as paragraphs (3) through
20 (6), respectively.

21 (4)(A) The section heading of section 529 is
22 amended to read as follows:

1 **“SEC. 529. QUALIFIED TUITION PROGRAMS.”.**

2 (B) The item relating to section 529 in the
3 table of sections for part VIII of subchapter F of
4 chapter 1 is amended by striking “State”.

5 (5)(A) The heading for part VIII of subchapter
6 F of chapter 1 is amended to read as follows:

7 **“PART VIII—HIGHER EDUCATION SAVINGS**
8 **ENTITIES”.**

9 (B) The table of parts for subchapter F of
10 chapter 1 is amended by striking the item relating
11 to part VIII and inserting:

“Part VIII. Higher education savings entities.”.

12 (h) **EFFECTIVE DATES.—**

13 (1) **IN GENERAL.—**Except as otherwise pro-
14 vided in this subsection, the amendments made by
15 this section shall take effect on January 1, 1998.

16 (2) **EXPENSES TO INCLUDE ROOM AND BOARD,**
17 **ETC.—**The amendments made by subsection (b) and
18 (c)(2) shall apply to distributions after December
19 31, 1997, with respect to expenses paid after such
20 date (in taxable years ending after such date), for
21 education furnished in academic periods beginning
22 after such date.

23 (3) **PENALTY FOR NONEDUCATION WITHDRAW-**
24 **ALS.—**The amendment made by subsection (d) shall
25 apply to distributions after December 31, 1997.

1 (4) COORDINATION WITH EDUCATION SAVINGS
2 BONDS.—The amendment made by subsection (e)
3 shall apply to taxable years beginning after Decem-
4 ber 31, 1997.

5 (5) ESTATE AND GIFT TAX CHANGES.—

6 (A) GIFT TAX CHANGES.—Paragraphs (2)
7 and (5) of section 529(c) of the Internal Reve-
8 nue Code of 1986, as amended by this section,
9 shall apply to transfers (including designations
10 of new beneficiaries) made after the date of the
11 enactment of this Act.

12 (B) ESTATE TAX CHANGES.—Paragraph
13 (4) of such section 529(c) shall apply to estates
14 of decedents dying after June 8, 1997.

15 **SEC. 212. EDUCATION INVESTMENT ACCOUNTS.**

16 (a) IN GENERAL.—Part VIII of subchapter F of
17 chapter 1 (relating to qualified State tuition programs)
18 is amended by adding at the end the following new section:

19 **“SEC. 530. EDUCATION INVESTMENT ACCOUNTS.**

20 “(a) GENERAL RULE.—An education investment ac-
21 count shall be exempt from taxation under this subtitle.
22 Notwithstanding the preceding sentence, the education in-
23 vestment account shall be subject to the taxes imposed by
24 section 511 (relating to imposition of tax on unrelated
25 business income of charitable organizations).

1 “(b) DEFINITIONS AND SPECIAL RULES.—For pur-
2 poses of this section—

3 “(1) EDUCATION INVESTMENT ACCOUNT.—The
4 term ‘education investment account’ means a trust
5 created or organized in the United States exclusively
6 for the purpose of paying the qualified higher edu-
7 cation expenses of the account holder, but only if the
8 written governing instrument creating the trust
9 meets the following requirements:

10 “(A) No contribution will be accepted—

11 “(i) unless it is in cash,

12 “(ii) after the date on which the ac-
13 count holder attains age 18, or

14 “(iii) in excess of \$5,000 for the tax-
15 able year.

16 “(B) The trustee is a bank (as defined in
17 section 408(n)) or another person who dem-
18 onstrates to the satisfaction of the Secretary
19 that the manner in which that person will ad-
20 minister the trust will be consistent with the re-
21 quirements of this section.

22 “(C) No part of the trust assets will be in-
23 vested in life insurance contracts.

24 “(D) The assets of the trust shall not be
25 commingled with other property except in a

1 common trust fund or common investment
2 fund.

3 “(E) Any balance in the account will be
4 distributed as required under section
5 529(b)(8)(B) (as if such account were a quali-
6 fied tuition program).

7 For \$50,000 limit on aggregate contributions to ac-
8 counts, see section 4973(e).

9 “(2) QUALIFIED HIGHER EDUCATION EX-
10 PENSES.—

11 “(A) IN GENERAL.—The term ‘qualified
12 higher education expenses’ has the same mean-
13 ing given such term by section 529(e)(3).

14 “(B) QUALIFIED TUITION PROGRAMS.—
15 Such term shall include amounts paid or in-
16 curred to purchase tuition credits or certifi-
17 cates, or to make contributions to an account,
18 under a qualified tuition program (as defined in
19 section 529(b)) for the benefit of the account
20 holder.

21 “(3) ELIGIBLE EDUCATIONAL INSTITUTION.—
22 The term ‘eligible educational institution’ has the
23 meaning given such term by section 529(e)(5).

1 “(4) ACCOUNT HOLDER.—The term ‘account
2 holder’ means the individual for whose benefit the
3 education investment account is established.

4 “(c) TAX TREATMENT OF DISTRIBUTIONS.—

5 “(1) IN GENERAL.—Any amount paid or dis-
6 tributed shall be includible in gross income as re-
7 quired by section 529(c)(3) (determined as if such
8 account were a qualified tuition program).

9 “(2) SPECIAL RULES FOR APPLYING ESTATE
10 AND GIFT TAXES WITH RESPECT TO ACCOUNT.—
11 Rules similar to the rules of paragraphs (2), (4),
12 and (5) of section 529(c) shall apply for purposes of
13 this section.

14 “(3) ADDITIONAL TAX FOR DISTRIBUTIONS NOT
15 USED FOR EDUCATIONAL EXPENSES.—

16 “(A) IN GENERAL.—The tax imposed by
17 section 529(f) shall apply to payments and dis-
18 tributions from an education investment ac-
19 count in the same manner as such tax applies
20 to qualified tuition programs (as defined in sec-
21 tion 529).

22 “(B) EXCESS CONTRIBUTIONS RETURNED
23 BEFORE DUE DATE OF RETURN.—Subpara-
24 graph (A) shall not apply to the distribution to
25 a contributor of any contribution paid during a

1 taxable year to an education investment account
2 to the extent that such contribution exceeds the
3 limitation in section 4973(e) if such distribution
4 (and the net income with respect to such excess
5 contribution) meet requirements comparable to
6 the requirements of section 529(f)(3).

7 “(4) ROLLOVER CONTRIBUTIONS—Paragraph
8 (1) shall not apply to any amount paid or distrib-
9 uted from an education investment account to the
10 extent that the amount received is paid into another
11 education investment account for the benefit of the
12 account holder or a member of the family (within
13 the meaning of section 529(e)(2)) of the account
14 holder not later than the 60th day after the date of
15 such payment or distribution. The preceding sen-
16 tence shall not apply to any payment or distribution
17 if it applied to any prior payment or distribution
18 during the 12-month period ending on the date of
19 the payment or distribution.

20 “(5) CHANGE IN ACCOUNT HOLDER.—Any
21 change in the account holder of an education invest-
22 ment account shall not be treated as a distribution
23 for purposes of paragraph (1) if the new account
24 holder is a member of the family (as so defined) of
25 the old account holder.

1 “(6) SPECIAL RULES FOR DEATH AND DI-
2 VORCE.—Rules similar to the rules of paragraphs
3 (7) and (8) of section 220(f) shall apply.

4 “(d) TAX TREATMENT OF ACCOUNTS.—Rules similar
5 to the rules of paragraphs (2) and (4) of section 408(e)
6 shall apply to any education investment account.

7 “(e) COMMUNITY PROPERTY LAWS.—This section
8 shall be applied without regard to any community property
9 laws.

10 “(f) CUSTODIAL ACCOUNTS.—For purposes of this
11 section, a custodial account shall be treated as a trust if
12 the assets of such account are held by a bank (as defined
13 in section 408(n)) or another person who demonstrates,
14 to the satisfaction of the Secretary, that the manner in
15 which he will administer the account will be consistent
16 with the requirements of this section, and if the custodial
17 account would, except for the fact that it is not a trust,
18 constitute an account described in subsection (b)(1). For
19 purposes of this title, in the case of a custodial account
20 treated as a trust by reason of the preceding sentence,
21 the custodian of such account shall be treated as the trust-
22 ee thereof.

23 “(g) REPORTS.—The trustee of an education invest-
24 ment account shall make such reports regarding such ac-
25 count to the Secretary and to the account holder with re-

1 spect to contributions, distributions, and such other mat-
2 ters as the Secretary may require under regulations. The
3 reports required by this subsection shall be filed at such
4 time and in such manner and furnished to such individuals
5 at such time and in such manner as may be required by
6 those regulations.”.

7 (b) TAX ON PROHIBITED TRANSACTIONS.—

8 (1) IN GENERAL.—Paragraph (1) of section
9 4975(e) (relating to prohibited transactions) is
10 amended by striking “or” at the end of subpara-
11 graph (D), by redesignating subparagraph (E) as
12 subparagraph (F), and by inserting after subpara-
13 graph (D) the following new subparagraph:

14 “(E) an education investment account de-
15 scribed in section 530, or”.

16 (2) SPECIAL RULE.—Subsection (c) of section
17 4975 is amended by adding at the end of subsection
18 (c) the following new paragraph:

19 “(5) SPECIAL RULE FOR EDUCATION INVEST-
20 MENT ACCOUNTS.—An individual for whose benefit
21 an education investment account is established and
22 any contributor to such account shall be exempt
23 from the tax imposed by this section with respect to
24 any transaction concerning such account (which
25 would otherwise be taxable under this section) if sec-

1 tion 530(d) applies with respect to such trans-
2 action.”.

3 (c) FAILURE TO PROVIDE REPORTS ON EDUCATION
4 INVESTMENT ACCOUNTS.—

5 (1) IN GENERAL.—Paragraph (2) of section
6 6693(a) (relating to failure to provide reports on in-
7 dividual retirement accounts or annuities) is amend-
8 ed by striking “and” at the end of subparagraph
9 (A), by striking the period at the end of subpara-
10 graph (B) and inserting “, and”, and by adding at
11 the end the following new subparagraph:

12 “(C) section 530(g) (relating to education
13 investment accounts).”.

14 (2) CLERICAL AMENDMENT.—The section head-
15 ing for section 6693 is amended by striking “**INDI-**
16 **VIDUAL RETIREMENT**” and inserting “**CERTAIN**
17 **TAX-FAVORED**”.

18 (d) TECHNICAL AMENDMENTS.—

19 (1) Subparagraph (F) of section 26(b)(2), as
20 added by the preceding section, is amended by in-
21 serting before the comma “and section 530(c)(3)
22 (relating to additional tax on certain distributions
23 from education investment accounts)”.

24 (2) Subparagraph (C) of section 135(c)(2), as
25 added by the preceding section, is amended by in-

1 serting “, or to an education investment account (as
2 defined in section 530) on behalf of an account hold-
3 er (as defined in such section),” after “(as defined
4 in such section)”.

5 (3) The table of sections for part VIII of sub-
6 chapter F of chapter 1 is amended by adding at the
7 end the following new item:

 “Sec. 530. Education investment accounts.”.

8 (4) The item relating to section 6693 in the
9 table of sections for part I of subchapter B of chap-
10 ter 68 is amended by striking “individual retire-
11 ment” and inserting “certain tax-favored”.

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

15 **Subtitle C—Other Education** 16 **Initiatives**

17 **SEC. 221. EXTENSION OF EXCLUSION FOR EMPLOYER-PRO-** 18 **VIDED EDUCATIONAL ASSISTANCE.**

19 (a) IN GENERAL.—Subsection (d) of section 127 (re-
20 lating to educational assistance programs) is amended to
21 read as follows:

22 “(d) TERMINATION.—This section shall not apply to
23 expenses paid with respect to courses of instruction begin-
24 ning after December 31, 1997.”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 subsection (a) shall apply to taxable years beginning after
 3 December 31, 1996.

4 **SEC. 222. INCREASE IN LIMITATION ON QUALIFIED 501(C)(3)**
 5 **BONDS OTHER THAN HOSPITAL BONDS.**

6 (a) IN GENERAL.—The text of paragraph (1) of sec-
 7 tion 145(b) is amended by striking “\$150,000,000.” and
 8 inserting “the limitation determined in accordance with
 9 the following table:

| In the case of calendar year: | The limitation is: |
|--|---------------------------|
| 1998 | \$160,000,000 |
| 1999 | 170,000,000 |
| 2000 | 180,000,000 |
| 2001 | 190,000,000 |
| 2002 or thereafter | 200,000,000.”. |

10 (b) CONFORMING AMENDMENT.—The heading for
 11 subsection (b) of section 145 is amended by striking
 12 “\$150,000,000”.

13 (c) EFFECTIVE DATE.—The amendments made by
 14 this section shall take effect on January 1, 1998.

15 **SEC. 223. CONTRIBUTIONS OF COMPUTER TECHNOLOGY**
 16 **AND EQUIPMENT FOR ELEMENTARY OR SEC-**
 17 **ONDARY SCHOOL PURPOSES.**

18 (a) CONTRIBUTIONS OF COMPUTER TECHNOLOGY
 19 AND EQUIPMENT FOR ELEMENTARY OR SECONDARY
 20 SCHOOL PURPOSES.—Subsection (e) of section 170 is
 21 amended by adding at the end the following new para-
 22 graph:

1 “(6) SPECIAL RULE FOR CONTRIBUTIONS OF
2 COMPUTER TECHNOLOGY AND EQUIPMENT FOR ELE-
3 MENTARY OR SECONDARY SCHOOL PURPOSES.—

4 “(A) LIMIT ON REDUCTION.—In the case
5 of a qualified elementary or secondary edu-
6 cational contribution, the reduction under para-
7 graph (1)(A) shall be no greater than the
8 amount determined under paragraph (3)(B).

9 “(B) QUALIFIED ELEMENTARY OR SEC-
10 ONDARY EDUCATIONAL CONTRIBUTION.—For
11 purposes of this paragraph, the term ‘qualified
12 elementary or secondary educational contribu-
13 tion’ means a charitable contribution by a cor-
14 poration of any computer technology or equip-
15 ment, but only if—

16 “(i) the contribution is to—

17 “(I) an educational organization
18 described in subsection (b)(1)(A)(ii),
19 or

20 “(II) an entity described in sec-
21 tion 501(c)(3) and exempt from tax
22 under section 501(a) (other than an
23 entity described in subclause (I)) that
24 is organized primarily for purposes of

1 supporting elementary and secondary
2 education,

3 “(ii) the contribution is made not
4 later than 2 years after the date the tax-
5 payer acquired the property (or in the case
6 of property constructed by the taxpayer,
7 the date the construction of the property is
8 substantially completed),

9 “(iii) substantially all of the use of the
10 property by the donee is for use within the
11 United States for educational purposes in
12 any of the grades K–12 that are related to
13 the purpose or function of the organization
14 or entity,

15 “(iv) the property is not transferred
16 by the donee in exchange for money, other
17 property, or services, except for shipping,
18 installation and transfer costs,

19 “(v) the property will fit productively
20 into the entity’s education plan, and

21 “(vi) the entity’s use and disposition
22 of the property will be in accordance with
23 the provisions of clauses (iii) and (iv).

24 “(C) CONTRIBUTION TO PRIVATE FOUNDA-
25 TION.—A contribution by a corporation of any

1 computer technology or equipment to a private
2 foundation (as defined in section 509) shall be
3 treated as a qualified elementary or secondary
4 educational contribution for purposes of this
5 paragraph if—

6 “(i) the contribution to the private
7 foundation satisfies the requirements of
8 clauses (ii) and (iv) of subparagraph (B),
9 and

10 “(ii) within 30 days after such con-
11 tribution, the private foundation—

12 “(I) contributes the property to
13 an entity described in clause (i) of
14 subparagraph (B) that satisfies the
15 requirements of clauses (iii) through
16 (vi) of subparagraph (B), and

17 “(II) notifies the donor of such
18 contribution.

19 “(D) SPECIAL RULE RELATING TO CON-
20 STRUCTION OF PROPERTY.—For the purposes
21 of this paragraph, the rules of paragraph (4)(C)
22 shall apply.

23 “(E) DEFINITIONS.—For the purposes of
24 this paragraph—

1 period of time in certain professions for any of
2 a broad class of employers, or

3 “(B) in the case of a loan made under part
4 D of title IV of the Higher Education Act of
5 1965 which has a repayment schedule estab-
6 lished under section 455(e)(4) of such Act (re-
7 lating to income contingent repayments), such
8 discharge is after the maximum repayment pe-
9 riod under such loan (as prescribed under such
10 part).”.

11 (b) CERTAIN LOANS BY EXEMPT ORGANIZATIONS.—

12 (1) IN GENERAL.—Paragraph (2) of section
13 108(f) (defining student loan) is amended by strik-
14 ing “or” at the end of subparagraph (B) and by
15 striking subparagraph (D) and inserting the follow-
16 ing:

17 “(D) any educational organization de-
18 scribed in section 170(b)(1)(A)(ii) if such loan
19 is made—

20 “(i) pursuant to an agreement with
21 any entity described in subparagraph (A),
22 (B), or (C) under which the funds from
23 which the loan was made were provided to
24 such educational organization, or

1 “(ii) pursuant to a program of such
2 educational organization which is designed
3 to encourage its students to serve in occu-
4 pations with unmet needs or in areas with
5 unmet needs and under which the services
6 provided by the students (or former stu-
7 dents) are for or under the direction of a
8 governmental unit or an organization de-
9 scribed in section 501(c)(3) and exempt
10 from tax under section 501(a).

11 The term ‘student loan’ includes any loan made by
12 an educational organization so described or by an or-
13 ganization exempt from tax under section 501(a) to
14 refinance a loan meeting the requirements of the
15 preceding sentence.”.

16 (2) EXCEPTION FOR DISCHARGES ON ACCOUNT
17 OF SERVICES PERFORMED FOR CERTAIN LEND-
18 ERS.—Subsection (f) of section 108 is amended by
19 adding at the end the following new paragraph:

20 “(3) EXCEPTION FOR DISCHARGES ON AC-
21 COUNT OF SERVICES PERFORMED FOR CERTAIN
22 LENDERS.—Paragraph (1) shall not apply to the
23 discharge of a loan made by an organization de-
24 scribed in paragraph (2)(D) (or by an organization
25 described in paragraph (2)(E) from funds provided

1 by an organization described in paragraph (2)(D)) if
2 the discharge is on account of services performed for
3 either such organization.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to discharges of indebtedness after
6 the date of the enactment of this Act.

7 **TITLE III—SAVINGS AND**
8 **INVESTMENT INCENTIVES**
9 **Subtitle A—Retirement Savings**

10 **SEC. 301. ESTABLISHMENT OF AMERICAN DREAM IRA.**

11 (a) IN GENERAL.—Subpart A of part I of subchapter
12 D of chapter 1 (relating to pension, profit-sharing, stock
13 bonus plans, etc.) is amended by inserting after section
14 408 the following new section:

15 **“SEC. 408A. AMERICAN DREAM IRA.**

16 “(a) GENERAL RULE.—Except as provided in this
17 section, an American Dream IRA shall be treated for pur-
18 poses of this title in the same manner as an individual
19 retirement plan.

20 “(b) AMERICAN DREAM IRA.—For purposes of this
21 title, the term ‘American Dream IRA’ or ‘AD IRA’ means
22 an individual retirement plan (as defined in section
23 7701(a)(37)) which is designated at the time of the estab-
24 lishment of the plan as an American Dream IRA. Such

1 designation shall be made in such manner as the Secretary
2 may prescribe.

3 “(c) TREATMENT OF CONTRIBUTIONS.—

4 “(1) NO DEDUCTION ALLOWED.—No deduction
5 shall be allowed under section 219 for a contribution
6 to an AD IRA.

7 “(2) CONTRIBUTION LIMIT.—

8 “(A) IN GENERAL.—The aggregate
9 amount of contributions for any taxable year to
10 all AD IRAs maintained for the benefit of an
11 individual shall not exceed \$2,000.

12 “(B) INFLATION ADJUSTMENT.—In the
13 case of taxable years beginning in a calendar
14 year after 1998, the \$2,000 amount contained
15 in subparagraph (A) shall be increased by an
16 amount equal to—

17 “(i) such dollar amount, multiplied by

18 “(ii) the cost-of-living adjustment de-
19 termined under section 1(f)(3) for such
20 calendar year by substituting ‘calendar
21 year 1997’ for ‘calendar year 1992’ in sub-
22 paragraph (B) thereof.

23 If the amount as adjusted under the preceding
24 sentence is not a multiple of \$50, such amount

1 shall be rounded to the next lowest multiple of
2 \$50.

3 “(3) CONTRIBUTIONS PERMITTED AFTER AGE
4 70½.—Contributions to an AD IRA may be made
5 even after the individual for whom the account is
6 maintained has attained age 70½.

7 “(4) MANDATORY DISTRIBUTION RULES NOT
8 TO APPLY, ETC.—

9 “(A) IN GENERAL.—Except as provided in
10 subparagraph (B), subsections (a)(6) and (b)(3)
11 of section 408 (relating to required distribu-
12 tions) and section 4974 (relating to excise tax
13 on certain accumulations in qualified retirement
14 plans) shall not apply to any AD IRA.

15 “(B) POST-DEATH DISTRIBUTIONS.—Rules
16 similar to the rules of section 401(a)(9) (other
17 than subparagraph (A) thereof) shall apply for
18 purposes of this section.

19 “(5) RULES RELATING TO ROLLOVER CON-
20 TRIBUTIONS.—

21 “(A) IN GENERAL.—No rollover contribu-
22 tion may be made to an AD IRA unless it is
23 a qualified rollover contribution.

1 “(B) COORDINATION WITH LIMIT.—A
2 qualified rollover contribution shall not be taken
3 into account for purposes of paragraph (2).

4 “(6) TIME WHEN CONTRIBUTIONS MADE.—For
5 purposes of this section, the rule of section 219(f)(3)
6 shall apply.

7 “(d) DISTRIBUTION RULES.—For purposes of this
8 title—

9 “(1) GENERAL RULES.—

10 “(A) EXCLUSIONS FROM GROSS INCOME.—
11 Any qualified distribution from an AD IRA
12 shall not be includible in gross income.

13 “(B) NONQUALIFIED DISTRIBUTIONS.—In
14 applying section 72 to any distribution from an
15 AD IRA which is not a qualified distribution,
16 such distribution shall be treated as made from
17 contributions to the AD IRA to the extent that
18 such distribution, when added to all previous
19 distributions from the AD IRA, does not exceed
20 the aggregate amount of contributions to the
21 AD IRA. For purposes of the preceding sen-
22 tence, all AD IRAs maintained for the benefit
23 of an individual shall be treated as 1 account.

24 “(C) EXCEPTION FROM PENALTY TAX.—
25 Section 72(t) shall not apply to—

1 “(i) any qualified distribution from an
2 AD IRA, and

3 “(ii) any qualified first-time home-
4 buyer distribution (whether or not a quali-
5 fied distribution) from an AD IRA.

6 “(2) QUALIFIED DISTRIBUTION.—For purposes
7 of this subsection—

8 “(A) IN GENERAL.—The term ‘qualified
9 distribution’ means any payment or distribu-
10 tion—

11 “(i) made on or after the date on
12 which the individual attains age 59½,

13 “(ii) made to a beneficiary (or to the
14 estate of the individual) on or after the
15 death of the individual,

16 “(iii) attributable to the individual’s
17 being disabled (within the meaning of sec-
18 tion 72(m)(7)), or

19 “(iv) which is a qualified first-time
20 homebuyer distribution.

21 “(B) DISTRIBUTIONS WITHIN 5 YEARS.—
22 No payment or distribution shall be treated as
23 a qualified distribution if—

24 “(i) it is made within the 5-taxable
25 year period beginning with the 1st taxable

1 year for which the individual made a con-
2 tribution to an AD IRA (or such individ-
3 ual's spouse made a contribution to an AD
4 IRA) established for such individual, or

5 “(ii) in the case of a payment or dis-
6 tribution properly allocable (as determined
7 in the manner prescribed by the Secretary)
8 to a qualified rollover contribution (or in-
9 come allocable thereto), it is made within
10 the 5-taxable year period beginning with
11 the taxable year in which the rollover con-
12 tribution was made.

13 Clause (ii) shall not apply to a qualified rollover
14 contribution from an AD IRA.

15 “(3) ROLLOVERS.—

16 “(A) IN GENERAL.—Paragraph (1) shall
17 not apply to any distribution which is trans-
18 ferred in a qualified rollover contribution to an
19 AD IRA.

20 “(B) INCOME INCLUSION FOR ROLLOVERS
21 FROM NON-AD IRAS.—

22 “(i) IN GENERAL.—In the case of any
23 distribution to which this subparagraph
24 applies—

1 “(I) sections 72(t) and 408(d)(3)
2 shall not apply (but section 4980A
3 shall apply), and

4 “(II) any amount required to be
5 included in gross income by reason of
6 this paragraph shall be so included
7 ratably over the 4-taxable year period
8 beginning with the taxable year in
9 which the distribution is made.

10 “(ii) DISTRIBUTIONS TO WHICH SUB-
11 PARAGRAPH APPLIES.—This subparagraph
12 shall apply to a distribution before Janu-
13 ary 1, 1999, from an individual retirement
14 plan (other than an AD IRA) maintained
15 for the benefit of an individual to an AD
16 IRA maintained for the benefit of such in-
17 dividual if such distribution would be a
18 qualified rollover contribution were such
19 individual retirement plan an AD IRA.

20 “(iii) CONVERSIONS.—The conversion
21 of an individual retirement plan (other
22 than an AD IRA) to an AD IRA shall be
23 treated for purposes of this subparagraph
24 as a distribution from such plan to such
25 AD IRA.

1 “(C) ADDITIONAL REPORTING REQUIRE-
2 MENTS.—The Secretary shall require that
3 trustees of AD IRAs, trustees of individual re-
4 tirement plans, or both, whichever is appro-
5 priate, shall include such additional information
6 in reports required under section 408(i) as is
7 necessary to ensure that amounts required to be
8 included in gross income under subparagraph
9 (B) are so included.

10 “(4) QUALIFIED FIRST-TIME HOMEBUYER DIS-
11 TRIBUTION.—For purposes of this section—

12 “(A) IN GENERAL.—The term ‘qualified
13 first-time homebuyer distribution’ means any
14 payment or distribution received by an individ-
15 ual to the extent such payment or distribution
16 is used by the individual before the close of the
17 60th day after the day on which such payment
18 or distribution is received to pay qualified ac-
19 quisition costs with respect to a principal resi-
20 dence of a first-time homebuyer who is such in-
21 dividual, the spouse of such individual, or any
22 child, grandchild, or ancestor of such individual
23 or the individual’s spouse.

24 “(B) LIFETIME DOLLAR LIMITATION.—
25 The aggregate amount of payments or distribu-

1 tions received by an individual which may be
2 treated as qualified first-time homebuyer dis-
3 tributions for any taxable year shall not exceed
4 the excess (if any) of—

5 “(i) \$10,000, over

6 “(ii) the aggregate amounts treated as
7 qualified first-time homebuyer distributions
8 with respect to such individual for all prior
9 taxable years.

10 “(C) QUALIFIED ACQUISITION COSTS.—

11 For purposes of this paragraph, the term
12 ‘qualified acquisition costs’ means the costs of
13 acquiring, constructing, or reconstructing a res-
14 idence. Such term includes any usual or reason-
15 able settlement, financing, or other closing
16 costs.

17 “(D) FIRST-TIME HOMEBUYER; OTHER
18 DEFINITIONS.—For purposes of this para-
19 graph—

20 “(i) FIRST-TIME HOMEBUYER.—The
21 term ‘first-time homebuyer’ means any in-
22 dividual if—

23 “(I) such individual (and if mar-
24 ried, such individual’s spouse) had no
25 present ownership interest in a prin-

1 principal residence during the 2-year pe-
2 riod ending on the date of acquisition
3 of the principal residence to which
4 this paragraph applies, and

5 “(II) subsection (h) or (k) of sec-
6 tion 1034 (as in effect on the day be-
7 fore the date of the enactment of this
8 section) did not suspend the running
9 of any period of time specified in sec-
10 tion 1034 (as so in effect) with re-
11 spect to such individual on the day be-
12 fore the date the distribution is ap-
13 plied pursuant to subparagraph (A).

14 “(ii) PRINCIPAL RESIDENCE.—The
15 term ‘principal residence’ has the same
16 meaning as when used in section 121.

17 “(iii) DATE OF ACQUISITION.—The
18 term ‘date of acquisition’ means the date—

19 “(I) on which a binding contract
20 to acquire the principal residence to
21 which subparagraph (A) applies is en-
22 tered into, or

23 “(II) on which construction or re-
24 construction of such a principal resi-
25 dence is commenced.

1 “(E) SPECIAL RULE WHERE DELAY IN AC-
2 QUISITION.—If any distribution from any indi-
3 vidual retirement plan fails to meet the require-
4 ments of subparagraph (A) solely by reason of
5 a delay or cancellation of the purchase or con-
6 struction of the residence, the amount of the
7 distribution may be contributed to an individual
8 retirement plan as provided in section
9 408(d)(3)(A)(i) (determined by substituting
10 ‘120 days’ for ‘60 days’ in such section), except
11 that—

12 “(i) section 408(d)(3)(B) shall not be
13 applied to such contribution, and

14 “(ii) such amount shall not be taken
15 into account in determining whether sec-
16 tion 408(d)(3)(A)(i) applies to any other
17 amount.

18 “(e) QUALIFIED ROLLOVER CONTRIBUTION.—For
19 purposes of this section, the term ‘qualified rollover con-
20 tribution’ means a rollover contribution to an AD IRA
21 from another such account, but only if such rollover con-
22 tribution meets the requirements of section 408(d)(3).”.

23 (b) REPEAL OF NONDEDUCTIBLE CONTRIBU-
24 TIONS.—

1 (1) Subsection (f) of section 219 is amended by
2 striking paragraph (7).

3 (2) Paragraph (5) of section 408(d) is amended
4 by striking the last sentence.

5 (3) Section 408(o) is amended by adding at the
6 end the following new paragraph:

7 “(5) TERMINATION.—This subsection shall not
8 apply to any designated nondeductible contribution
9 for any taxable year beginning after December 31,
10 1997.”.

11 (4) Subsection (b) of section 4973 is amended
12 by striking the last sentence.

13 (c) EXCESS DISTRIBUTIONS TAX NOT TO APPLY.—

14 (1) Subparagraph (A) of section 4980A(d)(3) is
15 amended by inserting “(other than AD IRAs, as de-
16 fined in section 4980A(b))” after “individual retire-
17 ment plans”.

18 (2) Subparagraph (B) of section 4980A(e)(1) is
19 amended by inserting “other than an AD IRA (as
20 defined in section 408A(b))” after “retirement
21 plan”.

22 (d) EXCESS CONTRIBUTIONS.—

23 (1) Section 4973 is amended by adding at the
24 end the following new subsection:

1 “(f) EXCESS CONTRIBUTIONS TO AMERICAN DREAM
 2 IRAs.—For purposes of this section, in the case of Amer-
 3 ican Dream IRAs, the term ‘excess contributions’ means
 4 the amount by which the amount contributed for the tax-
 5 able year to such IRAs exceeds the limitation in section
 6 408A(c)(2).”.

7 (2) Subsection (b) of section 4973 is amended
 8 by adding at the end the following new sentence:
 9 “For purposes of this subsection, an American
 10 Dream IRA shall not be treated as an individual re-
 11 tirement plan.”.

12 (e) CLERICAL AMENDMENT.—The table of sections
 13 for subpart A of part I of subchapter D of chapter 1 is
 14 amended by inserting after the item relating to section
 15 408 the following new item:

“Sec. 408A. American Dream IRA.”.

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

19 **Subtitle B—Capital Gains**

20 **PART I—INDIVIDUAL CAPITAL GAINS**

21 **SEC. 311. 20 PERCENT MAXIMUM CAPITAL GAINS RATE FOR** 22 **INDIVIDUALS.**

23 (a) IN GENERAL.—Subsection (h) of section 1 (relat-
 24 ing to maximum capital gains rate) is amended to read
 25 as follows:

1 “(h) MAXIMUM CAPITAL GAINS RATE.—

2 “(1) IN GENERAL.—If a taxpayer has a net
3 capital gain for any taxable year, the tax imposed by
4 this section for such taxable year shall not exceed
5 the sum of—

6 “(A) the base tax amount,

7 “(B) 10 percent of so much of the tax-
8 payer’s adjusted net capital gain (or, if less,
9 taxable income) as does not exceed the excess
10 (if any) of—

11 “(i) the amount of taxable income
12 which would (without regard to this para-
13 graph) be taxed at a rate of 15 percent or
14 less, over

15 “(ii) the taxable income reduced by
16 the adjusted net capital gain, plus

17 “(C) 20 percent of the taxpayer’s adjusted
18 net capital gain (or, if less, taxable income) in
19 excess of the amount on which a tax is deter-
20 mined under subparagraph (B).

21 “(2) NET CAPITAL GAIN TAKEN INTO ACCOUNT
22 AS INVESTMENT INCOME.—For purposes of this sub-
23 section, the net capital gain for any taxable year
24 shall be reduced (but not below zero) by the amount

1 which the taxpayer takes into account as investment
2 income under section 163(d)(4)(B)(iii).

3 “(3) BASE TAX AMOUNT.—For purposes of
4 paragraph (1), the base tax amount is the lesser
5 of—

6 “(A) a tax computed at the rates and in
7 the same manner as if this subsection had not
8 been enacted on taxable income reduced by the
9 adjusted net capital gain, or

10 “(B) the sum of—

11 “(i) a tax computed at the rates and
12 in the same manner as if this subsection
13 had not been enacted on the greater of—

14 “(I) taxable income reduced by
15 the net capital gain, or

16 “(II) the amount of taxable in-
17 come taxed at a rate below 28 per-
18 cent,

19 “(ii) a tax of 26 percent of the lesser
20 of—

21 “(I) the section 1250 gain, or

22 “(II) the amount of taxable in-
23 come in excess of the sum of the
24 amount on which tax is determined
25 under clause (i) plus the net capital

1 gain determined without regard to
2 section 1250 gain, plus

3 “(iii) a tax of 28 percent of the
4 amount of taxable income in excess of the
5 sum of—

6 “(I) the adjusted net capital
7 gain, plus

8 “(II) the sum of the amounts on
9 which tax is determined under clauses
10 (i) and (ii).

11 “(4) ADJUSTED NET CAPITAL GAIN.—For pur-
12 poses of this subsection, the term ‘adjusted net cap-
13 ital gain’ means net capital gain determined without
14 regard to—

15 “(A) collectibles gain,

16 “(B) section 1202 gain, and

17 “(C) section 1250 gain.

18 “(5) COLLECTIBLES GAIN.—For purposes of
19 paragraph (4)—

20 “(A) IN GENERAL.—The term ‘collectibles
21 gain’ means gain from the sale or exchange of
22 a collectible (as defined in section 408(m) with-
23 out regard to paragraph (3) thereof) which is a
24 capital asset held for more than 1 year but only

1 to the extent such gain is taken into account in
2 computing gross income.

3 “(B) COORDINATION WITH SECTION
4 1022.—Gain from the disposition of a collectible
5 which is an indexed asset to which section
6 1022(a) applies shall be disregarded for pur-
7 poses of this subsection. A taxpayer may elect
8 to treat any collectible specified in such election
9 as not being an indexed asset for purposes of
10 section 1022. Any such election, and any speci-
11 fication therein, once made, shall be irrevocable.

12 “(C) PARTNERSHIPS, ETC.—For purposes
13 of subparagraph (A), any gain from the sale of
14 an interest in a partnership, S corporation, or
15 trust which is attributable to unrealized appre-
16 ciation in the value of collectibles shall be treat-
17 ed as gain from the sale or exchange of a col-
18 lectible. Rules similar to the rules of section
19 751 shall apply for purposes of the preceding
20 sentence.

21 “(6) SECTION 1202 GAIN.—For purposes of
22 paragraph (4), the term ‘section 1202 gain’ means
23 gain from the sale or exchange of any qualified small
24 business stock (as defined in section 1202(c)) held

1 more than 5 years which is taken into account in
2 computing gross income.

3 “(7) SECTION 1250 GAIN.—For purposes of
4 paragraph (4), the term ‘section 1250 gain’ means
5 the excess (if any) of—

6 “(A) the amount which would be treated as
7 ordinary income under section 1245 if all sec-
8 tion 1250 property disposed of by the taxpayer
9 were section 1245 property, over

10 “(B) the amount treated as ordinary in-
11 come under section 1250.

12 In the case of a taxable year which includes May 7,
13 1997, section 1250 gain shall be determined by tak-
14 ing into account only the gain properly taken into
15 account for the portion of the taxable year after May
16 6, 1997.

17 “(8) PRE-EFFECTIVE DATE GAIN.—

18 “(A) IN GENERAL.—In the case of a tax-
19 able year which includes May 7, 1997, adjusted
20 net capital gain shall be determined without re-
21 gard to pre-May 7, 1997, gain.

22 “(B) PRE-MAY 7, 1997, GAIN.—The term
23 ‘pre-May 7, 1997, gain’ means the amount
24 which would be adjusted net capital gain for the
25 taxable year if adjusted net capital gain were

1 determined by taking into account only the gain
2 or loss properly taken into account for the por-
3 tion of the taxable year before May 7, 1997.

4 “(C) SPECIAL RULES FOR PASS-THRU EN-
5 TITIES.—In applying subparagraph (A) with re-
6 spect to any pass-thru entity, the determination
7 of when gains and loss are properly taken into
8 account shall be made at the entity level.

9 “(D) PASS-THRU ENTITY DEFINED.—For
10 purposes of subparagraph (C), the term ‘pass-
11 thru entity’ means—

12 “(i) a regulated investment company,

13 “(ii) a real estate investment trust,

14 “(iii) an S corporation,

15 “(iv) a partnership,

16 “(v) an estate or trust, and

17 “(vi) a common trust fund.”.

18 (b) MINIMUM TAX.—

19 (1) IN GENERAL.—Subsection (b) of section 55
20 is amended by adding at the end the following new
21 paragraph:

22 “(3) MAXIMUM RATE OF TAX ON NET CAPITAL
23 GAIN OF NONCORPORATE TAXPAYERS.—The amount
24 determined under the first sentence of paragraph
25 (1)(A)(i) shall not exceed the sum of—

1 “(A) the lesser of—

2 “(i) the amount determined under
3 such first sentence computed at the rates
4 and in the same manner as if this para-
5 graph had not been enacted on the taxable
6 excess reduced by the adjusted net capital
7 gain (as defined in section 1(h)(4)), or

8 “(ii) the sum of—

9 “(I) the amount determined
10 under such first sentence computed at
11 the rates and in the same manner as
12 if this paragraph had not been en-
13 acted on the taxable excess reduced by
14 the sum of the adjusted net capital
15 gain (as so defined) and the section
16 1250 gain (as defined in section
17 1(h)(7)), plus

18 “(II) 26 percent of the lesser of
19 the section 1250 gain (as so defined)
20 or the taxable excess reduced by the
21 adjusted net capital gain (as so de-
22 fined),

23 “(B) a tax of 10 percent of so much of the
24 taxpayer’s adjusted net capital gain (or, if less,
25 taxable excess) as does not exceed the amount

1 on which a tax is determined under section
2 1(h)(1)(B), plus

3 “(C) a tax of 20 percent of the taxpayer’s
4 adjusted net capital gain (or, if less, taxable ex-
5 cess) in excess of the amount on which tax is
6 determined under subparagraph (B).”.

7 (2) CONFORMING AMENDMENT.—Clause (ii) of
8 section 55(b)(1)(A) is amended by striking “clause
9 (i)” and inserting “this subsection”.

10 (c) OTHER CONFORMING AMENDMENTS.—

11 (1) Subsection (d) of section 291 is amended by
12 inserting at the end the following new sentence:
13 “Any capital gain dividend treated as having been
14 paid out of such difference to a shareholder which
15 is not a corporation retains its characters as section
16 1250 gain for purposes of applying section 1(h) to
17 such shareholder.”.

18 (2) Paragraph (1) of section 1445(e) is amend-
19 ed by striking “28 percent” and inserting “20 per-
20 cent”.

21 (3) The second sentence of section
22 7518(g)(6)(A), and the second sentence of section
23 607(h)(6)(A) of the Merchant Marine Act, 1936, are
24 each amended by striking “28 percent” and insert-
25 ing “20 percent”.

1 (d) EFFECTIVE DATES.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), the amendments made by this section
4 shall apply to taxable years ending after May 6,
5 1997.

6 (2) WITHHOLDING.—The amendment made by
7 subsection (c)(2) shall apply only to amounts paid
8 after the date of the enactment of this Act.

9 (3) APPLICATION OF ESTIMATED TAX RULES.—
10 Clause (i) of section 6654(d)(1)(C) of the Internal
11 Revenue Code of 1986 shall be applied by substitut-
12 ing “109 percent” for “110 percent” where the pre-
13 ceding taxable year referred to in such clause is a
14 taxable year beginning in calendar year 1996.

15 (4) APPLICATION OF ESTIMATED TAX RULES
16 FOR 1998.—Clause (i) of section 6654(d)(1)(C) of
17 the Internal Revenue Code of 1986 shall be applied
18 by substituting “105 percent” for “110 percent”
19 where the preceding taxable year referred to in such
20 clause is a taxable year beginning in calendar year
21 1997.

1 **SEC. 312. INDEXING OF CERTAIN ASSETS ACQUIRED AFTER**
2 **DECEMBER 31, 2000, FOR PURPOSES OF DE-**
3 **TERMINING GAIN.**

4 (a) IN GENERAL.—Part II of subchapter O of chap-
5 ter 1 (relating to basis rules of general application) is
6 amended by inserting after section 1021 the following new
7 section:

8 **“SEC. 1022. INDEXING OF CERTAIN ASSETS ACQUIRED**
9 **AFTER DECEMBER 31, 2000, FOR PURPOSES**
10 **OF DETERMINING GAIN.**

11 “(a) GENERAL RULE.—

12 “(1) INDEXED BASIS SUBSTITUTED FOR AD-
13 JUSTED BASIS.—Solely for purposes of determining
14 gain on the sale or other disposition by a taxpayer
15 (other than a corporation) of an indexed asset which
16 has been held for more than 3 years, the indexed
17 basis of the asset shall be substituted for its ad-
18 justed basis.

19 “(2) EXCEPTION FOR DEPRECIATION, ETC.—
20 The deductions for depreciation, depletion, and am-
21 ortization shall be determined without regard to the
22 application of paragraph (1) to the taxpayer or any
23 other person.

24 “(3) EXCEPTION FOR PRINCIPAL RESI-
25 DENCES.—Paragraph (1) shall not apply to any dis-

1 position of the principal residence (within the mean-
2 ing of section 121) of the taxpayer .

3 “(b) INDEXED ASSET.—

4 “(1) IN GENERAL.—For purposes of this sec-
5 tion, the term ‘indexed asset’ means—

6 “(A) common stock in a C corporation
7 (other than a foreign corporation), and

8 “(B) tangible property,
9 which is a capital asset or property used in the trade
10 or business (as defined in section 1231(b)).

11 “(2) STOCK IN CERTAIN FOREIGN CORPORA-
12 TIONS INCLUDED.—For purposes of this section—

13 “(A) IN GENERAL.—The term ‘indexed
14 asset’ includes common stock in a foreign cor-
15 poration which is regularly traded on an estab-
16 lished securities market.

17 “(B) EXCEPTION.—Subparagraph (A)
18 shall not apply to—

19 “(i) stock of a foreign investment
20 company (within the meaning of section
21 1246(b)),

22 “(ii) stock in a passive foreign invest-
23 ment company (as defined in section
24 1296),

1 “(iii) stock in a foreign corporation
2 held by a United States person who meets
3 the requirements of section 1248(a)(2),
4 and

5 “(iv) stock in a foreign personal hold-
6 ing company (as defined in section 552).

7 “(C) TREATMENT OF AMERICAN DEPOSI-
8 TORY RECEIPTS.—An American depository re-
9 ceipt for common stock in a foreign corporation
10 shall be treated as common stock in such cor-
11 poration.

12 “(c) INDEXED BASIS.—For purposes of this sec-
13 tion—

14 “(1) GENERAL RULE.—The indexed basis for
15 any asset is—

16 “(A) the adjusted basis of the asset, in-
17 creased by

18 “(B) the applicable inflation adjustment.

19 “(2) APPLICABLE INFLATION ADJUSTMENT.—
20 The applicable inflation adjustment for any asset is
21 an amount equal to—

22 “(A) the adjusted basis of the asset, multi-
23 plied by

24 “(B) the percentage (if any) by which—

1 “(i) the chain-type price index for
2 GDP for the last calendar quarter ending
3 before the asset is disposed of, exceeds

4 “(ii) the chain-type price index for
5 GDP for the last calendar quarter ending
6 before the asset was acquired by the tax-
7 payer.

8 The percentage under subparagraph (B) shall be
9 rounded to the nearest $\frac{1}{10}$ of 1 percentage point.

10 “(3) CHAIN-TYPE PRICE INDEX FOR GDP.—

11 The chain-type price index for GDP for any calendar
12 quarter is such index for such quarter (as shown in
13 the last revision thereof released by the Secretary of
14 Commerce before the close of the following calendar
15 quarter).

16 “(d) SUSPENSION OF HOLDING PERIOD WHERE DI-
17 MINISHED RISK OF LOSS; TREATMENT OF SHORT
18 SALES.—

19 “(1) IN GENERAL.—If the taxpayer (or a relat-
20 ed person) enters into any transaction which sub-
21 stantially reduces the risk of loss from holding any
22 asset, such asset shall not be treated as an indexed
23 asset for the period of such reduced risk.

24 “(2) SHORT SALES.—

1 “(A) IN GENERAL.—In the case of a short
2 sale of an indexed asset with a short sale period
3 in excess of 3 years, for purposes of this title,
4 the amount realized shall be an amount equal
5 to the amount realized (determined without re-
6 gard to this paragraph) increased by the appli-
7 cable inflation adjustment. In applying sub-
8 section (c)(2) for purposes of the preceding sen-
9 tence, the date on which the property is sold
10 short shall be treated as the date of acquisition
11 and the closing date for the sale shall be treat-
12 ed as the date of disposition.

13 “(B) SHORT SALE PERIOD.—For purposes
14 of subparagraph (A), the short sale period be-
15 gins on the day that the property is sold and
16 ends on the closing date for the sale.

17 “(e) TREATMENT OF REGULATED INVESTMENT
18 COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

19 “(1) ADJUSTMENTS AT ENTITY LEVEL.—

20 “(A) IN GENERAL.—Except as otherwise
21 provided in this paragraph, the adjustment
22 under subsection (a) shall be allowed to any
23 qualified investment entity (including for pur-
24 poses of determining the earnings and profits of
25 such entity).

1 “(B) EXCEPTION FOR CORPORATE SHARE-
2 HOLDERS.—Under regulations—

3 “(i) in the case of a distribution by a
4 qualified investment entity (directly or in-
5 directly) to a corporation—

6 “(I) the determination of whether
7 such distribution is a dividend shall be
8 made without regard to this section,
9 and

10 “(II) the amount treated as gain
11 by reason of the receipt of any capital
12 gain dividend shall be increased by the
13 percentage by which the entity’s net
14 capital gain for the taxable year (de-
15 termined without regard to this sec-
16 tion) exceeds the entity’s net capital
17 gain for such year determined with re-
18 gard to this section, and

19 “(ii) there shall be other appropriate
20 adjustments (including deemed distribu-
21 tions) so as to ensure that the benefits of
22 this section are not allowed (directly or in-
23 directly) to corporate shareholders of quali-
24 fied investment entities.

1 For purposes of the preceding sentence, any
2 amount includible in gross income under section
3 852(b)(3)(D) shall be treated as a capital gain
4 dividend and an S corporation shall not be
5 treated as a corporation.

6 “(C) EXCEPTION FOR QUALIFICATION
7 PURPOSES.—This section shall not apply for
8 purposes of sections 851(b) and 856(e).

9 “(D) EXCEPTION FOR CERTAIN TAXES IM-
10 POSED AT ENTITY LEVEL.—

11 “(i) TAX ON FAILURE TO DISTRIBUTE
12 ENTIRE GAIN.—If any amount is subject to
13 tax under section 852(b)(3)(A) for any
14 taxable year, the amount on which tax is
15 imposed under such section shall be in-
16 creased by the percentage determined
17 under subparagraph (B)(i)(II). A similar
18 rule shall apply in the case of any amount
19 subject to tax under paragraph (2) or (3)
20 of section 857(b) to the extent attributable
21 to the excess of the net capital gain over
22 the deduction for dividends paid deter-
23 mined with reference to capital gain divi-
24 dends only. The first sentence of this
25 clause shall not apply to so much of the

1 amount subject to tax under section
2 852(b)(3)(A) as is designated by the com-
3 pany under section 852(b)(3)(D).

4 “(ii) OTHER TAXES.—This section
5 shall not apply for purposes of determining
6 the amount of any tax imposed by para-
7 graph (4), (5), or (6) of section 857(b).

8 “(2) ADJUSTMENTS TO INTERESTS HELD IN
9 ENTITY.—

10 “(A) REGULATED INVESTMENT COMPA-
11 NIES.—Stock in a regulated investment com-
12 pany (within the meaning of section 851) shall
13 be an indexed asset for any calendar quarter in
14 the same ratio as—

15 “(i) the average of the fair market
16 values of the indexed assets held by such
17 company at the close of each month during
18 such quarter, bears to

19 “(ii) the average of the fair market
20 values of all assets held by such company
21 at the close of each such month.

22 “(B) REAL ESTATE INVESTMENT
23 TRUSTS.—Stock in a real estate investment
24 trust (within the meaning of section 856) shall

1 be an indexed asset for any calendar quarter in
2 the same ratio as—

3 “(i) the fair market value of the in-
4 dexed assets held by such trust at the close
5 of such quarter, bears to

6 “(ii) the fair market value of all as-
7 sets held by such trust at the close of such
8 quarter.

9 “(C) RATIO OF 80 PERCENT OR MORE.—If
10 the ratio for any calendar quarter determined
11 under subparagraph (A) or (B) would (but for
12 this subparagraph) be 80 percent or more, such
13 ratio for such quarter shall be 100 percent.

14 “(D) RATIO OF 20 PERCENT OR LESS.—If
15 the ratio for any calendar quarter determined
16 under subparagraph (A) or (B) would (but for
17 this subparagraph) be 20 percent or less, such
18 ratio for such quarter shall be zero.

19 “(E) LOOK-THRU OF PARTNERSHIPS.—For
20 purposes of this paragraph, a qualified invest-
21 ment entity which holds a partnership interest
22 shall be treated (in lieu of holding a partnership
23 interest) as holding its proportionate share of
24 the assets held by the partnership.

1 “(3) TREATMENT OF RETURN OF CAPITAL DIS-
2 TRIBUTIONS.—Except as otherwise provided by the
3 Secretary, a distribution with respect to stock in a
4 qualified investment entity which is not a dividend
5 and which results in a reduction in the adjusted
6 basis of such stock shall be treated as allocable to
7 stock acquired by the taxpayer in the order in which
8 such stock was acquired.

9 “(4) QUALIFIED INVESTMENT ENTITY.—For
10 purposes of this subsection, the term ‘qualified in-
11 vestment entity’ means—

12 “(A) a regulated investment company
13 (within the meaning of section 851), and

14 “(B) a real estate investment trust (within
15 the meaning of section 856).

16 “(f) OTHER PASS-THRU ENTITIES.—

17 “(1) PARTNERSHIPS.—

18 “(A) IN GENERAL.—In the case of a part-
19 nership, the adjustment made under subsection
20 (a) at the partnership level shall be passed
21 through to the partners.

22 “(B) SPECIAL RULE IN THE CASE OF SEC-
23 TION 754 ELECTIONS.—In the case of a transfer
24 of an interest in a partnership with respect to

1 which the election provided in section 754 is in
2 effect—

3 “(i) the adjustment under section
4 743(b)(1) shall, with respect to the trans-
5 feror partner, be treated as a sale of the
6 partnership assets for purposes of applying
7 this section, and

8 “(ii) with respect to the transferee
9 partner, the partnership’s holding period
10 for purposes of this section in such assets
11 shall be treated as beginning on the date
12 of such adjustment.

13 “(2) S CORPORATIONS.—In the case of an S
14 corporation, the adjustment made under subsection
15 (a) at the corporate level shall be passed through to
16 the shareholders. This section shall not apply for
17 purposes of determining the amount of any tax im-
18 posed by section 1374 or 1375.

19 “(3) COMMON TRUST FUNDS.—In the case of a
20 common trust fund, the adjustment made under sub-
21 section (a) at the trust level shall be passed through
22 to the participants.

23 “(4) INDEXING ADJUSTMENT DISREGARDED IN
24 DETERMINING LOSS ON SALE OF INTEREST IN EN-
25 TITY.—Notwithstanding the preceding provisions of

1 this subsection, for purposes of determining the
2 amount of any loss on a sale or exchange of an in-
3 terest in a partnership, S corporation, or common
4 trust fund, the adjustment made under subsection
5 (a) shall not be taken into account in determining
6 the adjusted basis of such interest.

7 “(g) DISPOSITIONS BETWEEN RELATED PERSONS.—

8 “(1) IN GENERAL.—This section shall not apply
9 to any sale or other disposition of property between
10 related persons except to the extent that the basis
11 of such property in the hands of the transferee is a
12 substituted basis.

13 “(2) RELATED PERSONS DEFINED.—For pur-
14 poses of this section, the term ‘related persons’
15 means—

16 “(A) persons bearing a relationship set
17 forth in section 267(b), and

18 “(B) persons treated as single employer
19 under subsection (b) or (c) of section 414.

20 “(h) TRANSFERS TO INCREASE INDEXING ADJUST-
21 MENT.—If any person transfers cash, debt, or any other
22 property to another person and the principal purpose of
23 such transfer is to secure or increase an adjustment under
24 subsection (a), the Secretary may disallow part or all of
25 such adjustment or increase.

1 “(i) SPECIAL RULES.—For purposes of this section—

2 “(1) TREATMENT OF IMPROVEMENTS, ETC.—If
3 there is an addition to the adjusted basis of any tan-
4 gible property or of any stock in a corporation dur-
5 ing the taxable year by reason of an improvement to
6 such property or a contribution to capital of such
7 corporation—

8 “(A) such addition shall never be taken
9 into account under subsection (c)(1)(A) if the
10 aggregate amount thereof during the taxable
11 year with respect to such property or stock is
12 less than \$1,000, and

13 “(B) such addition shall be treated as a
14 separate asset acquired at the close of such tax-
15 able year if the aggregate amount thereof dur-
16 ing the taxable year with respect to such prop-
17 erty or stock is \$1,000 or more.

18 A rule similar to the rule of the preceding sentence
19 shall apply to any other portion of an asset to the
20 extent that separate treatment of such portion is ap-
21 propriate to carry out the purposes of this section.

22 “(2) ASSETS WHICH ARE NOT INDEXED ASSETS
23 THROUGHOUT HOLDING PERIOD.—The applicable in-
24 flation adjustment shall be appropriately reduced for

1 periods during which the asset was not an indexed
2 asset.

3 “(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a
4 corporation which is not a dividend shall be treated
5 as a disposition.
6

7 “(4) ACQUISITION DATE WHERE THERE HAS
8 BEEN PRIOR APPLICATION OF SUBSECTION (a)(1)
9 WITH RESPECT TO THE TAXPAYER.—If there has
10 been a prior application of subsection (a)(1) to an
11 asset while such asset was held by the taxpayer, the
12 date of acquisition of such asset by the taxpayer
13 shall be treated as not earlier than the date of the
14 most recent such prior application.

15 “(5) COLLAPSIBLE CORPORATIONS.—The appli-
16 cation of section 341(a) (relating to collapsible cor-
17 porations) shall be determined without regard to this
18 section.

19 “(j) REGULATIONS.—The Secretary shall prescribe
20 such regulations as may be necessary or appropriate to
21 carry out the purposes of this section.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 for part II of subchapter O of chapter 1 is amended by
24 inserting after the item relating to section 1021 the follow-
25 ing new item:

“Sec. 1022. Indexing of certain assets acquired after December 31, 2000, for purposes of determining gain.”.

1 (c) EFFECTIVE DATES.—

2 (1) IN GENERAL.—The amendments made by
3 this section shall apply to the disposition of any
4 property the holding period of which begins after
5 December 31, 2000.

6 (2) CERTAIN TRANSACTIONS BETWEEN RELAT-
7 ED PERSONS.—The amendments made by this sec-
8 tion shall not apply to the disposition of any prop-
9 erty acquired after December 31, 2000, from a re-
10 lated person (as defined in section 1022(g)(2) of the
11 Internal Revenue Code of 1986, as added by this
12 section) if—

13 (A) such property was so acquired for a
14 price less than the property’s fair market value,
15 and

16 (B) the amendments made by this section
17 did not apply to such property in the hands of
18 such related person.

19 (d) ELECTION TO RECOGNIZE GAIN ON ASSETS
20 HELD ON JANUARY 1, 2001.—For purposes of the Inter-
21 nal Revenue Code of 1986—

22 (1) IN GENERAL.—A taxpayer other than a cor-
23 poration may elect to treat—

1 (A) any readily tradable stock (which is an
2 indexed asset) held by such taxpayer on Janu-
3 ary 1, 2001, and not sold before the next busi-
4 ness day after such date, as having been sold
5 on such next business day for an amount equal
6 to its closing market price on such next busi-
7 ness day (and as having been reacquired on
8 such next business day for an amount equal to
9 such closing market price), and

10 (B) any other indexed asset held by the
11 taxpayer on January 1, 2001, as having been
12 sold on such date for an amount equal to its
13 fair market value on such date (and as having
14 been reacquired on such date for an amount
15 equal to such fair market value).

16 (2) TREATMENT OF GAIN OR LOSS.—

17 (A) Any gain resulting from an election
18 under paragraph (1) shall be treated as received
19 or accrued on the date the asset is treated as
20 sold under paragraph (1) and shall be recog-
21 nized notwithstanding any provision of the In-
22 ternal Revenue Code of 1986.

23 (B) Any loss resulting from an election
24 under paragraph (1) shall not be allowed for
25 any taxable year.

1 (3) ELECTION.—An election under paragraph
2 (1) shall be made in such manner as the Secretary
3 of the Treasury or his delegate may prescribe and
4 shall specify the assets for which such election is
5 made. Such an election, once made with respect to
6 any asset, shall be irrevocable.

7 (4) READILY TRADABLE STOCK.—For purposes
8 of this subsection, the term “readily tradable stock”
9 means any stock which, as of January 1, 2001, is
10 readily tradable on an established securities market
11 or otherwise.

12 **SEC. 313. EXEMPTION FROM TAX FOR GAIN ON SALE OF**
13 **PRINCIPAL RESIDENCE.**

14 (a) IN GENERAL.—Section 121 (relating to one-time
15 exclusion of gain from sale of principal residence by indi-
16 vidual who has attained age 55) is amended to read as
17 follows:

18 **“SEC. 121. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL**
19 **RESIDENCE.**

20 “(a) EXCLUSION.—Gross income shall not include
21 gain from the sale or exchange of property if, during the
22 5-year period ending on the date of the sale or exchange,
23 such property has been owned and used by the taxpayer
24 as the taxpayer’s principal residence for periods aggregat-
25 ing 2 years or more.

1 “(b) LIMITATIONS.—

2 “(1) DOLLAR LIMITATION.—The amount of
3 gain excluded from gross income under subsection
4 (a) with respect to any sale or exchange shall not ex-
5 ceed \$250,000 (\$500,000 in the case of a joint re-
6 turn where both spouses meet the use requirement
7 of subsection (a)).

8 “(2) APPLICATION TO ONLY 1 SALE OR EX-
9 CHANGE EVERY 2 YEARS.—

10 “(A) IN GENERAL.—Subsection (a) shall
11 not apply to any sale or exchange by the tax-
12 payer if, during the 2-year period ending on the
13 date of such sale or exchange, there was any
14 other sale or exchange by the taxpayer or his
15 spouse to which subsection (a) applied.

16 “(B) PREMARRIAGE SALES BY SPOUSE
17 NOT TAKEN INTO ACCOUNT.—If, but for this
18 subparagraph, subsection (a) would not apply
19 to a sale or exchange by a married individual
20 by reason of a sale or exchange by such individ-
21 ual’s spouse before their marriage—

22 “(i) subparagraph (A) shall be applied
23 without regard to the sale or exchange by
24 such individual’s spouse, but

1 “(ii) the amount of gain excluded
2 from gross income under subsection (a)
3 with respect to the sale or exchange by
4 such individual shall not exceed \$250,000.

5 “(C) PRE-MAY 7, 1997, SALES NOT TAKEN
6 INTO ACCOUNT.—Subparagraph (A) shall be
7 applied without regard to any sale or exchange
8 before May 7, 1997.

9 “(c) EXCLUSION FOR TAXPAYERS FAILING TO MEET
10 CERTAIN REQUIREMENTS.—

11 “(1) IN GENERAL.—In the case of a sale or ex-
12 change to which this subsection applies, the owner-
13 ship and use requirements of subsection (a) shall not
14 apply and subsection (b)(2) shall not apply; but the
15 amount of gain excluded from gross income under
16 subsection (a) with respect to such sale of exchange
17 shall not exceed—

18 “(A) the amount which bears the same
19 ratio to the amount which would be so excluded
20 if such requirements had been met, as

21 “(B) the shorter of—

22 “(i) the aggregate periods, during the
23 5-year period ending on the date of such
24 sale or exchange, such property has been

1 owned and used by the taxpayer as the
2 taxpayer's principal residence, or

3 “(ii) the period after the date of the
4 most recent prior sale or exchange by the
5 taxpayer or his spouse to which subsection
6 (a) applied and before the date of such sale
7 or exchange,

8 bears to 2 years.

9 “(2) SALES AND EXCHANGES TO WHICH SUB-
10 SECTION APPLIES.—This subsection shall apply to
11 any sale or exchange if—

12 “(A) subsection (a) would not (but for this
13 subsection) apply to such sale or exchange by
14 reason of—

15 “(i) a failure to meet the ownership
16 and use requirements of subsection (a), or

17 “(ii) subsection (b)(2), and

18 “(B) such sale or exchange is by reason of
19 a change in place of employment, health, or, to
20 the extent provided in regulations, other unfore-
21 seen circumstances.

22 “(d) SPECIAL RULES.—

23 “(1) JOINT RETURNS.—For purposes of this
24 section, if a husband and wife make a joint return
25 for the taxable year of the sale or exchange of the

1 property, subsection (a) shall, subject to the provi-
2 sions of subsection (b), apply if either spouse meets
3 the ownership and use requirements of subsection
4 (a) with respect to such property.

5 “(2) PROPERTY OF DECEASED SPOUSE.—For
6 purposes of this section, in the case of an unmarried
7 individual whose spouse is deceased on the date of
8 the sale or exchange of property, the period such un-
9 married individual owned such property shall include
10 the period such deceased spouse held such property
11 before death.

12 “(3) PROPERTY OF DIVORCED SPOUSE.—For
13 purposes of this section, in the case of an individual
14 holding property transferred to such individual inci-
15 dent to divorce (within the meaning of section
16 1041(e))—

17 “(A) the period such individual owns such
18 property shall include the period the former
19 spouse owned the property, and

20 “(B) the dollar limitation applicable under
21 paragraph (1) shall not be less than the amount
22 such limitation would have been had the sale or
23 exchange occurred on the date the divorce be-
24 came final.

1 “(4) TENANT-STOCKHOLDER IN COOPERATIVE
2 HOUSING CORPORATION.—For purposes of this sec-
3 tion, if the taxpayer holds stock as a tenant-stock-
4 holder (as defined in section 216) in a cooperative
5 housing corporation (as defined in such section),
6 then—

7 “(A) the holding requirements of sub-
8 section (a) shall be applied to the holding of
9 such stock, and

10 “(B) the use requirements of subsection
11 (a) shall be applied to the house or apartment
12 which the taxpayer was entitled to occupy as
13 such stockholder.

14 “(5) INVOLUNTARY CONVERSIONS.—

15 “(A) IN GENERAL.—For purposes of this
16 section, the destruction, theft, seizure, requis-
17 ition, or condemnation of property shall be
18 treated as the sale of such property.

19 “(B) APPLICATION OF SECTION 1033.—In
20 applying section 1033 (relating to involuntary
21 conversions), the amount realized from the sale
22 or exchange of property shall be treated as
23 being the amount determined without regard to
24 this section, reduced by the amount of gain not

1 included in gross income pursuant to this sec-
2 tion.

3 “(C) PROPERTY ACQUIRED AFTER INVOL-
4 UNTARY CONVERSION.—If the basis of the
5 property sold or exchanged is determined (in
6 whole or in part) under section 1033(b) (relat-
7 ing to basis of property acquired through invol-
8 untary conversion), then the holding and use by
9 the taxpayer of the converted property shall be
10 treated as holding and use by the taxpayer of
11 the property sold or exchanged.

12 “(6) RECOGNITION OF GAIN ATTRIBUTABLE TO
13 DEPRECIATION.—Subsection (a) shall not apply to
14 so much of the gain from the sale of any property
15 as does not exceed the portion of the depreciation
16 adjustments (as defined in section 1250(b)(3)) at-
17 tributable to periods after May 6, 1997, in respect
18 of such property.

19 “(7) DETERMINATION OF USE DURING PERIODS
20 OF OUT-OF-RESIDENCE CARE.—In the case of a tax-
21 payer who—

22 “(A) becomes physically or mentally in-
23 capable of self-care, and

24 “(B) owns property and uses such property
25 as the taxpayer’s principal residence during the

1 5-year period described in subsection (a) for pe-
2 riods aggregating at least 1 year,
3 then the taxpayer shall be treated as using such
4 property as the taxpayer's principal residence during
5 any time during such 5-year period in which the tax-
6 payer owns the property and resides in any facility
7 (including a nursing home) licensed by a State or
8 political subdivision to care for an individual in the
9 taxpayer's condition.

10 “(8) DETERMINATION OF MARITAL STATUS.—
11 In the case of any sale or exchange, for purposes of
12 this section—

13 “(A) the determination of whether an indi-
14 vidual is married shall be made as of the date
15 of the sale or exchange, and

16 “(B) an individual legally separated from
17 his spouse under a decree of divorce or of sepa-
18 rate maintenance shall not be considered as
19 married.

20 “(9) SALES OF LIFE ESTATES AND REMAINDER
21 INTERESTS.—For purposes of this section—

22 “(A) IN GENERAL.—This section shall not
23 fail to apply to the sale or exchange of an inter-
24 est in a principal residence by reason of such
25 interest being a life estate or a remainder inter-

1 est in such residence, but this section shall
2 apply only to one such interest in such resi-
3 dence which is sold or exchanged separately.

4 “(B) EXCEPTION FOR SALES TO RELATED
5 PARTIES.—Subparagraph (A) shall not apply to
6 any sale to, or exchange with, any person who
7 bears a relationship to the taxpayer which is de-
8 scribed in section 267(b) or 707(b).

9 “(e) DENIAL OF EXCLUSION FOR EXPATRIATES.—
10 This section shall not apply to any sale or exchange by
11 an individual if the treatment provided by section
12 877(a)(1) applies to such individual.

13 “(f) ELECTION TO HAVE SECTION NOT APPLY.—
14 This section shall not apply to any sale or exchange with
15 respect to which the taxpayer elects not to have this sec-
16 tion apply.

17 “(g) RESIDENCES ACQUIRED IN ROLLOVERS UNDER
18 SECTION 1034.—For purposes of this section, in the case
19 of property the acquisition of which by the taxpayer re-
20 sulted under section 1034 (as in effect on the day before
21 the date of the enactment of this sentence) in the non-
22 recognition of any part of the gain realized on the sale
23 or exchange of another residence, in determining the pe-
24 riod for which the taxpayer has owned and used such
25 property as the taxpayer’s principal residence, there shall

1 be included the aggregate periods for which such other
2 residence (and each prior residence taken into account
3 under section 1223(7) in determining the holding period
4 of such property) had been so owned and used.”.

5 (b) REPEAL OF NONRECOGNITION OF GAIN ON
6 ROLLOVER OF PRINCIPAL RESIDENCE.—Section 1034
7 (relating to rollover of gain on sale of principal residence)
8 is hereby repealed.

9 (c) CONFORMING AMENDMENTS.—

10 (1) The following provisions of the Internal
11 Revenue Code of 1986 are each amended by striking
12 “section 1034” and inserting “section 121”: sections
13 25(e)(7), 56(e)(1)(A), 56(e)(3)(B)(i),
14 143(i)(1)(C)(i)(I), 163(h)(4)(A)(i)(I),
15 280A(d)(4)(A), 464(f)(3)(B)(i), 1033(h)(4),
16 1274(e)(3)(B), 6334(a)(13), and 7872(f)(11)(A).

17 (2) Paragraph (4) of section 32(c) is amended
18 by striking “(as defined in section 1034(h)(3))” and
19 by adding at the end the following new sentence:
20 “For purposes of the preceding sentence, the term
21 ‘extended active duty’ means any period of active
22 duty pursuant to a call or order to such duty for a
23 period in excess of 90 days or for an indefinite pe-
24 riod.”.

1 (3) Subparagraph (A) of 143(m)(6) is amended
2 by inserting “(as in effect on the day before the date
3 of the enactment of the Taxpayer Relief Act of
4 1997)” after “1034(e)”.

5 (4) Subsection (e) of section 216 is amended by
6 striking “such exchange qualifies for nonrecognition
7 of gain under section 1034(f)” and inserting “such
8 dwelling unit is used as his principal residence (with-
9 in the meaning of section 121)”.

10 (5) Section 512(a)(3)(D) is amended by insert-
11 ing “(as in effect on the day before the date of the
12 enactment of the Taxpayer Relief Act of 1997)”
13 after “1034”.

14 (6) Paragraph (7) of section 1016(a) is amend-
15 ed by inserting “(as in effect on the day before the
16 date of the enactment of the Taxpayer Relief Act of
17 1997)” after “1034” and by inserting “(as so in ef-
18 fect)” after “1034(e)”.

19 (7) Paragraph (3) of section 1033(k) is amend-
20 ed to read as follows:

21 “(3) For exclusion from gross income of gain
22 from involuntary conversion of principal residence,
23 see section 121.”.

24 (8) Subsection (e) of section 1038 is amended
25 to read as follows:

1 “(e) PRINCIPAL RESIDENCES.—If—

2 “(1) subsection (a) applies to a reacquisition of
3 real property with respect to the sale of which gain
4 was not recognized under section 121 (relating to
5 gain on sale of principal residence); and

6 “(2) within 1 year after the date of the reacqui-
7 sition of such property by the seller, such property
8 is resold by him,

9 then, under regulations prescribed by the Secretary, sub-
10 sections (b), (c), and (d) of this section shall not apply
11 to the reacquisition of such property and, for purposes of
12 applying section 121, the resale of such property shall be
13 treated as a part of the transaction constituting the origi-
14 nal sale of such property.”.

15 (9) Paragraph (7) of section 1223 is amended
16 by inserting “(as in effect on the day before the date
17 of the enactment of the Taxpayer Relief Act of
18 1997)” after “1034”.

19 (10) Paragraph (7) of section 1250(d) is
20 amended to read as follows:

21 “(7) DISPOSITION OF PRINCIPAL RESIDENCE.—
22 Subsection (a) shall not apply to a disposition of
23 property to the extent used by the taxpayer as his
24 principal residence (within the meaning of section

1 121, relating to gain on sale of principal resi-
2 dence).”.

3 (11) Subsection (c) of section 6012 is amended
4 by striking “(relating to one-time exclusion of gain
5 from sale of principal residence by individual who
6 has attained age 55)” and inserting “(relating to
7 gain from sale of principal residence)”.

8 (12) Paragraph (2) of section 6212(c) is
9 amended by striking subparagraph (C) and by redesi-
10 gnating the succeeding subparagraphs accordingly.

11 (13) Section 6504 is amended by striking para-
12 graph (4) and by redesignating the succeeding para-
13 graphs accordingly.

14 (14) The item relating to section 121 in the
15 table of sections for part III of subchapter B of
16 chapter 1 is amended to read as follows:

“Sec. 121. Exclusion of gain from sale of principal residence.”.

17 (15) The table of sections for part III of sub-
18 chapter O of chapter 1 of such Code is amended by
19 striking the item relating to section 1034.

20 (d) EFFECTIVE DATE.—

21 (1) IN GENERAL.—The amendments made by
22 this section shall apply to sales and exchanges after
23 May 6, 1997.

24 (2) SALES BEFORE DATE OF ENACTMENT.—At
25 the election of the taxpayer, the amendments made

1 by this section shall not apply to any sale or ex-
2 change before the date of the enactment of this Act.

3 (3) BINDING CONTRACTS.—At the election of
4 the taxpayer, the amendments made by this section
5 shall not apply to a sale or exchange after the date
6 of the enactment of this Act, if—

7 (A) such sale or exchange is pursuant to a
8 contract which was binding on such date, or

9 (B) without regard to such amendments,
10 gain would not be recognized under section
11 1034 of the Internal Revenue Code of 1986 (as
12 in effect on the day before the date of the en-
13 actment of this Act) on such sale or exchange
14 by reason of a new residence acquired on or be-
15 fore such date or with respect to the acquisition
16 of which by the taxpayer a binding contract was
17 in effect on such date.

18 This paragraph shall not apply to any sale or ex-
19 change by an individual if the treatment provided by
20 section 877(a)(1) of the Internal Revenue Code of
21 1986 applies to such individual.

1 **PART II—CORPORATE CAPITAL GAINS**

2 **SEC. 321. REDUCTION OF ALTERNATIVE CAPITAL GAIN TAX**
3 **FOR CORPORATIONS.**

4 (a) IN GENERAL.—Section 1201 is amended to read
5 as follows:

6 **“SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.**

7 “(a) GENERAL RULE.—If for any taxable year a cor-
8 poration has 8-year gain, then, in lieu of the tax imposed
9 by sections 11, 511, and 831 (a) and (b) (whichever is
10 applicable), there is hereby imposed a tax (if such tax is
11 less than the tax imposed by such sections) which shall
12 consist of the sum of—

13 “(1) a tax computed on the taxable income re-
14 duced by the amount of the 8-year gain, at the rates
15 and in the manner as if this subsection had not been
16 enacted, plus

17 “(2) a tax of the applicable percentage of the
18 amount of the 8-year gain (or, if less, taxable in-
19 come).

20 “(b) APPLICABLE PERCENTAGE.—For purposes of
21 subsection (a)—

22 “(1) IN GENERAL.—The term ‘applicable per-
23 centage’ means—

24 “(A) 32 percent for the portion of any tax-
25 able year within 1998,

1 “(B) 31 percent for the portion of any tax-
2 able year within 1999, and

3 “(C) 30 percent for the portion of any tax-
4 able year after 1999.

5 “(2) FISCAL YEAR TAXPAYERS.—

6 “(A) TAXABLE YEARS BEGINNING IN
7 1997.—In applying this section to taxable years
8 beginning in 1997, 8-year gain shall not exceed
9 the 8-year gain determined by taking into ac-
10 count only gains and losses properly taken into
11 account for the portion of the taxable year after
12 December 31, 1997.

13 “(B) TAXABLE YEARS BEGINNING IN 1998
14 OR 1999.—In the case of a taxable year begin-
15 ning in 1998 or 1999 which includes portions
16 of 2 calendar years, the applicable percentage
17 shall be applied separately to such portions by
18 taking into account—

19 “(i) in the case of the first such por-
20 tion, the lesser of—

21 “(I) the 8-year gain determined
22 by taking into account only gains and
23 losses properly taken into account for
24 such portion, or

1 “(II) the 8-year gain determined
2 for the entire taxable year, and

3 “(ii) in the case of the second such
4 portion, the 8-year gain (and the taxable
5 income) determined for the entire taxable
6 year reduced by the amount on which tax
7 is determined under subsection (a)(2) for
8 the first such portion determined under
9 clause (i).

10 “(C) SPECIAL RULE FOR PASS-THRU ENTI-
11 TIES.—Section 1(h)(8)(C) shall apply for pur-
12 poses of this paragraph.

13 “(c) 8-YEAR GAIN.—For purposes of this section, the
14 term ‘8-year gain’ means the lesser of—

15 “(1) the amount of long-term capital gain
16 which would be computed for the taxable year if only
17 gain from the sale or exchange of property held by
18 the taxpayer for more than 8 years were taken into
19 account, or

20 “(2) net capital gain.

21 The determination under the preceding sentence shall be
22 made without regard to collectibles gain (as defined in sec-
23 tion 1(h)(5)) or section 1250 gain (as defined in section
24 1(h)(7)).

1 “(d) CROSS REFERENCES.—

“For computation of the alternative tax—

“**(1) in the case of life insurance companies, see section 801(a)(2),**

“**(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3)(A) and (D), and**

“**(3) in the case of real estate investment trusts, see section 857(b)(3)(A).”.**

2 (b) TECHNICAL AMENDMENTS.—

3 (1) Subsection (d) of section 291 is amended by
4 striking “subsection (a)(1) to such shareholder” and
5 inserting “subsection (a)(1) and section 1201 to
6 such shareholder”.

7 (2) Clause (iii) of section 852(b)(3)(D) is
8 amended by striking “65 percent” and inserting
9 “the applicable percentage” and by inserting at the
10 end the following new sentence: “For purposes of
11 the preceding sentence, the term ‘applicable percent-
12 age’ means the percentage equal to the excess of 100
13 percent over the percentage applicable under section
14 1201(a).”.

15 (3)(A) Subparagraph (B) of section 852(b)(3)
16 is amended to read as follows:

17 “(B) TREATMENT OF CAPITAL GAIN DIVI-
18 DENDS BY SHAREHOLDERS.—

19 “(i) IN GENERAL.—Except as pro-
20 vided in clause (ii), a capital gain dividend
21 shall be treated by the shareholders as

1 gain from the sale or exchange of a capital
2 asset held for more than 1 year.

3 “(ii) COORDINATION WITH 8-YEAR
4 HOLDING PERIOD FOR CORPORATE NET
5 CAPITAL GAIN.—The portion of any capital
6 gain dividend designated by the company
7 as allocable to gain from the sale or ex-
8 change of property held by the company
9 for more than 8 years shall be treated as
10 gain from the sale or exchange of a capital
11 asset held for more than 8 years. Rules
12 similar to the rules of subparagraph (C)
13 shall apply to any designation under the
14 preceding sentence.”.

15 (B) Clause (i) of section 851(b)(3)(D) is
16 amended by adding at the end thereof the following
17 new sentence: “Rules similar to the rules of subpara-
18 graph (B) shall apply in determining character of
19 the amount to be so included by any such share-
20 holder which is a corporation.”.

21 (4) Subparagraph (B) of section 857(b)(3) is
22 amended to read as follows:

23 “(B) TREATMENT OF CAPITAL GAIN DIVI-
24 DENDS BY SHAREHOLDERS.—

1 “(i) IN GENERAL.—Except as pro-
2 vided in clause (ii), a capital gain dividend
3 shall be treated by the shareholders or
4 holders of beneficial interests as gain from
5 the sale or exchange of a capital asset held
6 for more than 1 year.

7 “(ii) COORDINATION WITH 8-YEAR
8 HOLDING PERIOD FOR CORPORATE NET
9 CAPITAL GAIN.—The portion of any capital
10 gain dividend designated by the company
11 as allocable to gain from the sale or ex-
12 change of property held by the company
13 for more than 8 years shall be treated as
14 gain from the sale or exchange of a capital
15 asset held for more than 8 years. Rules
16 similar to the rules of subparagraph (C)
17 shall apply to any designation under the
18 preceding sentence.”.

19 (5) Subsection (c) of section 584 is amended—

20 (A) by inserting “but not more than 8
21 years” after “1 year” each place it appears in
22 paragraph (2),

23 (B) by striking “and” at the end of para-
24 graph (2), and

1 (C) by redesignating paragraph (3) as
2 paragraph (4) and inserting after paragraph
3 (2) the following new paragraph:

4 “(3) as part of its gains and losses from sales
5 or exchanges of capital assets held for more than 8
6 years, its proportionate share of the gains and losses
7 of the common trust fund from sales or exchanges
8 of capital assets held for more than 8 years, and”.

9 (6) Subparagraph (E) of section 904(b)(3) is
10 amended by adding at the end the following new
11 clause:

12 “(iv) REGULATIONS.—The Secretary
13 shall prescribe regulations that adjust the
14 limitation under subsection (a) to reflect
15 the rate differential for 8-year gain (as de-
16 fined in section 1201(e)) between the high-
17 est rate of tax specified in section 11(b)
18 and the alternate rate of tax under section
19 1201(a) and the limitation on the deduc-
20 tion for capital losses under section
21 1211.”.

22 (c) EFFECTIVE DATES.—The amendments made by
23 this section shall apply to taxable years ending after De-
24 cember 31, 1997.

1 **TITLE IV—ALTERNATIVE**
2 **MINIMUM TAX REFORM**

3 **SEC. 401. ADJUSTMENT OF EXEMPTION AMOUNTS FOR TAX-**
4 **PAYERS OTHER THAN CORPORATIONS.**

5 (a) IN GENERAL.—Subsection (d) of section 55 is
6 amended by adding at the end the following new para-
7 graph:

8 “(4) ADJUSTMENT OF EXEMPTION AMOUNTS
9 FOR TAXPAYERS OTHER THAN CORPORATIONS.—

10 “(A) TAXABLE YEARS BEGINNING BEFORE
11 JANUARY 1, 2008.—In the case of any taxable
12 year beginning in a calendar year after 1998
13 and before 2008—

14 “(i) IN GENERAL.—The dollar amount
15 applicable under paragraph (1)(A) for any
16 odd-numbered calendar year—

17 “(I) shall be \$1,000 greater than
18 the dollar amount applicable under
19 paragraph (1)(A) for the prior odd-
20 numbered calendar year, and

21 “(II) shall apply to taxable years
22 beginning in such odd-numbered cal-
23 endar year and the succeeding cal-
24 endar year.

1 “(B) TAXABLE YEARS BEGINNING AFTER
2 DECEMBER 31, 2007.—In the case of any taxable
3 year beginning in a calendar year after 2007,
4 the dollar amount applicable under paragraph
5 (1)(A) for taxable years beginning in 2007 shall
6 be increased by an amount equal to the product
7 of—

8 “(i) such dollar amount, and

9 “(ii) the cost-of-living adjustment de-
10 termined under section 1(f)(3) for the cal-
11 endar year in which the taxable year be-
12 gins, determined by substituting ‘calendar
13 year 2006’ for ‘calendar year 1992’ in sub-
14 paragraph (B) thereof.

15 If any increase determined under the preceding
16 sentence is not a multiple of \$100, such in-
17 crease shall be rounded to the next lowest mul-
18 tiple of \$100.

19 “(C) OTHER AMOUNTS.—

20 “(i) The dollar amount applicable
21 under paragraph (1)(B) for any taxable
22 year shall be an amount equal to 75 per-
23 cent of the dollar amount applicable under
24 paragraph (1)(A) for such year.

1 “(ii) The dollar amount applicable
2 under paragraph (1)(C) for any taxable
3 year shall be an amount equal to 50 per-
4 cent of the dollar amount applicable under
5 paragraph (1)(A) for such year.”.

6 (b) CONFORMING AMENDMENT.—The last sentence
7 of section 55(d)(3) is amended by striking “\$165,000 or
8 (ii) \$22,500” and inserting “the minimum amount of such
9 income (as so determined) for which the exemption
10 amount under paragraph (1)(C) is zero, or (ii) such ex-
11 emption amount (determined without regard to this para-
12 graph)”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 1998.

16 **SEC. 402. EXEMPTION FROM ALTERNATIVE MINIMUM TAX**
17 **FOR SMALL CORPORATIONS.**

18 (a) IN GENERAL.—Section 55 (relating to alternative
19 minimum tax imposed) is amended by adding at the end
20 the following new subsection:

21 “(e) EXEMPTION FOR SMALL CORPORATIONS.—

22 “(1) IN GENERAL.—The tentative minimum tax
23 of a corporation shall be zero for any taxable year
24 if—

1 “(A) such corporation met the \$5,000,000
2 gross receipts test of section 448(c) for any
3 prior taxable year beginning after December 31,
4 1996, and

5 “(B) such corporation would meet such
6 test for the taxable year and all prior taxable
7 years beginning after December 31, 1997, if
8 such test were applied by substituting
9 ‘\$7,500,000’ for ‘\$5,000,000’

10 “(2) PROSPECTIVE APPLICATION OF MINIMUM
11 TAX IF SMALL CORPORATION CEASES TO BE
12 SMALL.—In the case of a corporation whose ten-
13 tative minimum tax is zero for any prior taxable
14 year by reason of paragraph (1), the application of
15 this part for taxable years beginning with the first
16 taxable year such corporation ceases to be described
17 in paragraph (1) shall be determined without regard
18 to transactions entered into or other items arising in
19 taxable years prior to such first taxable year.

20 “(3) LIMITATION ON USE OF CREDIT FOR
21 PRIOR YEAR MINIMUM TAX LIABILITY.—In the case
22 of a taxpayer whose tentative minimum tax for any
23 taxable year is zero by reason of paragraph (1), the
24 amount described in paragraph (2) of section 53(b)
25 shall not be less than the greater of—

1 “(A) the tentative minimum tax for the
2 taxable year, or

3 “(B) 25 percent of so much of the regular
4 tax liability (reduced by the credit allowed by
5 section 27) as exceeds \$25,000.

6 Rules similar to the rules of section 38(c)(3)(B)
7 shall apply for purposes of the preceding sentence.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to taxable years beginning after
10 December 31, 1997.

11 **SEC. 403. REPEAL OF ADJUSTMENT FOR DEPRECIATION.**

12 (a) IN GENERAL.—Clause (i) of section 56(a)(1)(A)
13 is amended by inserting “and before January 1, 1999,”
14 after “December 31, 1986,”.

15 (b) STUDY.—

16 (1) IN GENERAL.—Because it is the intent of
17 Congress that the amendment made by subsection
18 (a) not have the result of permitting any corporation
19 with taxable income from current year operations to
20 pay no Federal income tax, the Secretary of the
21 Treasury or his delegate shall conduct a study to de-
22 termine whether such amendment has that result
23 and, if so, the policy implications of that result.

24 (2) REPORT.—The report of such study shall be
25 submitted to the Committee on Ways and Means of

1 the House of Representatives and the Committee on
2 Finance of the Senate not later than January 1,
3 2001.

4 **SEC. 404. MINIMUM TAX NOT TO APPLY TO FARMERS' IN-**
5 **STALLMENT SALES.**

6 (a) IN GENERAL.—The last sentence of paragraph
7 (6) of section 56(a) (relating to treatment of installment
8 sales in computing alternative minimum taxable income)
9 is amended to read as follows: “This paragraph shall not
10 apply to any disposition—

11 “(A) in the case of a taxpayer using the
12 cash receipts and disbursements method of ac-
13 counting, described in section 453(l)(2)(A) (re-
14 lating to farm property), or

15 “(B) with respect to which an election is in
16 effect under section 453(l)(2)(B) (relating to
17 timeshares and residential lots).”.

18 (b) EFFECTIVE DATES.—

19 (1) IN GENERAL.—The amendment made by
20 this section shall apply to dispositions in taxable
21 years beginning after December 31, 1987.

22 (2) SPECIAL RULE FOR 1987.—In the case of
23 taxable years beginning in 1987, the last sentence of
24 section 56(a)(6) of the Internal Revenue Code of
25 1986 (as in effect for such taxable years) shall be

1 applied by inserting “or in the case of a taxpayer
2 using the cash receipts and disbursements method of
3 accounting, any disposition described in section
4 453C(e)(1)(B)(ii)” after “section 453C(e)(4)”.

5 **TITLE V—ESTATE, GIFT, AND**
6 **GENERATION-SKIPPING TAX**
7 **PROVISIONS**

8 **Subtitle A—Estate and Gift Tax**
9 **Provisions**

10 **SEC. 501. COST-OF-LIVING ADJUSTMENTS RELATING TO ES-**
11 **TATE AND GIFT TAX PROVISIONS.**

12 (a) INCREASE IN UNIFIED ESTATE AND GIFT TAX
13 CREDIT.—

14 (1) ESTATE TAX CREDIT.—

15 (A) IN GENERAL.—Subsection (a) of sec-
16 tion 2010 (relating to unified credit against es-
17 tate tax) is amended by striking “\$192,800”
18 and inserting “the applicable credit amount”.

19 (B) APPLICABLE CREDIT AMOUNT.—Sec-
20 tion 2010 is amended by redesignating sub-
21 section (c) as subsection (d) and by inserting
22 after subsection (b) the following new sub-
23 section:

24 “(c) APPLICABLE CREDIT AMOUNT.—For purposes
25 of this section—

1 “(1) IN GENERAL.—For purposes of this sec-
 2 tion, the applicable credit amount is the amount of
 3 the tentative tax which would be determined under
 4 the rate schedule set forth in section 2001(c) if the
 5 amount with respect to which such tentative tax is
 6 to be computed were the applicable exclusion amount
 7 determined in accordance with the following table:

| “In the case of estates of decedents dying, and gifts made, during: | The applicable exclusion amount is: |
|--|--|
| 1998 | \$ 650,000 |
| 1999 | \$ 750,000 |
| 2000 | \$ 765,000 |
| 2001 through 2004 | \$ 775,000 |
| 2005 | \$ 800,000 |
| 2006 | \$ 825,000 |
| 2007 or thereafter | \$1,000,000. |

8 “(2) COST-OF-LIVING ADJUSTMENT.—In the
 9 case of any decedent dying, and gift made, in a cal-
 10 endar year after 2007, the \$1,000,000 amount set
 11 forth in paragraph (1) shall be increased by an
 12 amount equal to—

13 “(A) \$1,000,000, multiplied by

14 “(B) the cost-of-living adjustment deter-
 15 mined under section 1(f)(3) for such calendar
 16 year by substituting ‘calendar year 2006’ for
 17 ‘calendar year 1992’ in subparagraph (B)
 18 thereof.

19 If any amount as adjusted under the preceding sen-
 20 tence is not a multiple of \$10,000, such amount

1 shall be rounded to the next lowest multiple of
2 \$10,000.”.

3 (C) ESTATE TAX RETURNS.—Paragraph
4 (1) of section 6018(a) is amended by striking
5 “\$600,000” and inserting “the applicable exclu-
6 sion amount in effect under section 2010(c) for
7 the calendar year which includes the date of
8 death”.

9 (D) PHASEOUT OF GRADUATED RATES
10 AND UNIFIED CREDIT.—Paragraph (2) of sec-
11 tion 2001(c) is amended by striking
12 “\$21,040,000” and inserting “the amount at
13 which the average tax rate under this section is
14 55 percent”.

15 (E) ESTATES OF NONRESIDENTS NOT CITI-
16 ZENS.—Subparagraph (A) of section 2102(c)(3)
17 is amended by striking “\$192,800” and insert-
18 ing “the applicable credit amount in effect
19 under section 2010(c) for the calendar year
20 which includes the date of death”.

21 (2) UNIFIED GIFT TAX CREDIT.—Paragraph
22 (1) of section 2505(a) is amended by striking
23 “\$192,800” and inserting “the applicable credit
24 amount in effect under section 2010(c) for such cal-
25 endar year”.

1 (b) ALTERNATE VALUATION OF CERTAIN FARM,
2 ETC., REAL PROPERTY.—Subsection (a) of section 2032A
3 is amended by adding at the end the following new para-
4 graph:

5 “(3) INFLATION ADJUSTMENT.—In the case of
6 estates of decedents dying in a calendar year after
7 1998, the \$750,000 amount contained in paragraph
8 (2) shall be increased by an amount equal to—

9 “(A) \$750,000, multiplied by

10 “(B) the cost-of-living adjustment deter-
11 mined under section 1(f)(3) for such calendar
12 year by substituting ‘calendar year 1997’ for
13 ‘calendar year 1992’ in subparagraph (B)
14 thereof.

15 If any amount as adjusted under the preceding sen-
16 tence is not a multiple of \$10,000, such amount
17 shall be rounded to the next lowest multiple of
18 \$10,000.”.

19 (c) ANNUAL GIFT TAX EXCLUSION.—Subsection (b)
20 of section 2503 is amended—

21 (1) by striking the subsection heading and in-
22 serting the following:

23 “(b) EXCLUSIONS FROM GIFTS.—

24 “(1) IN GENERAL.—”,

25 (2) by moving the text 2 ems to the right, and

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

3 “(2) INFLATION ADJUSTMENT.—In the case of
4 gifts made in a calendar year after 1998, the
5 \$10,000 amount contained in paragraph (1) shall be
6 increased by an amount equal to—

7 “(A) \$10,000, multiplied by

8 “(B) the cost-of-living adjustment deter-
9 mined under section 1(f)(3) for such calendar
10 year by substituting ‘calendar year 1997’ for
11 ‘calendar year 1992’ in subparagraph (B)
12 thereof.

13 If any amount as adjusted under the preceding sen-
14 tence is not a multiple of \$1,000, such amount shall
15 be rounded to the next lowest multiple of \$1,000.”.

16 (d) EXEMPTION FROM GENERATION-SKIPPING
17 TAX.—Section 2631 (relating to GST exemption) is
18 amended by adding at the end the following new sub-
19 section:

20 “(c) INFLATION ADJUSTMENT.—In the case of an in-
21 dividual who dies in any calendar year after 1998, the
22 \$1,000,000 amount contained in subsection (a) shall be
23 increased by an amount equal to—

24 “(1) \$1,000,000, multiplied by

1 “(2) the cost-of-living adjustment determined
2 under section 1(f)(3) for such calendar year by sub-
3 stituting ‘calendar year 1997’ for ‘calendar year
4 1992’ in subparagraph (B) thereof.

5 If any amount as adjusted under the preceding sentence
6 is not a multiple of \$10,000, such amount shall be round-
7 ed to the next lowest multiple of \$10,000.”.

8 (e) AMOUNT SUBJECT TO REDUCED RATE WHERE
9 EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX ON
10 CLOSELY HELD BUSINESS.—Subsection (j) of section
11 6601 is amended by redesignating paragraph (3) as para-
12 graph (4) and by inserting after paragraph (2) the follow-
13 ing new paragraph:

14 “(3) INFLATION ADJUSTMENT.—In the case of
15 estates of decedents dying in a calendar year after
16 1998, the \$1,000,000 amount contained in para-
17 graph (2)(A) shall be increased by an amount equal
18 to—

19 “(A) \$1,000,000, multiplied by

20 “(B) the cost-of-living adjustment deter-
21 mined under section 1(f)(3) for such calendar
22 year by substituting ‘calendar year 1997’ for
23 ‘calendar year 1992’ in subparagraph (B)
24 thereof.

1 If any amount as adjusted under the preceding sen-
2 tence is not a multiple of \$10,000, such amount
3 shall be rounded to the next lowest multiple of
4 \$10,000.”.

5 (f) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to the estates of decedents dying,
7 and gifts made, after December 31, 1997.

8 **SEC. 502. 20-YEAR INSTALLMENT PAYMENT WHERE ESTATE**
9 **CONSISTS LARGELY OF INTEREST IN CLOSE-**
10 **LY HELD BUSINESS.**

11 (a) IN GENERAL.—Section 6166(a) (relating to ex-
12 tension of time for payment of estate tax where estate con-
13 sists largely of interest in closely held business) is amend-
14 ed by striking “10” in paragraph (1) and the heading
15 thereof and inserting “20”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to estates of decedents dying after
18 December 31, 1997.

19 **SEC. 503. NO INTEREST ON CERTAIN PORTION OF ESTATE**
20 **TAX EXTENDED UNDER SECTION 6166, RE-**
21 **DEDUCED INTEREST ON REMAINING PORTION,**
22 **AND NO DEDUCTION FOR SUCH REDUCED IN-**
23 **TEREST.**

24 (a) NO INTEREST AND REDUCED INTEREST.—

1 (1) IN GENERAL.—Paragraphs (1) and (2) of
2 section 6601(j) (relating to 4-percent rate on certain
3 portion of estate tax extended under section 6166),
4 as amended by section 501(e), are amended to read
5 as follows:

6 “(1) IN GENERAL.—If the time for payment of
7 an amount of tax imposed by chapter 11 is extended
8 as provided in section 6166, then in lieu of the an-
9 nual rate provided by subsection (a)—

10 “(A) no interest shall be paid on the no-
11 interest portion of such amount, and

12 “(B) interest on so much of such amount
13 as exceeds such no-interest portion shall be paid
14 at a rate equal to 45 percent of the annual rate
15 provided by subsection (a).

16 For purposes of this subsection, the amount of any
17 deficiency which is prorated to installments payable
18 under section 6166 shall be treated as an amount of
19 tax payable in installments under such section.

20 “(2) NO-INTEREST PORTION.—For purposes of
21 this section, the term ‘no-interest portion’ means the
22 lesser of—

23 “(A)(i) the amount of the tentative tax
24 which would be determined under the rate
25 schedule set forth in section 2001(c) if the

1 amount with respect to which such tentative tax
2 is to be computed were the sum of \$1,000,000
3 and the applicable exclusion amount in effect
4 under section 2010(c), reduced by

5 “(ii) the applicable credit amount in effect
6 under section 2010(c), or

7 “(B) the amount of the tax imposed by
8 chapter 11 which is extended as provided in
9 section 6166.”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Section 6601(j), as amended by section
12 501, is amended—

13 (i) by striking “4-percent” each place
14 it appears in paragraph (3) and inserting
15 “no-interest”, and

16 (ii) by striking “4-PERCENT RATE ON
17 CERTAIN PORTION OF” in the heading and
18 inserting “RATE ON”.

19 (B) Section 6166(b)(7)(A)(iii) is amended
20 to read as follows:

21 “(iii) for purposes of applying section
22 6601(j) (relating to rate on estate tax ex-
23 tended under section 6166), the no-interest
24 portion shall be zero.”.

1 (C) Section 6166(b)(8)(A)(iii) is amended
2 to read as follows:

3 “(iii) NO-INTEREST PORTION NOT TO
4 APPLY.—For purposes of applying section
5 6601(j) (relating to rate on estate tax ex-
6 tended under section 6166), the no-interest
7 portion shall be zero.”.

8 (b) DISALLOWANCE OF INTEREST DEDUCTION.—

9 (1) ESTATE TAX.—Paragraph (1) of section
10 2053(e) is amended by adding at the end the follow-
11 ing new subparagraph:

12 “(D) SECTION 6166 INTEREST.—No deduc-
13 tion shall be allowed under this section for any
14 interest payable under section 6601 on any un-
15 paid portion of the tax imposed by section 2001
16 for the period during which an extension of
17 time for payment of such tax is in effect under
18 section 6166.”.

19 (2) INCOME TAX.—Subparagraph (E) of section
20 163(h)(2) is amended by striking “or 6166”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to estates of decedents dying after
23 December 31, 1997.

1 **SEC. 504. EXTENSION OF TREATMENT OF CERTAIN RENTS**
2 **UNDER SECTION 2032A TO LINEAL DESCEND-**
3 **ANTS.**

4 (a) **GENERAL RULE.**—Paragraph (7) of section
5 2032A(c) (relating to special rules for tax treatment of
6 dispositions and failures to use for qualified use) is
7 amended by adding at the end the following new subpara-
8 graph:

9 “(E) **CERTAIN RENTS TREATED AS QUALI-**
10 **FIED USE.**—For purposes of this subsection, a
11 surviving spouse or lineal descendant of the de-
12 cedent shall not be treated as failing to use
13 qualified real property in a qualified use solely
14 because such spouse or descendant rents such
15 property to a member of the family of such
16 spouse or descendant on a net cash basis. For
17 purposes of the preceding sentence, a legally
18 adopted child of an individual shall be treated
19 as the child of such individual by blood.”.

20 (b) **CONFORMING AMENDMENT.**—Section
21 2032A(b)(5)(A) is amended by striking the last sentence.

22 (c) **EFFECTIVE DATE.**—The amendments made by
23 this section shall apply with respect to leases entered into
24 after December 31, 1976.

1 **SEC. 505. CLARIFICATION OF JUDICIAL REVIEW OF ELI-**
2 **BILITY FOR EXTENSION OF TIME FOR PAY-**
3 **MENT OF ESTATE TAX.**

4 (a) IN GENERAL.—Part IV of subchapter C of chap-
5 ter 76 of the Internal Revenue Code of 1986 (relating to
6 declaratory judgments) is amended by adding at the end
7 the following new section:

8 **“SEC. 7479. DECLARATORY JUDGMENTS RELATING TO ELI-**
9 **GIBILITY OF ESTATE WITH RESPECT TO IN-**
10 **STALLMENT PAYMENTS UNDER SECTION**
11 **6166.**

12 “(a) CREATION OF REMEDY.—In a case of actual
13 controversy involving a determination by the Secretary of
14 (or a failure by the Secretary to make a determination
15 with respect to)—

16 “(1) whether an election may be made under
17 section 6166 (relating to extension of time for pay-
18 ment of estate tax where estate consists largely of
19 interest in closely held business) with respect to an
20 estate, or

21 “(2) whether the extension of time for payment
22 of tax provided in section 6166(a) has ceased to
23 apply with respect to an estate,

24 upon the filing of an appropriate pleading, the Tax Court
25 may make a declaration with respect to whether such elec-
26 tion may be made, whether such extension has ceased to

1 apply, or the amount of such installment payments. Any
2 such declaration shall have the force and effect of a deci-
3 sion of the Tax Court and shall be reviewable as such.

4 “(b) LIMITATIONS.—

5 “(1) PETITIONER.—A pleading may be filed
6 under this section, with respect to any estate, only—

7 “(A) by the executor of such estate, or

8 “(B) by any person who has assumed an
9 obligation to make payments under section
10 6166 with respect to such estate (but only if
11 each other such person is joined as a party).

12 “(2) EXHAUSTION OF ADMINISTRATIVE REM-
13 EDIES.—The court shall not issue a declaratory
14 judgment or decree under this section in any pro-
15 ceeding unless it determines that the petitioner has
16 exhausted all available administrative remedies with-
17 in the Internal Revenue Service. A petitioner shall
18 be deemed to have exhausted its administrative rem-
19 edies with respect to a failure of the Secretary to
20 make a determination at the expiration of 180 days
21 after the date on which the request for such deter-
22 mination was made if the petitioner has taken, in a
23 timely manner, all reasonable steps to secure such
24 determination.

1 “(3) TIME FOR BRINGING ACTION.—If the Sec-
 2 retary sends by certified or registered mail notice of
 3 his determination as described in subsection (a) to
 4 the petitioner, no proceeding may be initiated under
 5 this section unless the pleading is filed before the
 6 91st day after the date of such mailing.”.

7 (b) CLERICAL AMENDMENT.—The table of sections
 8 for part IV of subchapter C of chapter 76 of such Code
 9 is amended by adding at the end the following new item:

“Sec. 7479. Declaratory judgments relating to eligibility of estate
 with respect to installment payments under section
 6166.”.

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to the estates of decedents dying
 12 after the date of the enactment of this Act.

13 **SEC. 506. GIFTS MAY NOT BE REVALUED FOR ESTATE TAX**
 14 **PURPOSES AFTER EXPIRATION OF STATUTE**
 15 **OF LIMITATIONS.**

16 (a) IN GENERAL.—Section 2001 (relating to imposi-
 17 tion and rate of estate tax) is amended by adding at the
 18 end the following new subsection:

19 “(f) VALUATION OF GIFTS.—If—

20 “(1) the time has expired within which a tax
 21 may be assessed under chapter 12 (or under cor-
 22 responding provisions of prior laws) on the transfer
 23 of property by gift made during a preceding cal-
 24 endar period (as defined in section 2502(b)), and

1 “(2) the value of such gift is shown on the re-
2 turn for such preceding calendar period or is dis-
3 closed in such return, or in a statement attached to
4 the return, in a manner adequate to apprise the Sec-
5 retary of the nature of such gift,
6 the value of such gift shall, for purposes of computing the
7 tax under this chapter, be the value of such gift as finally
8 determined for purposes of chapter 12.”.

9 (b) MODIFICATION OF APPLICATION OF STATUTE OF
10 LIMITATIONS.—Paragraph (9) of section 6501(c) is
11 amended to read as follows:

12 “(9) GIFT TAX ON CERTAIN GIFTS NOT SHOWN
13 ON RETURN.—If any gift of property the value of
14 which (or any increase in taxable gifts required
15 under section 2701(d) which) is required to be
16 shown on a return of tax imposed by chapter 12
17 (without regard to section 2503(b)), and is not
18 shown on such return, any tax imposed by chapter
19 12 on such gift may be assessed, or a proceeding in
20 court for the collection of such tax may be begun
21 without assessment, at any time. The preceding sen-
22 tence shall not apply to any item which is disclosed
23 in such return, or in a statement attached to the re-
24 turn, in a manner adequate to apprise the Secretary
25 of the nature of such item. The value of any item

1 which is so disclosed may not be redetermined by the
2 Secretary after the expiration of the period under
3 subsection (a).”.

4 (c) DECLARATORY JUDGMENT PROCEDURE FOR DE-
5 TERMINING VALUE OF GIFT.—

6 (1) IN GENERAL.—Part IV of subchapter C of
7 chapter 76 is amended by inserting after section
8 7476 the following new section:

9 **“SEC. 7477. DECLARATORY JUDGMENTS RELATING TO**
10 **VALUE OF CERTAIN GIFTS.**

11 “(a) CREATION OF REMEDY.—In a case of an actual
12 controversy involving a determination by the Secretary of
13 the value of any gift shown on the return of tax imposed
14 by chapter 12 or disclosed on such return or in any state-
15 ment attached to such return, upon the filing of an appro-
16 priate pleading, the Tax Court may make a declaration
17 of the value of such gift. Any such declaration shall have
18 the force and effect of a decision of the Tax Court and
19 shall be reviewable as such.

20 “(b) LIMITATIONS.—

21 “(1) PETITIONER.—A pleading may be filed
22 under this section only by the donor.

23 “(2) EXHAUSTION OF ADMINISTRATIVE REM-
24 EDIES.—The court shall not issue a declaratory
25 judgment or decree under this section in any pro-

1 ceeding unless it determines that the petitioner has
2 exhausted all available administrative remedies with-
3 in the Internal Revenue Service.

4 “(3) TIME FOR BRINGING ACTION.—If the Sec-
5 retary sends by certified or registered mail notice of
6 his determination as described in subsection (a) to
7 the petitioner, no proceeding may be initiated under
8 this section unless the pleading is filed before the
9 91st day after the date of such mailing.”.

10 (2) CLERICAL AMENDMENT.—The table of sec-
11 tions for such part IV is amended by inserting after
12 the item relating to section 7476 the following new
13 item:

“Sec. 7477. Declaratory judgments relating to value of certain
 gifts.”.

14 (d) CONFORMING AMENDMENT.—Subsection (c) of
15 section 2504 is amended by striking “, and if a tax under
16 this chapter or under corresponding provisions of prior
17 laws has been assessed or paid for such preceding calendar
18 period”.

19 (e) EFFECTIVE DATES.—

20 (1) IN GENERAL.—The amendments made by
21 subsections (a) and (c) shall apply to gifts made
22 after the date of the enactment of this Act.

23 (2) SUBSECTION (b)—The amendment made by
24 subsection (b) shall apply to gifts made in calendar

1 years ending after the date of the enactment of this
2 Act.

3 **SEC. 507. TERMINATION OF THROWBACK RULES FOR DO-**
4 **MESTIC TRUSTS.**

5 (a) ACCUMULATION DISTRIBUTIONS.—

6 (1) IN GENERAL.—Section 665 is amended by
7 adding at the end the following new subsection:

8 “(f) SPECIAL RULE FOR UNITED STATES TRUSTS.—
9 For purposes of this subpart, in the case of a trust other
10 than a foreign trust, any distribution in any taxable year
11 beginning after the date of the enactment of this sub-
12 section shall be computed without regard to any undistrib-
13 uted net income.”.

14 (2) CONFORMING AMENDMENT.—Subsection (b)
15 of section 665 is amended by inserting “except as
16 provided in subsection (f),” after “subpart,”.

17 (b) PROPERTY TRANSFERRED TO TRUSTS.—Sub-
18 section (e) of section 644 is amended by striking “or” at
19 the end of paragraph (3), by striking the period at the
20 end of paragraph (4) and inserting “, or ”, and by adding
21 at the end the following new paragraph:

22 “(5) in the case of a trust other than a foreign
23 trust, any sale or exchange of property after the
24 date of the enactment of this paragraph.”.

25 (c) EFFECTIVE DATES.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), the amendments made by this section
3 shall apply to distributions in taxable years begin-
4 ning after the date of the enactment of this Act.

5 (2) TRANSFERRED PROPERTY.—The amend-
6 ments made by subsection (b) shall apply to sales or
7 exchanges after the date of the enactment of this
8 Act.

9 **SEC. 508. UNIFIED CREDIT OF DECEDENT INCREASED BY**
10 **UNIFIED CREDIT OF SPOUSE USED ON SPLIT**
11 **GIFT INCLUDED IN DECEDENT'S GROSS ES-**
12 **TATE.**

13 (a) IN GENERAL.—Section 2010 (relating to unified
14 credit against estate tax) is amended by adding at the end
15 the following new subsection:

16 “(d) TREATMENT OF UNIFIED CREDIT USED BY
17 SPOUSE ON SPLIT-GIFT INCLUDED IN DECEDENT'S
18 GROSS ESTATE.—If—

19 “(1) the decedent was the donor of any gift
20 one-half of which was considered under section 2513
21 as made by the decedent's spouse, and

22 “(2) the amount of such gift is includible in the
23 gross estate of the decedent by reason of section
24 2035, 2036, 2037, or 2038,

1 the amount of the credit allowable by subsection (a) to
2 the estate of the decedent shall be increased by the amount
3 of the unified credit allowed against the tax imposed by
4 section 2501 on the amount of such gift considered under
5 section 2513 as made by such spouse.”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 subsection (a) shall apply to gifts made after the date of
8 the enactment of this Act.

9 **SEC. 509. REFORMATION OF DEFECTIVE BEQUESTS, ETC.,**
10 **TO SPOUSE OF DECEDENT.**

11 (a) IN GENERAL.—Subsection (b) of section 2056
12 (relating to bequests, etc., to surviving spouse) is amended
13 by adding at the end the following new paragraph:

14 “(11) REFORMATIONS PERMITTED.—

15 “(A) IN GENERAL.—In the case of any in-
16 terest in property with respect to which a de-
17 duction would be allowable under subsection (a)
18 but for a provision of this subsection, if—

19 “(i) the surviving spouse is entitled to
20 all of the income from the property for life,

21 “(ii) no person other than such spouse
22 is entitled to any distribution of such prop-
23 erty during such spouse’s life, and

24 “(iii) there is a change of a governing
25 instrument (by reformation, amendment,

1 construction, or otherwise) as of the appli-
2 cable date which results in the satisfaction
3 of the requirements of such provision as of
4 the date of the decedent's death,
5 the determination of whether such deduction is
6 allowable shall be made as of the applicable
7 date.

8 “(B) SPECIAL RULE WHERE TIMELY COM-
9 MENCEMENT OF REFORMATION.—Clauses (i)
10 and (ii) of subparagraph (A) shall not apply to
11 any interest if, not later than the date described
12 in subparagraph (C)(i), a judicial proceeding is
13 commenced to change such interest into an in-
14 terest which satisfies the requirements of the
15 provision by reason of which (but for this para-
16 graph) a deduction would not be allowable
17 under subsection (a) for such interest.

18 “(C) APPLICABLE DATE.—For purposes of
19 subparagraph (A), the term ‘applicable date’
20 means—

21 “(i) the last date (including exten-
22 sions) for filing the return of tax imposed
23 by this chapter, or

24 “(ii) if a judicial proceeding is com-
25 menced to comply with such provision, the

1 time when the changes pursuant to such
2 proceeding are made.

3 “(D) SPECIAL RULE.—If the change re-
4 ferred to in subparagraph (A)(iii) is to qualify
5 the passage of the interest under paragraph
6 (7), subparagraph (A) shall apply only if the
7 election under paragraph (7)(B) is made.

8 “(E) STATUTE OF LIMITATIONS.—If a ju-
9 dicial proceeding described in subparagraph
10 (C)(ii) is commenced with respect to any inter-
11 est, the period for assessing any deficiency of
12 tax attributable to such interest shall not expire
13 before the date 1 year after the date on which
14 the Secretary is notified that such provision has
15 been complied with or that such proceeding has
16 been terminated.”.

17 (b) COMPARABLE RULE FOR GIFT TAX.—Section
18 2523 (relating to gift to spouse) is amended by adding
19 at the end the following new subsection:

20 “(j) REFORMATIONS PERMITTED.—Rules similar to
21 the rules of section 2056(b)(11) shall apply for purposes
22 of this section.”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to estates of decedents dying, and
25 gifts made, after the date of the enactment of this Act.

1 **Subtitle B—Generation-Skipping**
2 **Tax Provisions**

3 **SEC. 511. SEVERING OF TRUSTS HOLDING PROPERTY HAV-**
4 **ING AN INCLUSION RATIO OF GREATER THAN**
5 **ZERO.**

6 (a) IN GENERAL.—Subsection (a) of section 2642
7 (relating to inclusion ratio) is amended by adding at the
8 end the following new paragraph:

9 “(3) SEVERING OF TRUSTS HOLDING PROPERTY
10 HAVING AN INCLUSION RATIO OF GREATER THAN
11 ZERO.—

12 “(A) IN GENERAL.—If a trust holding
13 property having an inclusion ratio of greater
14 than zero is severed in a qualified severance, at
15 the election of the trustee of such trust, the
16 trusts resulting from such severance shall be
17 treated as separate trusts for purposes of this
18 chapter and 1 such trust shall have an inclusion
19 ratio of 1 and the other such trust shall have
20 an inclusion ratio of zero.

21 “(B) QUALIFIED SEVERANCE.—For pur-
22 poses of subparagraph (A), the term ‘qualified
23 severance’ means the creation of 2 trusts from
24 a single trust if each property held by the single
25 trust was divided between the 2 created trusts

1 such that one trust received an interest in each
2 such property equal to the applicable fraction of
3 the single trust. Such term includes any other
4 severance permitted under regulations pre-
5 scribed by the Secretary.

6 “(C) ELECTION.—The election under this
7 paragraph shall be made at the time prescribed
8 by the Secretary. Such an election, once made,
9 shall be irrevocable.”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall apply to severances after the date of
12 the enactment of this Act.

13 **SEC. 512. EXPANSION OF EXCEPTION FROM GENERATION-**
14 **SKIPPING TRANSFER TAX FOR TRANSFERS**
15 **TO INDIVIDUALS WITH DECEASED PARENTS.**

16 (a) IN GENERAL.—Section 2651 (relating to genera-
17 tion assignment) is amended by redesignating subsection
18 (e) as subsection (f), and by inserting after subsection (d)
19 the following new subsection:

20 “(e) SPECIAL RULE FOR PERSONS WITH A DE-
21 CEASED PARENT.—

22 “(1) IN GENERAL.—For purposes of determin-
23 ing whether any transfer is a generation-skipping
24 transfer, if—

1 “(A) an individual is a descendant of a
2 parent of the transferor (or the transferor’s
3 spouse or former spouse), and

4 “(B) such individual’s parent who is a lin-
5 eal descendant of the parent of the transferor
6 (or the transferor’s spouse or former spouse) is
7 dead at the time the transfer (from which an
8 interest of such individual is established or de-
9 rived) is subject to a tax imposed by chapter 11
10 or 12 upon the transferor (and if there shall be
11 more than 1 such time, then at the earliest
12 such time),

13 such individual shall be treated as if such individual
14 were a member of the generation which is 1 genera-
15 tion below the lower of the transferor’s generation or
16 the generation assignment of the youngest living an-
17 cestor of such individual who is also a descendant of
18 the parent of the transferor (or the transferor’s
19 spouse or former spouse), and the generation assign-
20 ment of any descendant of such individual shall be
21 adjusted accordingly.

22 “(2) LIMITED APPLICATION OF SUBSECTION TO
23 COLLATERAL HEIRS.—This subsection shall not
24 apply with respect to a transfer to any individual
25 who is not a lineal descendant of the transferor (or

1 the transferor's spouse or former spouse) if, at the
2 time of the transfer, such transferor has any living
3 lineal descendant.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 2612(c) (defining direct skip) is
6 amended by striking paragraph (2) and by redesignig-
7 nating paragraph (3) as paragraph (2).

8 (2) Section 2612(c)(2) (as so redesignated) is
9 amended by striking “section 2651(e)(2)” and in-
10 sserting “section 2651(f)(2)”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to terminations, distributions, and
13 transfers occurring after December 31, 1997.

14 **TITLE VI—EXTENSIONS**

15 **SEC. 601. RESEARCH TAX CREDIT.**

16 (a) IN GENERAL.—Paragraph (1) of section 41(h)
17 (relating to termination) is amended—

18 (1) by striking “May 31, 1997” and inserting
19 “December 31, 1998”, and

20 (2) by striking in the last sentence “during the
21 first 11 months of such taxable year.” and inserting
22 “during the 30-month period beginning with the
23 first month of such year. The 30 months referred to
24 in the preceding sentence shall be reduced by the
25 number of full months after June 1996 (and before

1 the first month of such first taxable year) during
2 which the taxpayer paid or incurred any amount
3 which is taken into account in determining the credit
4 under this section.”.

5 (b) TECHNICAL AMENDMENTS.—

6 (1) Subparagraph (B) of section 41(c)(4) is
7 amended to read as follows:

8 “(B) ELECTION.—An election under this
9 paragraph shall apply to the taxable year for
10 which made and all succeeding taxable years
11 unless revoked with the consent of the Sec-
12 retary.”.

13 (2) Paragraph (1) of section 45C(b) is amended
14 by striking “May 31, 1997” and inserting “Decem-
15 ber 31, 1998”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to amounts paid or incurred after
18 May 31, 1997.

19 **SEC. 602. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDA-**
20 **TIONS.**

21 (a) IN GENERAL.—Clause (ii) of section
22 170(e)(5)(D) (relating to termination) is amended by
23 striking “May 31, 1997” and inserting “December 31,
24 1998”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to contributions made after May
3 31, 1997.

4 **SEC. 603. WORK OPPORTUNITY TAX CREDIT.**

5 (a) EXTENSION.—

6 (1) IN GENERAL.—Subparagraph (B) of section
7 51(c)(4) (relating to termination) is amended by
8 striking “September 30, 1997” and inserting “Sep-
9 tember 30, 1998”.

10 (2) EFFECTIVE DATE.—The amendment made
11 by paragraph (1) shall apply to individuals who
12 begin work for the employer after September 30,
13 1997.

14 (b) WORK OPPORTUNITY CREDIT ALLOWED
15 AGAINST MINIMUM TAX.—

16 (1) IN GENERAL.—Subsection (c) of section 38
17 (relating to limitation based on amount of tax) is
18 amended by redesignating paragraph (3) as para-
19 graph (4) and by inserting after paragraph (2) the
20 following new paragraph:

21 “(3) SPECIAL RULES FOR WORK OPPORTUNITY
22 CREDIT.—

23 “(A) IN GENERAL.—In the case of the
24 work opportunity credit—

1 “(i) this section and section 39 shall
2 be applied separately with respect to the
3 credit, and

4 “(ii) in applying paragraph (1) to the
5 credit—

6 “(I) subparagraph (A) shall not
7 apply, and

8 “(II) the limitation under para-
9 graph (1) (as modified by subclause
10 (I)) shall be reduced by the credit al-
11 lowed under subsection (a) for the
12 taxable year (other than the work op-
13 portunity credit).

14 “(B) WORK OPPORTUNITY CREDIT.—For
15 purposes of this subsection, the term ‘work op-
16 portunity credit’ means the credit allowable
17 under subsection (a) by reason of section
18 51(a).”.

19 (2) CONFORMING AMENDMENT.—Subclause (II)
20 of section 38(c)(2)(A)(ii) is amended by inserting
21 “or the work opportunity credit” after “employment
22 credit”.

23 (3) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply to taxable years begin-
25 ning after December 31, 1997.

1 (c) PERCENTAGE OF WAGES ALLOWED AS CRED-
2 IT.—

3 (1) IN GENERAL.—Subsection (a) of section 51
4 (relating to determination of amount) is amended by
5 striking “35 percent” and inserting “40 percent”.

6 (2) APPLICATION OF CREDIT FOR INDIVIDUALS
7 PERFORMING FEWER THAN 400 HOURS OF SERV-
8 ICES.—Paragraph (3) of section 51(i) is amended to
9 read as follows:

10 “(3) INDIVIDUALS NOT MEETING MINIMUM EM-
11 PLOYMENT PERIODS.—

12 “(A) REDUCTION OF CREDIT FOR INDIVID-
13 UALS PERFORMING FEWER THAN 400 HOURS OF
14 SERVICES.—In the case of an individual who
15 has completed at least 120 hours, but less than
16 400 hours, of services performed for the em-
17 ployer, subsection (a) shall be applied by sub-
18 stituting ‘25 percent’ for ‘40 percent’.

19 “(B) DENIAL OF CREDIT FOR INDIVIDUALS
20 PERFORMING FEWER THAN 120 HOURS OF
21 SERVICES.—No wages shall be taken into ac-
22 count under subsection (a) with respect to any
23 individual unless such individual has completed
24 at least 120 hours of services performed for the
25 employer.”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to individuals who
3 begin work for the employer after September 30,
4 1997.

5 (d) MODIFICATION OF ELIGIBILITY REQUIREMENT
6 BASED ON PERIOD ON WELFARE.—

7 (1) IN GENERAL.—Subparagraph (A) of section
8 51(d)(2) (defining qualified IV–A recipient) is
9 amended by striking all that follows “a IV–A pro-
10 gram” and inserting “for any 9 months during the
11 18-month period ending on the hiring date.”.

12 (2) CONFORMING AMENDMENT.—Subparagraph
13 (A) of section 51(d)(3) is amended to read as fol-
14 lows:

15 “(A) IN GENERAL.—The term ‘qualified
16 veteran’ means any veteran who is certified by
17 the designated local agency as being a member
18 of a family receiving assistance under a food
19 stamp program under the Food Stamp Act of
20 1977 for at least a 3-month period ending dur-
21 ing the 12-month period ending on the hiring
22 date.”.

23 (3) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply to individuals who

1 begin work for the employer after September 30,
2 1997.

3 **SEC. 604. ORPHAN DRUG TAX CREDIT.**

4 (a) IN GENERAL.—Section 45C (relating to clinical
5 testing expenses for certain drugs for rare diseases or con-
6 ditions) is amended by striking subsection (e).

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall apply to amounts paid or incurred
9 after May 31, 1997.

10 **SEC. 605. BUDGETARY TREATMENT OF EXPIRING PREF-**
11 **ERENTIAL EXCISE TAX RATES WHICH ARE**
12 **DEDICATED TO TRUST FUNDS.**

13 (a) IN GENERAL.—Subparagraph (C) of section
14 257(b)(2) of the Balanced Budget and Emergency Deficit
15 Control Act of 1985 (relating to the baseline) is amended
16 by inserting before the period “; except that any expiring
17 preferential rate (and any credit or refund related thereto)
18 shall be assumed not to be extended”.

19 (b) ESTIMATE OF REVENUE GAIN FROM CORRECT-
20 ING BASELINE.—For purposes of estimating revenues
21 under budget reconciliation, the impact of the amendment
22 made by subsection (a) on the calculation of the baseline
23 shall be determined in the same manner as if such amend-
24 ment were an amendment to the Internal Revenue Code
25 of 1986.

1 (c) BUDGET ACT POINT OF ORDER.—For purposes
 2 of section 311(a) of the Congressional Budget Act of
 3 1974, the appropriate level of revenues shall be deter-
 4 mined on the assumption that any expiring preferential
 5 rate (and any credit or refund related thereto) of any ex-
 6 cise tax dedicated to a trust fund shall expire according
 7 to current law.

8 (d) EFFECTIVE DATE.—The amendment made by
 9 subsection (a) shall apply to budget years beginning after
 10 the date of the enactment of this Act.

11 **TITLE VII—INCENTIVES FOR RE-**
 12 **VITALIZATION OF THE DIS-**
 13 **TRICT OF COLUMBIA**

14 **SEC. 701. TAX INCENTIVES FOR REVITALIZATION OF THE**
 15 **DISTRICT OF COLUMBIA.**

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

18 **“Subchapter W—District of Columbia**
 19 **Enterprise Zone**

“Sec. 1400. Establishment of DC Zone.

“Sec. 1400A. Tax-exempt economic development bonds.

“Sec. 1400B. Credit for equity investments in and loans to Dis-
 trict of Columbia businesses.

“Sec. 1400C. Zero percent capital gains rate.

“Sec. 1400D. Credit to provide equivalent of 10 percent rate
 bracket in lieu of 15 percent bracket.

20 **“SEC. 1400. ESTABLISHMENT OF DC ZONE.**

21 **“(a) IN GENERAL.—**The applicable DC area is here-
 22 **by designated as the District of Columbia Enterprise**

1 Zone. For purposes of this title (except as otherwise pro-
2 vided in this subchapter), the District of Columbia Enter-
3 prise Zone shall be treated as an empowerment zone des-
4 ignated under subchapter U.

5 “(b) APPLICABLE DC AREA.—For purposes of sub-
6 section (a), the term ‘applicable DC area’ means the area
7 consisting of—

8 “(1) the census tracts located in the District of
9 Columbia which are part of an enterprise community
10 designated under subchapter U before the date of
11 the enactment of this subchapter, and

12 “(2) all other census tracts—

13 “(A) which are located in the District of
14 Columbia, and

15 “(B) for which the poverty rate is not less
16 than 35 percent.

17 “(c) DISTRICT OF COLUMBIA ENTERPRISE ZONE.—
18 For purposes of this subchapter, the terms ‘District of Co-
19 lumbia Enterprise Zone’ and ‘DC Zone’ mean the District
20 of Columbia Enterprise Zone designated by subsection (a).

21 “(d) SPECIAL RULE FOR APPLICATION OF EMPLOY-
22 MENT CREDIT.—In the case of the DC Zone, section 1396
23 (relating to empowerment zone employment credit) shall
24 be applied by substituting “20” for “15” in the table con-
25 tained in section 1396(b). The preceding sentence shall

1 apply only with respect to qualified zone employees, as de-
 2 fined in section 1396(d), determined by treating no area
 3 other than the DC Zone as an empowerment zone or en-
 4 terprise community.

5 “(e) TIME FOR WHICH DESIGNATION APPLICA-
 6 BLE.—

7 “(1) IN GENERAL.—The designation made by
 8 subsection (a) shall apply for the period beginning
 9 on January 1, 1998, and ending on December 31,
 10 2002.

11 “(2) COORDINATION WITH DC ENTERPRISE
 12 COMMUNITY DESIGNATED UNDER SUBCHAPTER U.—
 13 The designation as an enterprise community, under
 14 subchapter U, of the census tracts referred to in
 15 subsection (b)(1) shall terminate on December 31,
 16 2002.

17 **“SEC. 1400A. TAX-EXEMPT ECONOMIC DEVELOPMENT**
 18 **BONDS.**

19 “(a) IN GENERAL.—In the case of the District of Co-
 20 lumbia Enterprise Zone—

21 “(1) subsection (a) of section 1394 (relating to
 22 tax-exempt facility bonds for empowerment zones
 23 and enterprise communities) applies only with re-
 24 spect to bonds issued by the Economic Development
 25 Corporation, and

1 “(2) subparagraph (A) of section 1394(e)(1)
2 (relating to limitation on amount of bonds) shall be
3 applied by substituting ‘\$15,000,000’ for
4 ‘\$3,000,000’.

5 “(b) ECONOMIC DEVELOPMENT CORPORATION.—For
6 purposes of this section, the term ‘Economic Development
7 Corporation’ means an entity which is created by Federal
8 law in 1997 as part of the District of Columbia govern-
9 ment.

10 “(c) PERIOD OF APPLICABILITY.—This section shall
11 apply to bonds issued during the period beginning on Jan-
12 uary 1, 1998, and ending on December 31, 2002.

13 **“SEC. 1400B. CREDIT FOR EQUITY INVESTMENTS IN AND**
14 **LOANS TO DISTRICT OF COLUMBIA BUSI-**
15 **NESSES.**

16 “(a) GENERAL RULE.—For purposes of section 38,
17 the DC Zone investment credit determined under this sec-
18 tion for any taxable year is—

19 “(1) the qualified lender credit for such year,
20 and

21 “(2) the qualified equity investment credit for
22 such year.

23 “(b) QUALIFIED LENDER CREDIT.—For purposes of
24 this section—

1 “(1) IN GENERAL.—The qualified lender credit
2 for any taxable year is the amount of credit specified
3 for such year by the Economic Development Cor-
4 poration with respect to qualified District loans
5 made by the taxpayer.

6 “(2) LIMITATION.—In no event may the quali-
7 fied lender credit with respect to any loan exceed 25
8 percent of the cost of the property purchased with
9 the proceeds of the loan.

10 “(3) QUALIFIED DISTRICT LOAN.—For pur-
11 poses of paragraph (1), the term ‘qualified district
12 loan’ means any loan for the purchase (as defined in
13 section 179(d)(2)) of property to which section 168
14 applies (or would apply but for section 179) (or land
15 which is functionally related and subordinate to such
16 property) and substantially all of the use of which
17 is in the District of Columbia and is in the active
18 conduct of a trade or business in the District of Co-
19 lumbia. A rule similar to the rule of section
20 1397C(a)(2) shall apply for purposes of the preced-
21 ing sentence.

22 “(c) QUALIFIED EQUITY INVESTMENT CREDIT.—

23 “(1) IN GENERAL.—For purposes of this sec-
24 tion, the qualified equity investment credit deter-
25 mined under this section for any taxable year is an

1 amount equal to the percentage specified by the
2 Economic Development Corporation (but not greater
3 than 25 percent) of the aggregate amount paid in
4 cash by the taxpayer during the taxable year for the
5 purchase of District business investments.

6 “(2) DISTRICT BUSINESS INVESTMENT.—For
7 purposes of this subsection, the term ‘District busi-
8 ness investment’ means—

9 “(A) any District business stock, and

10 “(B) any District partnership interest.

11 “(3) DISTRICT BUSINESS STOCK.—For pur-
12 poses of this subsection—

13 “(A) IN GENERAL.—Except as provided in
14 subparagraph (B), the term ‘District business
15 stock’ means any stock in a domestic corpora-
16 tion if—

17 “(i) such stock is acquired by the tax-
18 payer at its original issue (directly or
19 through an underwriter) solely in exchange
20 for cash, and

21 “(ii) as of the time such stock was is-
22 sued, such corporation was engaged in a
23 trade or business in the District of Colum-
24 bia (or, in the case of a new corporation,
25 such corporation was being organized for

1 purposes of engaging in such a trade or
2 business).

3 “(B) REDEMPTIONS.—A rule similar to
4 the rule of section 1202(c)(3) shall apply for
5 purposes of this paragraph.

6 “(4) QUALIFIED DISTRICT PARTNERSHIP IN-
7 TEREST.—For purposes of this subsection, the term
8 ‘qualified District partnership interest’ means any
9 interest in a partnership if—

10 “(A) such interest is acquired by the tax-
11 payer from the partnership solely in exchange
12 for cash, and

13 “(B) as of the time such interest was ac-
14 quired, such partnership was engaging in a
15 trade or business in the District of Columbia
16 (or, in the case of a new partnership, such part-
17 nership was being organized for purposes of en-
18 gaging in such a trade or business).

19 A rule similar to the rule of paragraph (3)(B) shall
20 apply for purposes of this paragraph.

21 “(5) RECAPTURE OF CREDIT UPON CERTAIN
22 DISPOSITIONS OF DISTRICT BUSINESS INVEST-
23 MENTS.—

24 “(A) IN GENERAL.—If a taxpayer disposes
25 of any District business investment (or any

1 other property the basis of which is determined
2 in whole or in part by reference to the adjusted
3 basis of such investment) before the end of the
4 5-year period beginning on the date such invest-
5 ment was acquired by the taxpayer, the tax-
6 payer's tax imposed by this chapter for the tax-
7 able year in which such distribution occurs shall
8 be increased by the aggregate decrease in the
9 credits allowed under section 38 for all prior
10 taxable years which would have resulted solely
11 from reducing to zero any credit determined
12 under this section with respect to such invest-
13 ment.

14 “(B) EXCEPTIONS.—Subparagraph (A)
15 shall not apply to any gift, transfer, or trans-
16 action described in paragraph (1), (2), or (3) of
17 section 1245(b).

18 “(C) SPECIAL RULE.—Any increase in tax
19 under subparagraph (A) shall not be treated as
20 a tax imposed by this chapter for purposes of—

21 “(i) determining the amount of any
22 credit allowable under this chapter, and

23 “(ii) determining the amount of the
24 tax imposed by section 55.

1 “(6) BASIS REDUCTION.—For purposes of this
2 title, the basis of any District business investment
3 shall be reduced by the amount of the credit deter-
4 mined under this section with respect to such invest-
5 ment.

6 “(d) LIMITATION ON AMOUNT OF CREDIT.—

7 “(1) IN GENERAL.—The amount of the DC
8 Zone investment credit determined under this sec-
9 tion with respect to any taxpayer for any taxable
10 year shall not exceed the credit amount allocated to
11 such taxpayer for such taxable year by the Economic
12 Development Corporation.

13 “(2) OVERALL LIMITATION.—The aggregate
14 credit amount which may be allocated by the Eco-
15 nomic Development Corporation under this section
16 shall not exceed \$75,000,000.

17 “(3) CRITERIA FOR ALLOCATING CREDIT
18 AMOUNTS.—The allocation of credit amounts under
19 this section shall be made in accordance with criteria
20 established by the Economic Development Corpora-
21 tion. In establishing such criteria, such Corporation
22 shall take into account—

23 “(A) the degree to which the business re-
24 ceiving the loan or investment will provide job

1 opportunities for low and moderate income resi-
2 dents of the DC Zone, and

3 “(B) whether such business is within the
4 DC Zone.

5 “(e) ECONOMIC DEVELOPMENT CORPORATION.—For
6 purposes of this section, the term ‘Economic Development
7 Corporation’ has the meaning given such term by section
8 1400A(b).

9 “(f) REGULATIONS.—The Secretary shall prescribe
10 such regulations as may be appropriate to carry out this
11 section.

12 “(g) APPLICATION OF SECTION.—This section shall
13 apply to any credit amount allocated for taxable years be-
14 ginning after December 31, 1997, and before January 1,
15 2003.

16 **“SEC. 1400C. ZERO PERCENT CAPITAL GAINS RATE.**

17 “(a) EXCLUSION.—Gross income shall not include
18 qualified capital gain from the sale or exchange of any
19 DC Zone asset held for more than 5 years.

20 “(b) DC ZONE ASSET.—For purposes of this sec-
21 tion—

22 “(1) IN GENERAL.—The term ‘DC Zone asset’
23 means—

24 “(A) any DC Zone business stock,

1 “(B) any DC Zone partnership interest,
2 and

3 “(C) any DC Zone business property.

4 “(2) DC ZONE BUSINESS STOCK.—

5 “(A) IN GENERAL.—The term ‘DC Zone
6 business stock’ means any stock in a domestic
7 corporation which is originally issued after De-
8 cember 31, 1997, if—

9 “(i) such stock is acquired by the tax-
10 payer, before January 1, 2003, at its origi-
11 nal issue (directly or through an under-
12 writer) solely in exchange for cash,

13 “(ii) as of the time such stock was is-
14 sued, such corporation was a DC Zone
15 business (or, in the case of a new corpora-
16 tion, such corporation was being organized
17 for purposes of being a DC Zone business),
18 and

19 “(iii) during substantially all of the
20 taxpayer’s holding period for such stock,
21 such corporation qualified as a DC Zone
22 business.

23 “(B) REDEMPTIONS.—A rule similar to
24 the rule of section 1202(c)(3) shall apply for
25 purposes of this paragraph.

1 “(3) DC ZONE PARTNERSHIP INTEREST.—The
2 term ‘DC Zone partnership interest’ means any cap-
3 ital or profits interest in a domestic partnership
4 which is originally issued after December 31, 1997,
5 if—

6 “(A) such interest is acquired by the tax-
7 payer, before January 1, 2003, from the part-
8 nership solely in exchange for cash,

9 “(B) as of the time such interest was ac-
10 quired, such partnership was a DC Zone busi-
11 ness (or, in the case of a new partnership, such
12 partnership was being organized for purposes of
13 being a DC Zone business), and

14 “(C) during substantially all of the tax-
15 payer’s holding period for such interest, such
16 partnership qualified as a DC Zone business.

17 A rule similar to the rule of paragraph (2)(B) shall
18 apply for purposes of this paragraph.

19 “(4) DC ZONE BUSINESS PROPERTY.—

20 “(A) IN GENERAL.—The term ‘DC Zone
21 business property’ means tangible property if—

22 “(i) such property was acquired by
23 the taxpayer by purchase (as defined in
24 section 179(d)(2)) after December 31,
25 1997, and before January 1, 2003,

1 “(ii) the original use of such property
2 in the DC Zone commences with the tax-
3 payer, and

4 “(iii) during substantially all of the
5 taxpayer’s holding period for such prop-
6 erty, substantially all of the use of such
7 property was in a DC Zone business of the
8 taxpayer.

9 “(B) SPECIAL RULE FOR BUILDINGS
10 WHICH ARE SUBSTANTIALLY IMPROVED.—

11 “(i) IN GENERAL.—The requirements
12 of clauses (i) and (ii) of subparagraph (A)
13 shall be treated as met with respect to—

14 “(I) property which is substan-
15 tially improved by the taxpayer before
16 January 1, 2003, and

17 “(II) any land on which such
18 property is located.

19 “(ii) SUBSTANTIAL IMPROVEMENT.—
20 For purposes of clause (i), property shall
21 be treated as substantially improved by the
22 taxpayer only if, during any 24-month pe-
23 riod beginning after December 31, 1997,
24 additions to basis with respect to such

1 property in the hands of the taxpayer ex-
2 ceed the greater of—

3 “(I) an amount equal to the ad-
4 justed basis of such property at the
5 beginning of such 24-month period in
6 the hands of the taxpayer, or

7 “(II) \$5,000.

8 “(6) TREATMENT OF SUBSEQUENT PUR-
9 CHASERS, ETC.—The term ‘DC Zone asset’ includes
10 any property which would be a DC Zone asset but
11 for paragraph (2)(A)(i), (3)(A), or (4)(A)(ii) in the
12 hands of the taxpayer if such property was a DC
13 Zone asset in the hands of a prior holder.

14 “(7) 5-YEAR SAFE HARBOR.—If any property
15 ceases to be a DC Zone asset by reason of para-
16 graph (2)(A)(iii), (3)(C), or (4)(A)(iii) after the 5-
17 year period beginning on the date the taxpayer ac-
18 quired such property, such property shall continue to
19 be treated as meeting the requirements of such
20 paragraph; except that the amount of gain to which
21 subsection (a) applies on any sale or exchange of
22 such property shall not exceed the amount which
23 would be qualified capital gain had such property
24 been sold on the date of such cessation.

1 “(c) DC ZONE BUSINESS.—For purposes of this sec-
2 tion, the term ‘DC Zone business’ means any entity which
3 is an enterprise zone business (as defined in section
4 1397B), determined by treating no area other than the
5 DC Zone as an empowerment zone or enterprise commu-
6 nity.

7 “(d) OTHER DEFINITIONS AND SPECIAL RULES.—
8 For purposes of this section—

9 “(1) QUALIFIED CAPITAL GAIN.—Except as
10 otherwise provided in this subsection, the term
11 ‘qualified capital gain’ means any gain recognized on
12 the sale or exchange of—

13 “(A) a capital asset, or

14 “(B) property used in the trade or busi-
15 ness (as defined in section 1231(b)).

16 “(2) GAIN BEFORE 1998 OR AFTER 2007 NOT
17 QUALIFIED.—The term ‘qualified capital gain’ shall
18 not include any gain attributable to periods before
19 January 1, 1998, or after December 31, 2007.

20 “(3) CERTAIN GAIN ON REAL PROPERTY NOT
21 QUALIFIED.—The term ‘qualified capital gain’ shall
22 not include any gain which would be treated as ordi-
23 nary income under section 1250 if section 1250 ap-
24 plied to all depreciation rather than the additional
25 depreciation.

1 “(4) INTANGIBLES AND LAND NOT INTEGRAL
2 PART OF DC ZONE BUSINESS.—The term ‘qualified
3 capital gain’ shall not include any gain which is at-
4 tributable to real property, or an intangible asset,
5 which is not an integral part of a DC Zone business.

6 “(5) RELATED PARTY TRANSACTIONS.—The
7 term ‘qualified capital gain’ shall not include any
8 gain attributable, directly or indirectly, in whole or
9 in part, to a transaction with a related person. For
10 purposes of this paragraph, persons are related to
11 each other if such persons are described in section
12 267(b) or 707(b)(1).

13 “(e) CERTAIN OTHER RULES TO APPLY.—Rules
14 similar to the rules of subsections (g), (h), (i)(2), and (j)
15 of section 1202 shall apply for purposes of this section.

16 “(f) SALES AND EXCHANGES OF INTERESTS IN
17 PARTNERSHIPS AND S CORPORATIONS WHICH ARE DC
18 ZONE BUSINESSES.—In the case of the sale or exchange
19 of an interest in a partnership, or of stock in an S corpora-
20 tion, which was a DC Zone business during substantially
21 all of the period the taxpayer held such interest or stock,
22 the amount of qualified capital gain shall be determined
23 without regard to—

1 “(1) any gain which is attributable to real prop-
2 erty, or an intangible asset, which is not an integral
3 part of a DC Zone business, and

4 “(2) any gain attributable to periods before
5 January 1, 1998, or after December 31, 2007.

6 **“SEC. 1400D. CREDIT TO PROVIDE EQUIVALENT OF 10 PER-**
7 **CENT RATE BRACKET IN LIEU OF 15 PER-**
8 **CENT BRACKET.**

9 “(a) IN GENERAL.—In the case of a DC Zone indi-
10 vidual, there shall be allowed as a credit against the tax
11 imposed by this chapter for the taxable year an amount
12 equal to 5 percent of so much of the taxpayer’s taxable
13 income for the year as does not exceed the highest amount
14 of such income which is subject to the 15 percent rate
15 under section 1.

16 “(b) DC ZONE INDIVIDUAL.—For purposes of this
17 section, the term ‘DC Zone individual’ means an individ-
18 ual who has a principal place of abode in the District of
19 Columbia Enterprise Zone for not less than 183 days of
20 the taxable year.

21 “(c) CREDIT NOT TO APPLY TO ESTATE OR
22 TRUST.—This section shall not apply to an estate or trust.

23 “(d) COORDINATION WITH OTHER CREDITS.—For
24 purposes of this chapter, the credit under this section shall

1 be treated as a credit under subpart A of part IV of sub-
2 chapter A.

3 “(e) TERMINATION.—This section shall not apply to
4 any taxable year beginning after December 31, 2007.”.

5 (b) CREDITS MADE PART OF GENERAL BUSINESS
6 CREDIT.—

7 (1) Subsection (b) of section 38 is amended by
8 striking “plus” at the end of paragraph (11), by
9 striking the period at the end of paragraph (12) and
10 inserting “, plus”, and by adding at the end the fol-
11 lowing new paragraph:

12 “(13) the DC Zone investment credit deter-
13 mined under section 1400B(a).”.

14 (2) Subsection (d) of section 39 is amended by
15 adding at the end the following new paragraph:

16 “(8) NO CARRYBACK OF DC ZONE CREDITS BE-
17 FORE EFFECTIVE DATE.—No portion of the unused
18 business credit for any taxable year which is attrib-
19 utable to the credit under section 1400B, or to the
20 credits under subchapter U by reason of section
21 1400, may be carried back to a taxable year ending
22 before the date of the enactment of sections 1400B
23 and 1400.”.

24 (3) Subsection (c) of section 196 is amended by
25 striking “and” at the end of paragraph (6), by strik-

1 ing the period at the end of paragraph (7) and in-
 2 serting “, and”, and by adding at the end the follow-
 3 ing new paragraph:

4 “(8) the DC Zone investment credit determined
 5 under section 1400B(a).”.

6 (c) CLERICAL AMENDMENT.—The table of sub-
 7 chapters for chapter 1 is amended by adding at the end
 8 the following new item:

 “Subchapter W. District of Columbia Enterprise Zone.”.

9 (d) EFFECTIVE DATE.—This section shall take effect
 10 on the date of the enactment of this Act.

11 **SEC. 702. INCENTIVES CONDITIONED ON OTHER DC RE-**
 12 **FORM.**

13 The amendments made by section 701 shall not take
 14 effect unless an entity known as the Economic Develop-
 15 ment Corporation is created by Federal law in 1997 as
 16 part of the District of Columbia government.

17 **TITLE VIII—WELFARE-TO-WORK**
 18 **INCENTIVES**

19 **SEC. 801. INCENTIVES FOR EMPLOYING LONG-TERM FAM-**
 20 **ILY ASSISTANCE RECIPIENTS.**

21 (a) IN GENERAL.—Subpart F of part IV of sub-
 22 chapter A of chapter 1 is amended by inserting after sec-
 23 tion 51 the following new section:

1 **“SEC. 51A. TEMPORARY INCENTIVES FOR EMPLOYING**
2 **LONG-TERM FAMILY ASSISTANCE RECIPI-**
3 **ENTS.**

4 “(a) DETERMINATION OF AMOUNT.—For purposes of
5 section 38, the amount of the welfare-to-work credit deter-
6 mined under this section for the taxable year shall be
7 equal to—

8 “(1) 35 percent of the qualified first-year wages
9 for such year, and

10 “(2) 50 percent of the qualified second-year
11 wages for such year.

12 “(b) QUALIFIED WAGES DEFINED.—For purposes of
13 this section—

14 “(1) IN GENERAL.—The term ‘qualified wages’
15 means the wages paid or incurred by the employer
16 during the taxable year to individuals who are long-
17 term family assistance recipients.

18 “(2) QUALIFIED FIRST-YEAR WAGES.—The
19 term ‘qualified first-year wages’ means, with respect
20 to any individual, qualified wages attributable to
21 service rendered during the 1-year period beginning
22 with the day the individual begins work for the em-
23 ployer.

24 “(3) QUALIFIED SECOND-YEAR WAGES.—The
25 term ‘qualified second-year wages’ means, with re-
26 spect to any individual, qualified wages attributable

1 to service rendered during the 1-year period begin-
2 ning on the day after the last day of the 1-year pe-
3 riod with respect to such individual determined
4 under paragraph (2).

5 “(4) ONLY FIRST \$10,000 OF WAGES PER YEAR
6 TAKEN INTO ACCOUNT.—The amount of the quali-
7 fied first-year wages, and the amount of qualified
8 second-year wages, which may be taken into account
9 with respect to any individual shall not exceed
10 \$10,000 per year.

11 “(5) WAGES.—

12 “(A) IN GENERAL.—The term ‘wages’ has
13 the meaning given such term by section 51(c),
14 without regard to paragraph (4) thereof.

15 “(B) CERTAIN AMOUNTS TREATED AS
16 WAGES.—The term ‘wages’ includes amounts
17 paid or incurred by the employer which are ex-
18 cludable from such recipient’s gross income
19 under—

20 “(i) section 105 (relating to amounts
21 received under accident and health plans),

22 “(ii) section 106 (relating to contribu-
23 tions by employer to accident and health
24 plans),

1 “(iii) section 127 (relating to edu-
2 cational assistance programs) or would be
3 so excludable but for section 127(d), but
4 only to the extent paid or incurred to a
5 person not related to the employer, or

6 “(iv) section 129 (relating to depend-
7 ent care assistance programs).

8 The amount treated as wages by clause (i) or
9 (ii) for any period shall be based on the reason-
10 able cost of coverage for the period, but shall
11 not exceed the applicable premium for the pe-
12 riod under section 4980B(f)(4).

13 “(C) SPECIAL RULES FOR AGRICULTURAL
14 AND RAILWAY LABOR.—If such recipient is an
15 employee to whom subparagraph (A) or (B) of
16 section 51(h)(1) applies, rules similar to the
17 rules of such subparagraphs shall apply except
18 that—

19 “(i) such subparagraph (A) shall be
20 applied by substituting ‘\$10,000’ for
21 ‘\$6,000’, and

22 “(ii) such subparagraph (B) shall be
23 applied by substituting ‘\$833.33’ for
24 ‘\$500’.

1 “(c) LONG-TERM FAMILY ASSISTANCE RECIPI-
2 ENTS.—For purposes of this section—

3 “(1) IN GENERAL.—The term ‘long-term family
4 assistance recipient’ means any individual who is
5 certified by the designated local agency (as defined
6 in section 51(d)(10))—

7 “(A) as being a member of a family receiv-
8 ing assistance under a IV-A program (as de-
9 fined in section 51(d)(2)(B)) for at least the
10 18-month period ending on the hiring date.

11 “(B)(i) as being a member of a family re-
12 ceiving such assistance for 18 months beginning
13 after the date of the enactment of this section,
14 and

15 “(ii) as having a hiring date which is not
16 more than 2 years after the end of the earliest
17 such 18-month period, or

18 “(C)(i) as being a member of a family
19 which ceased to be eligible after the date of the
20 enactment of this section for such assistance by
21 reason of any limitation imposed by Federal or
22 State law on the maximum period such assist-
23 ance is payable to a family, and

1 “(ii) as having a hiring date which is not
2 more than 2 years after the date of such ces-
3 sation.

4 “(2) HIRING DATE.—The term ‘hiring date’ has
5 the meaning given such term by section 51(d).

6 “(d) CERTAIN RULES TO APPLY.—

7 “(1) IN GENERAL.—Rules similar to the rules
8 of section 52, and subsections (d)(11), (f), (g), (i)
9 (as in effect on the day before the date of the enact-
10 ment of the Taxpayer Relief Act of 1997), (j), and
11 (k) of section 51, shall apply for purposes of this
12 section.

13 “(2) CREDIT TO BE PART OF GENERAL BUSI-
14 NESS CREDIT, ETC.—References to section 51 in sec-
15 tion 38(b), 280C(a), and 1396(c)(3) shall be treated
16 as including references to this section.

17 “(e) COORDINATION WITH WORK OPPORTUNITY
18 CREDIT.—If a credit is allowed under this section to an
19 employer with respect to an individual for any taxable
20 year, then for purposes of applying section 51 to such em-
21 ployer, such individual shall not be treated as a member
22 of a targeted group for such taxable year.

23 “(f) TERMINATION.—This section shall not apply to
24 individuals who begin work for the employer after April
25 30, 1999.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 for subpart F of part IV of subchapter A of chapter 1
 3 is amended by inserting after the item relating to section
 4 51 the following new item:

“Sec. 51A. Temporary incentives for employing long-term family
 assistance recipients.”.

5 (c) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply to individuals who begin work for
 7 the employer after December 31, 1997.

8 **TITLE IX—MISCELLANEOUS** 9 **PROVISIONS**

10 **Subtitle A—Provisions Relating to** 11 **Excise Taxes**

12 **SEC. 901. REPEAL OF TAX ON DIESEL FUEL USED IN REC-** 13 **REATIONAL BOATS.**

14 (a) IN GENERAL.—Subparagraph (B) of section
 15 6421(e)(2) (defining off-highway business use) is amended
 16 by striking clauses (iii) and (iv).

17 (b) CONFORMING AMENDMENTS.—

18 (1) Subparagraph (A) of section 4041(a)(1) is
 19 amended—

20 (A) by striking “, a diesel-powered train,
 21 or a diesel-powered boat” each place it appears
 22 and inserting “or a diesel-powered train”, and

23 (B) by striking “vehicle, train, or boat”
 24 and inserting “vehicle or train”.

1 (2) Paragraph (1) of section 4041(a) is amend-
2 ed by striking subparagraph (D).

3 (3) Paragraph (2) of section 9503(f) is amend-
4 ed by striking subparagraph (C) and by redesignat-
5 ing subparagraphs (D) and (E) as subparagraphs
6 (C) and (D), respectively.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect on January 1, 1998.

9 **SEC. 902. CONTINUED APPLICATION OF TAX ON IMPORTED**
10 **RECYCLED HALON-1211.**

11 (a) IN GENERAL.—Paragraph (1) of section 4682(d)
12 is amended by striking “recycled halon” and inserting “re-
13 cycled Halon-1301 or recycled Halon-2402”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall take effect on the date of the enact-
16 ment of this Act.

17 **SEC. 903. UNIFORM RATE OF TAX ON VACCINES.**

18 (a) IN GENERAL.—Subsection (b) of section 4131 is
19 amended to read as follows:

20 “(b) AMOUNT OF TAX.—

21 “(1) IN GENERAL.—The amount of the tax im-
22 posed by subsection (a) shall be 84 cents per dose
23 of any taxable vaccine.

24 “(2) COMBINATIONS OF VACCINES.—If any tax-
25 able vaccine is described in more than 1 subpara-

1 graph of section 4132(a)(1), the amount of the tax
2 imposed by subsection (a) on such vaccine shall be
3 the sum of the amounts for the vaccines which are
4 so included.”.

5 (b) TAXABLE VACCINES.—Paragraph (1) of section
6 4132(a) is amended to read as follows:

7 “(1) TAXABLE VACCINE.—The term ‘taxable
8 vaccine’ means any of the following vaccines which
9 are manufactured or produced in the United States
10 or entered into the United States for consumption,
11 use, or warehousing:

12 “(A) Any vaccine containing diphtheria
13 toxoid.

14 “(B) Any vaccine containing tetanus tox-
15 oid.

16 “(C) Any vaccine containing pertussis bac-
17 teria, extracted or partial cell bacteria, or spe-
18 cific pertussis antigens.

19 “(D) Any vaccine against measles.

20 “(E) Any vaccine against mumps.

21 “(F) Any vaccine against rubella.

22 “(G) Any vaccine containing polio virus.

23 “(H) Any HIB vaccine.

24 “(I) Any vaccine against hepatitis B.

25 “(J) Any vaccine against chicken pox.”.

1 (c) CONFORMING AMENDMENT.—Subsection (a) of
2 section 4132 is amended by striking paragraphs (2), (3),
3 and (4) and by redesignating paragraphs (5) through (8)
4 as paragraphs (2) through (5), respectively.

5 (d) EFFECTIVE DATE.—The amendments made by
6 this section shall take effect on October 1, 1997.

7 **SEC. 904. OPERATORS OF MULTIPLE GASOLINE RETAIL**
8 **OUTLETS TREATED AS WHOLESALE DIS-**
9 **TRIBUTOR FOR REFUND PURPOSES.**

10 (a) IN GENERAL.—Subparagraph (B) of section
11 6416(a)(4) (defining whole distributor) is amended by
12 adding at the end the following new sentence: “Such term
13 includes any person who makes retail sales of gasoline at
14 10 or more retail motor fuel outlets.”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 subsection (a) shall take effect on the date of the enact-
17 ment of this Act.

18 **SEC. 905. EXEMPTION OF ELECTRIC AND OTHER CLEAN-**
19 **FUEL MOTOR VEHICLES FROM LUXURY**
20 **AUTOMOBILE CLASSIFICATION.**

21 (a) IN GENERAL.—Subsection (a) of section 4001
22 (relating to imposition of tax) is amended to read as fol-
23 lows:

24 “(a) IMPOSITION OF TAX.—

1 “(1) IN GENERAL.—There is hereby imposed on
2 the 1st retail sale of any passenger vehicle a tax
3 equal to 10 percent of the price for which so sold to
4 the extent such price exceeds the applicable amount.

5 “(2) APPLICABLE AMOUNT.—

6 “(A) IN GENERAL.—Except as provided in
7 subparagraphs (B) and (C), the applicable
8 amount is \$30,000.

9 “(B) QUALIFIED CLEAN-FUEL VEHICLE
10 PROPERTY.—In the case of a passenger vehicle
11 which is propelled by a fuel which is not a
12 clean-burning fuel to which is installed qualified
13 clean-fuel vehicle property (as defined in section
14 179A(e)(1)(A)) for purposes of permitting such
15 vehicle to be propelled by a clean-burning fuel,
16 the applicable amount is equal to the sum of—

17 “(i) \$30,000, plus

18 “(ii) the increase in the price for
19 which the passenger vehicle was sold (with-
20 in the meaning of section 4002) due to the
21 installation of such property.

22 “(C) PURPOSE BUILT PASSENGER VEHI-
23 CLE.—

24 “(i) IN GENERAL.—In the case of a
25 purpose built passenger vehicle, the appli-

1 cable amount is equal to 150 percent of
2 \$30,000.

3 “(ii) PURPOSE BUILT PASSENGER VE-
4 HICLE.—For purposes of clause (i), the
5 term ‘purpose built passenger vehicle’
6 means a passenger vehicle produced by an
7 original equipment manufacturer and de-
8 signed so that the vehicle may be propelled
9 primarily by electricity.”

10 (b) CONFORMING AMENDMENTS.—

11 (1) Subsection (e) of section 4001 (relating to
12 inflation adjustment) is amended to read as follows:

13 “(e) INFLATION ADJUSTMENT.—

14 “(1) IN GENERAL.—The \$30,000 amount in
15 subparagraphs (A), (B)(i), and (C)(i) of subsection
16 (a)(2) shall be increased by an amount equal to—

17 “(A) \$30,000, multiplied by

18 “(B) the cost-of-living adjustment under
19 section 1(f)(3) for the calendar year in which
20 the vehicle is sold, determined by substituting
21 ‘calendar year 1990’ for ‘calendar year 1992’ in
22 subparagraph (B) thereof.

23 “(2) ROUNDING.—If any amount as adjusted
24 under paragraph (1) is not a multiple of \$2,000,

1 such amount shall be rounded to the next lowest
2 multiple of \$2,000.”.

3 (2) Subsection (f) of section 4001 (relating to
4 phasedown) is amended by striking “subsection (a)”
5 and inserting “subsection (a)(1)”.

6 (3) Subparagraph (B) of section 4003(a)(2) is
7 amended to read as follows:

8 “(B) the appropriate applicable amount as
9 determined under section 4001(a)(2).”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to sales and installations occurring
12 on or after the date of the enactment of this Act.

13 **Subtitle B—Provisions Relating to** 14 **Pensions and Fringe Benefits**

15 **SEC. 911. SECTION 401(K) PLANS FOR CERTAIN IRRIGATION** 16 **AND DRAINAGE ENTITIES.**

17 (a) IN GENERAL.—Subparagraph (B) of section
18 401(k)(7) (relating to rural cooperative plan) is amend-
19 ed—

20 (1) by striking “and” at the end of clause (iii),
21 by redesignating clause (iv) as clause (v), and by in-
22 serting after clause (iii) the following new clause:

23 “(iv) any organization which—

24 “(I) is a mutual irrigation or
25 ditch company described in section

1 501(c)(12) (without regard to the 85
2 percent requirement thereof), or

3 “(II) is a district organized
4 under the laws of a State as a municipi-
5 pal corporation for the purpose of irri-
6 gation, water conservation, or drain-
7 age, and”, and

8 (2) in clause (v), as so redesignated, by striking
9 “or (iii)” and inserting “, (iii), or (iv)”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 subsection (a) shall apply to years beginning after Decem-
12 ber 31, 1997.

13 **SEC. 912. EXTENSION OF MORATORIUM ON APPLICATION**
14 **OF CERTAIN NONDISCRIMINATION RULES TO**
15 **STATE AND LOCAL GOVERNMENTS.**

16 (a) GENERAL NONDISCRIMINATION AND PARTICIPA-
17 TION RULES.—

18 (1) NONDISCRIMINATION REQUIREMENTS.—
19 Section 401(a)(5) (relating to qualified pension,
20 profit-sharing, and stock bonus plans) is amended by
21 adding at the end the following:

22 “(G) GOVERNMENTAL PLANS.—Para-
23 graphs (3) and (4) shall not apply to a govern-
24 mental plan (within the meaning of section
25 414(d)).”.

1 (2) ADDITIONAL PARTICIPATION REQUIRE-
2 MENTS.—Section 401(a)(26)(H) (relating to addi-
3 tional participation requirements) is amended to
4 read as follows:

5 “(H) EXCEPTION FOR GOVERNMENTAL
6 PLANS.—This paragraph shall not apply to a
7 governmental plan (within the meaning of sec-
8 tion 414(d)).”.

9 (3) MINIMUM PARTICIPATION STANDARDS.—
10 Section 410(c)(2) (relating to application of partici-
11 pation standards to certain plans) is amended to
12 read as follows:

13 “(2) A plan described in paragraph (1) shall be
14 treated as meeting the requirements of this section
15 for purposes of section 401(a), except that in the
16 case of a plan described in subparagraph (B), (C),
17 or (D) of paragraph (1), this paragraph shall only
18 apply if such plan meets the requirements of section
19 401(a)(3) (as in effect on September 1, 1974).”.

20 (b) PARTICIPATION STANDARDS FOR QUALIFIED
21 CASH OR DEFERRED ARRANGEMENTS.—Section
22 401(k)(3) (relating to application of participation and dis-
23 crimination standards) is amended by adding at the end
24 the following:

1 “(G)(i) The requirements of subparagraph
2 (A)(i) and (C) shall not apply to a govern-
3 mental plan (within the meaning of section
4 414(d)).

5 “(ii) The requirements of subsection
6 (m)(2) (without regard to subsection (a)(4))
7 shall apply to any matching contribution of a
8 governmental plan (as so defined).”.

9 (c) NONDISCRIMINATION RULES FOR SECTION
10 403(b) PLANS.—Section 403(b)(12) (relating to non-
11 discrimination requirements) is amended by adding at the
12 end the following:

13 “(C) GOVERNMENTAL PLANS.—For pur-
14 poses of paragraph (1)(D), the requirements of
15 subparagraph (A)(i) shall not apply to a gov-
16 ernmental plan (within the meaning of section
17 414(d)).”.

18 (d) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The amendments made by
20 this section apply to taxable years beginning on or
21 after the date of enactment of this Act.

22 (2) TREATMENT FOR YEARS BEGINNING BE-
23 FORE DATE OF ENACTMENT.—A governmental plan
24 (within the meaning of section 414(d) of the Inter-
25 nal Revenue Code of 1986) shall be treated as satis-

1 fying the requirements of sections 401(a)(3),
2 401(a)(4), 401(a)(26), 401(k), 401(m), 403
3 (b)(1)(D) and (b)(12), and 410 of such Code for all
4 taxable years beginning before the date of enactment
5 of this Act.

6 **SEC. 913. TREATMENT OF CERTAIN DISABILITY BENEFITS**
7 **RECEIVED BY FORMER POLICE OFFICERS OR**
8 **FIREFIGHTERS.**

9 (a) GENERAL RULE.—For purposes of determining
10 whether any amount to which this section applies is ex-
11 cludable from gross income under section 104(a)(1) of the
12 Internal Revenue Code of 1986, the following conditions
13 shall be treated as personal injuries or sickness in the
14 course of employment:

15 (1) Heart disease.

16 (2) Hypertension.

17 (b) AMOUNTS TO WHICH SECTION APPLIES.—This
18 section shall apply to any amount—

19 (1) which is payable—

20 (A) to an individual (or to the survivors of
21 an individual) who was a full-time employee of
22 any police department or fire department which
23 is organized and operated by a State, by any
24 political subdivision thereof, or by any agency

1 or instrumentality of a State or political sub-
2 division thereof, and

3 (B) under a State law (as amended on
4 May 19, 1992) which irrebuttably presumed
5 that heart disease and hypertension are work-
6 related illnesses but only for employees separat-
7 ing from service before July 1, 1992; and

8 (2) which was received in calendar year 1989,
9 1990, or 1991.

10 (c) WAIVER OF STATUTE OF LIMITATIONS.—If, on
11 the date of the enactment of this Act (or at any time with-
12 in the 1-year period beginning on such date of enactment)
13 credit or refund of any overpayment of tax resulting from
14 the provisions of this section is barred by any law or rule
15 of law, credit or refund of such overpayment shall, never-
16 theless, be allowed or made if claim therefore is filed be-
17 fore the date 1 year after such date of enactment.

18 **SEC. 914. PORTABILITY OF PERMISSIVE SERVICE CREDIT**

19 **UNDER GOVERNMENTAL PENSION PLANS.**

20 (a) IN GENERAL.—Section 415(b)(2) (relating to the
21 limitation for defined benefit plans) is amended by adding
22 at the end the following new subparagraph:

23 “(J) PURCHASE OF PERMISSIVE SERVICE
24 CREDIT.—

1 “(i) BENEFITS TREATED AS DERIVED
2 FROM EMPLOYER CONTRIBUTIONS.—For
3 purposes of this section, the term ‘annual
4 benefit’ shall include the accrued benefit
5 derived from contributions to a govern-
6 mental plan (within the meaning of section
7 414(d)) to purchase permissive service
8 credit.

9 “(ii) DEFINITION OF PERMISSIVE
10 SERVICE CREDIT.—For purposes of this
11 subparagraph, the term ‘permissive service
12 credit’ means credit—

13 “(I) for a period of service recog-
14 nized by a governmental plan for pur-
15 poses of calculating an employee’s ac-
16 crued benefit under such plan,

17 “(II) which such employee has
18 not received (or has forfeited), and

19 “(III) which such employee may
20 receive only by making a contribution,
21 as determined under the governmental
22 plan, which does not exceed the
23 amount (actuarially determined under
24 the terms of such governmental plan)

1 necessary to fund the accrued benefit
2 attributable to such period of service.

3 “(iii) NO EFFECT ON EMPLOYER
4 ‘PICK-UP’ CONTRIBUTIONS.—Nothing in
5 this subparagraph shall be construed as
6 preventing the application of section
7 414(h) to contributions to purchase per-
8 missive service credit.”.

9 (b) CONFORMING AMENDMENT.—Section 415(c)(2)
10 is amended by adding at the end the following new sen-
11 tence: “The term ‘annual addition’ shall not include con-
12 tributions to purchase permissive service credit (within the
13 meaning of subsection (b)(2)(J)).”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to years beginning after December
16 31, 1997.

17 **SEC. 915. GRATUITOUS TRANSFERS FOR THE BENEFIT OF**
18 **EMPLOYEES.**

19 (a) IN GENERAL.—Subparagraph (C) of section
20 664(d)(1) and subparagraph (C) of section 664(d)(2) are
21 each amended by striking the period at the end thereof
22 and inserting “or, to the extent the remainder interest is
23 in qualified employer securities (as defined in paragraph
24 (3)(C)), is to be transferred to an employee stock owner-

1 ship plan (as defined in section 4975(e)(7)) in a qualified
2 gratuitous transfer (as defined by subsection (g)).”.

3 (b) QUALIFIED GRATUITOUS TRANSFER DEFINED.—

4 Section 664 is amended by adding at the end the following
5 new subsection:

6 “(g) QUALIFIED GRATUITOUS TRANSFER OF QUALI-
7 FIED EMPLOYER SECURITIES.—

8 “(1) IN GENERAL.—For purposes of this sec-
9 tion, the term ‘qualified gratuitous transfer’ means
10 a transfer of qualified employer securities to an em-
11 ployee stock ownership plan (as defined in section
12 4975(e)(7)) but only to the extent that—

13 “(A) the securities transferred previously
14 passed from a decedent dying before January 1,
15 1999, to a trust described in paragraph (1) or
16 (2) of subsection (d),

17 “(B) no deduction under section 404 is al-
18 lowable with respect to such transfer,

19 “(C) such plan contains the provisions re-
20 quired by paragraph (3),

21 “(D) such plan treats such securities as
22 being attributable to employer contributions but
23 without regard to the limitations otherwise ap-
24 plicable to such contributions under section
25 404, and

1 “(E) the employer whose employees are
2 covered by the plan described in this paragraph
3 files with the Secretary a verified written state-
4 ment consenting to the application of sections
5 4978 and 4979A with respect to such employer.

6 “(2) EXCEPTION.—The term ‘qualified gratu-
7 itous transfer’ shall not include a transfer of quali-
8 fied employer securities to an employee stock owner-
9 ship plan unless—

10 “(A) such plan was in existence on August
11 1, 1996,

12 “(B) at the time of the transfer, the dece-
13 dent and members of the decedent’s family
14 (within the meaning of section 267(c)(4)) own
15 (directly or through the application of section
16 318(a)) no more than 10 percent of the value
17 of the stock of the corporation referred to in
18 paragraph (4), and

19 “(C) immediately after the transfer, such
20 plan owns (after the application of section
21 318(a)(4)) at least 60 percent of the value of
22 the outstanding stock of the corporation.

23 “(3) PLAN REQUIREMENTS.—A plan contains
24 the provisions required by this paragraph if such
25 plan provides that—

1 “(A) the qualified employer securities so
2 transferred are allocated to plan participants in
3 a manner consistent with section 401(a)(4),

4 “(B) plan participants are entitled to di-
5 rect the plan as to the manner in which such
6 securities which are entitled to vote and are al-
7 located to the account of such participant are to
8 be voted,

9 “(C) an independent trustee votes the se-
10 curities so transferred which are not allocated
11 to plan participants,

12 “(D) each participant who is entitled to a
13 distribution from the plan has the rights de-
14 scribed in subparagraphs (A) and (B) of section
15 409(h)(1),

16 “(E) such securities are held in a suspense
17 account under the plan to be allocated each
18 year, up to the limitations under section 415(c),
19 after first allocating all other annual additions
20 for the limitation year, up to the limitations
21 under sections 415 (c) and (e), and

22 “(F) on termination of the plan, all securi-
23 ties so transferred which are not allocated to
24 plan participants as of such termination are to

1 be transferred to, or for the use of, an organi-
2 zation described in section 170(c).

3 For purposes of the preceding sentence, the term
4 ‘independent trustee’ means any trustee who is not
5 a member of the family (within the meaning of sec-
6 tion 267(c)(4)) of the decedent or a 5-percent share-
7 holder. A plan shall not fail to be treated as meeting
8 the requirements of section 401(a) by reason of
9 meeting the requirements of this subsection.

10 “(4) QUALIFIED EMPLOYER SECURITIES.—For
11 purposes of this section, the term ‘qualified employer
12 securities’ means employer securities (as defined in
13 section 409(l)) which are issued by a domestic cor-
14 poration—

15 “(A) which has no outstanding stock which
16 is readily tradable on an established securities
17 market, and

18 “(B) which has only 1 class of stock.

19 “(5) TREATMENT OF SECURITIES ALLOCATED
20 BY EMPLOYEE STOCK OWNERSHIP PLAN TO PER-
21 SONS RELATED TO DECEDENT OR 5-PERCENT
22 SHAREHOLDERS.—

23 “(A) IN GENERAL.—If any portion of the
24 assets of the plan attributable to securities ac-

1 required by the plan in a qualified gratuitous
2 transfer are allocated to the account of—

3 “(i) any person who is related to the
4 decedent (within the meaning of section
5 267(b)), or

6 “(ii) any person who, at the time of
7 such allocation or at any time during the
8 1-year period ending on the date of the ac-
9 quisition of qualified employer securities by
10 the plan, is a 5-percent shareholder of the
11 employer maintaining the plan,

12 the plan shall be treated as having distributed
13 (at the time of such allocation) to such person
14 or shareholder the amount so allocated.

15 “(B) 5-PERCENT SHAREHOLDER.—For
16 purposes of subparagraph (A), the term ‘5-per-
17 cent shareholder’ means any person who owns
18 (directly or through the application of section
19 318(a)) more than 5 percent of the outstanding
20 stock of the corporation which issued such
21 qualified employer securities or of any corpora-
22 tion which is a member of the same controlled
23 group of corporations (within the meaning of
24 section 409(l)(4)) as such corporation. For pur-
25 poses of the preceding sentence, section 318(a)

1 shall be applied without regard to the exception
2 in paragraph (2)(B)(i) thereof.

3 “(C) CROSS REFERENCE.—

“For excise tax on allocations described in sub-
paragraph (A), see section 4979A.

4 “(6) TAX ON FAILURE TO TRANSFER
5 UNALLOCATED SECURITIES TO CHARITY ON TERMI-
6 NATION OF PLAN.—If the requirements of paragraph
7 (3)(F) are not met with respect to any securities,
8 there is hereby imposed a tax on the employer main-
9 taining the plan in an amount equal to the sum of—

10 “(A) the amount of the increase in the tax
11 which would be imposed by chapter 11 if such
12 securities were not transferred as described in
13 paragraph (1), and

14 “(B) interest on such amount at the
15 underpayment rate under section 6621 (and
16 compounded daily) from the due date for filing
17 the return of the tax imposed by chapter 11.”.

18 (c) CONFORMING AMENDMENTS.—

19 (1) Section 401(a)(1) is amended by inserting
20 “or by a charitable remainder trust pursuant to a
21 qualified gratuitous transfer (as defined in section
22 664(g)(1)),” after “stock bonus plans),”.

1 (2) Section 404(a)(9) is amended by inserting
2 after subparagraph (B) the following new subpara-
3 graph:

4 “(C) A qualified gratuitous transfer (as de-
5 fined in section 664(g)(1)) shall have no effect
6 on the amount or amounts otherwise deductible
7 under paragraph (3) or (7) or under this para-
8 graph.”.

9 (3) Section 415(c)(6) is amended by adding at
10 the end thereof the following new sentence:

11 “The amount of any qualified gratuitous transfer
12 (as defined in section 664(g)(1)) allocated to a par-
13 ticipant for any limitation year shall not exceed the
14 limitations imposed by this section, but such amount
15 shall not be taken into account in determining
16 whether any other amount exceeds the limitations
17 imposed by this section.”.

18 (4) Section 415(e) is amended—

19 (A) by redesignating paragraph (6) as
20 paragraph (7), and

21 (B) by inserting after paragraph (5) the
22 following new paragraph:

23 “(6) SPECIAL RULE FOR QUALIFIED GRATU-
24 ITOUS TRANSFERS.—Any qualified gratuitous trans-
25 fer of qualified employer securities (as defined by

1 section 664(g)) shall not be taken into account in
2 calculating, and shall not be subject to, the limita-
3 tions provided in this subsection.”.

4 (5) Subparagraph (B) of section 664(d)(1) and
5 subparagraph (B) of section 664(d)(2) are each
6 amended by inserting “and other than qualified gra-
7 tuitous transfers described in subparagraph (C)”
8 after “subparagraph (A)”.

9 (6) Paragraph (4) of section 674(b) is amended
10 by inserting before the period “or to an employee
11 stock ownership plan (as defined in section
12 4975(e)(7)) in a qualified gratuitous transfer (as de-
13 fined in section 664(g)(1))”.

14 (7) Section 2055(a) is amended—

15 (i) by striking “or” at the end of para-
16 graph (3),

17 (ii) by striking the period at the end of
18 paragraph (4) and inserting “; or”, and

19 (iii) by inserting after paragraph (4) the
20 following new paragraph:

21 “(5) to an employee stock ownership plan if
22 such transfer qualifies as a qualified gratuitous
23 transfer of qualified employer securities within the
24 meaning of section 664(g).”.

1 (8) Paragraph (8) of section 2056(b) is amend-
2 ed to read as follows:

3 “(8) SPECIAL RULE FOR CHARITABLE REMAIN-
4 DER TRUSTS.—

5 “(A) IN GENERAL.—If the surviving
6 spouse of the decedent is the only beneficiary of
7 a qualified charitable remainder trust who is
8 not a charitable beneficiary nor an ESOP bene-
9 ficiary, paragraph (1) shall not apply to any in-
10 terest in such trust which passes or has passed
11 from the decedent to such surviving spouse.

12 “(B) DEFINITIONS.—For purposes of sub-
13 paragraph (A)—

14 “(i) CHARITABLE BENEFICIARY.—The
15 term ‘charitable beneficiary’ means any
16 beneficiary which is an organization de-
17 scribed in section 170(c).

18 “(ii) ESOP BENEFICIARY.—The term
19 ‘ESOP beneficiary’ means any beneficiary
20 which is an employee stock ownership plan
21 (as defined in section 4975(e)(7)) that
22 holds a remainder interest in qualified em-
23 ployer securities (as defined in section
24 664(g)(4)) to be transferred to such plan

1 in a qualified gratuitous transfer (as de-
2 fined in section 664(g)(1)).

3 “(iii) QUALIFIED CHARITABLE RE-
4 MAINDER TRUST.—The term ‘qualified
5 charitable remainder trust’ means a chari-
6 table remainder annuity trust or a chari-
7 table remainder unitrust (described in sec-
8 tion 664).”.

9 (9) Section 4947(b) is amended by inserting
10 after paragraph (3) the following new paragraph:

11 “(4) SECTION 507.—The provisions of section
12 507(a) shall not apply to a trust which is described
13 in subsection (a)(2) by reason of a distribution of
14 qualified employer securities (as defined in section
15 664(g)(4)) to an employee stock ownership plan (as
16 defined in section 4975(e)(7)) in a qualified gratu-
17 itous transfer (as defined by section 664(g)).”.

18 (10) The last sentence of section 4975(e)(7) is
19 amended by inserting “and section 664(g)” after
20 “section 409(n)”

21 (11) Subsection (a) of section 4978 is amend-
22 ed—

23 (A) by inserting “or acquired any qualified
24 employer securities in a qualified gratuitous

1 transfer to which section 664(g) applied” after
2 “section 1042 applied”, and

3 (B) by inserting before the period at the
4 end of subparagraph (B) “60 percent of the
5 total value of all employer securities as of such
6 disposition in the case of any qualified employer
7 securities in a qualified gratuitous transfer to
8 which section 664(g) applied”).

9 (12) Paragraph (2) of section 4978(b) is
10 amended—

11 (A) by inserting “or acquired in the quali-
12 fied gratuitous transfer to which section 664(g)
13 applied” after “section 1042 applied”, and

14 (B) by inserting “or to which section
15 664(g) applied” after “section 1042 applied” in
16 subparagraph (C) thereof.

17 (13) Subsection (e) of section 4978 is amended
18 by striking “written statement” and all that follows
19 and inserting “written statement described in sec-
20 tion 664(g)(1)(E) or in section 1042(b)(3) (as the
21 case may be).”.

22 (14) Paragraph (2) of section 4978(e) is
23 amended by striking the period and inserting “; ex-
24 cept that such section shall be applied without re-
25 gard to subparagraph (B) thereof for purposes of

1 applying this section and section 4979A with respect
2 to securities acquired in a qualified gratuitous trans-
3 fer (as defined in section 664(g)(1)).”.

4 (15) Subsection (a) of section 4979A is amend-
5 ed to read as follows:

6 “(a) IMPOSITION OF TAX.—If—

7 “(1) there is a prohibited allocation of qualified
8 securities by any employee stock ownership plan or
9 eligible worker-owned cooperative, or

10 “(2) there is an allocation described in section
11 664(g)(5)(A),

12 there is hereby imposed a tax on such allocation equal to
13 50 percent of the amount involved.”.

14 (16) Subsection (e) of section 4979A is amend-
15 ed to read as follows:

16 “(c) LIABILITY FOR TAX.—The tax imposed by this
17 section shall be paid by—

18 “(1) the employer sponsoring such plan, or

19 “(2) the eligible worker-owned cooperative,

20 which made the written statement described in section
21 664(g)(1)(E) or in section 1042(b)(3)(B) (as the case may
22 be).”.

23 (17) Section 4979A is amended by redesignat-
24 ing subsection (d) as subsection (e) and by inserting
25 after subsection (c) the following new subsection:

1 “(d) SPECIAL STATUTE OF LIMITATIONS FOR TAX
2 ATTRIBUTABLE TO CERTAIN ALLOCATIONS.—The statu-
3 tory period for the assessment of any tax imposed by this
4 section on an allocation described in subsection (a)(2) of
5 qualified employer securities shall not expire before the
6 date which is 3 years from the later of—

7 “(1) the 1st allocation of such securities in con-
8 nection with a qualified gratuitous transfer (as de-
9 fined in section 664(g)(1)), or

10 “(2) the date on which the Secretary is notified
11 of the allocation described in subsection (a)(2).”.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to transfers made by trusts to, or
14 for the use of, an employee stock ownership plan after the
15 date of the enactment of this Act.

16 **SEC. 916. TREATMENT OF CERTAIN TRANSPORTATION ON**
17 **NON-COMMERCIALY OPERATED AIRCRAFT**
18 **AS A FRINGE BENEFIT EXCLUDABLE FROM**
19 **GROSS INCOME.**

20 (a) IN GENERAL.—Subsection (b) of section 132 (re-
21 lating to no-additional-cost service defined) is amended to
22 read as follows:

23 “(b) NO-ADDITIONAL-COST SERVICE DEFINED.—
24 For purposes of this section, the term ‘no-additional-cost

1 service' means any service provided by an employer to an
2 employee for use by such employee if—

3 “(1) such service—

4 “(A) is offered for sale to customers in the
5 ordinary course of the line of business of the
6 employer in which the employee is performing
7 services, or

8 “(B) consists of transportation on an air-
9 craft, if—

10 “(i) transportation on such aircraft is
11 not offered for sale to customers,

12 “(ii) such transportation for use by
13 such employee is provided on a flight made
14 in the ordinary course of the trade or busi-
15 ness of an employer which owns or leases
16 such aircraft for use in such trade or busi-
17 ness, and

18 “(iii) the flight on which the transpor-
19 tation is provided would have been made
20 whether or not such employee was trans-
21 ported on the flight, and

22 “(2) the employer incurs no substantial addi-
23 tional cost (including forgone revenue) in providing
24 such service to the employee (determined without re-

1 gard to any amount paid by the employee for such
2 service).”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 subsection (a) shall apply to services provided after De-
5 cember 31, 1997.

6 **SEC. 917. MINIMUM PENSION ACCRUED BENEFIT DISTRIB-**
7 **UTABLE WITHOUT CONSENT INCREASED TO**
8 **\$5,000.**

9 (a) **IN GENERAL.**—Subparagraph (A) of section
10 411(a)(11) (relating to restrictions on certain mandatory
11 distributions) is amended by striking “\$3,500” and insert-
12 ing “the applicable limit”.

13 (b) **APPLICABLE LIMIT.**—Paragraph (11) of section
14 411(a) is amended by adding at the end the following new
15 subparagraph:

16 “(D) **APPLICABLE LIMIT.**—

17 “(i) **IN GENERAL.**—For purposes of
18 subparagraph (A), the applicable limit is
19 \$5,000.

20 “(ii) **INFLATION ADJUSTMENT.**—In
21 the case of plan years beginning in a cal-
22 endar year after 1998, the dollar amount
23 contained in clause (i) shall be increased
24 by an amount equal to—

1 “(I) such dollar amount, multi-
2 plied by

3 “(II) the cost-of-living adjust-
4 ment determined under section 1(f)(3)
5 for such calendar year by substituting
6 ‘calendar year 1997’ for ‘calendar
7 year 1992’ in subparagraph (B) there-
8 of.

9 If any amount as adjusted under the pre-
10 ceding sentence is not a multiple of \$50,
11 such amount shall be rounded to the next
12 lowest multiple of \$50.”.

13 (c) CONFORMING AMENDMENTS.—

14 (1) Section 411(a)(7)(B), paragraphs (1) and
15 (2) of section 417(e), and section 457(e)(9) are each
16 amended by striking “\$3,500” each place in appears
17 (other than the headings) and inserting “the appli-
18 cable limit under section 411(a)(11)(D)”.

19 (2) The headings for paragraphs (1) and (2) of
20 section 417(e) and subparagraph (A) of section
21 457(e)(9) are each amended by striking “\$3,500”
22 and inserting “APPLICABLE LIMIT”.

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to plan years beginning after the
25 date of the enactment of this Act.

1 **SEC. 918. CLARIFICATION OF CERTAIN RULES RELATING**
2 **TO EMPLOYEE STOCK OWNERSHIP PLANS OF**
3 **S CORPORATIONS.**

4 (a) CERTAIN CASH DISTRIBUTIONS PERMITTED.—

5 (1) Paragraph (2) of section 409(h) is amended
6 by adding at the end the following new subpara-
7 graph:

8 “(B) PLAN MAINTAINED BY S CORPORA-
9 TION.—In the case of a plan established and
10 maintained by an S corporation which otherwise
11 meets the requirements of this subsection or
12 section 4975(e)(7), such plan shall not be treat-
13 ed as failing to meet the requirements of this
14 subsection or section 401(a) merely because it
15 does not permit a participant to exercise the
16 right described in paragraph (1)(A) if such plan
17 provides that the participant entitled to a dis-
18 tribution has a right to receive the distribution
19 in cash.”.

20 (2) Paragraph (2) of section 409(h) is amend-
21 ed—

22 (A) by striking “a plan which” in the first
23 sentence and inserting the following:

24 “(A) IN GENERAL.—A plan which”, and

25 (B) by moving the text before subpara-
26 graph (B) 2 ems to the right.

1 (b) SHAREHOLDER-EMPLOYEES NOT TREATED AS
2 OWNER-EMPLOYEES UNDER TAX ON PROHIBITED
3 TRANSACTIONS.—The last sentence of section 4975(d) is
4 amended by striking all that follows “preceding sentence,”
5 through “Revision Act of 1982,”.

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

9 **Subtitle C—Revisions Relating to** 10 **Disasters**

11 **SEC. 921. AUTHORITY TO POSTPONE CERTAIN TAX-RELAT-** 12 **ED DEADLINES BY REASON OF PRESI-** 13 **DENTIALLY DECLARED DISASTER.**

14 (a) IN GENERAL.—Chapter 77 is amended by insert-
15 ing after section 7508 the following new section:

16 **“SEC. 7508A. AUTHORITY TO POSTPONE CERTAIN TAX-RE-** 17 **LATED DEADLINES BY REASON OF PRESI-** 18 **DENTIALLY DECLARED DISASTER.**

19 “(a) IN GENERAL.—In the case of a taxpayer deter-
20 mined by the Secretary to be affected by a Presidentially
21 declared disaster (as defined by section 1033(h)(3)), the
22 Secretary may prescribe regulations under which a period
23 of up to 90 days may be disregarded in determining, under
24 the internal revenue laws, in respect of any tax liability

1 (including any penalty, additional amount, or addition to
2 the tax) of such taxpayer—

3 “(1) whether any of the acts by the taxpayer
4 described in paragraph (1) of section 7508(a) were
5 performed within the time prescribed therefor, and

6 “(2) the amount of any credit or refund.

7 “(b) INTEREST ON OVERPAYMENTS AND UNDERPAY-
8 MENTS.—Subsection (a) shall not apply for the purpose
9 of determining interest on any overpayment or underpay-
10 ment.”.

11 (b) CLERICAL AMENDMENT.—The table of sections
12 for chapter 77 is amended by inserting after the item re-
13 lating to section 7508 the following new item:

“Sec. 7508A. Authority to postpone certain tax-related deadlines
by reason of presidentially declared disaster.”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply with respect to any period for per-
16 forming an act that has not expired before the date of
17 the enactment of this Act.

18 **SEC. 922. USE OF CERTAIN APPRAISALS TO ESTABLISH**
19 **AMOUNT OF DISASTER LOSS.**

20 (a) IN GENERAL.—Subsection (i) of section 165 is
21 amended by adding at the end the following new para-
22 graph:

23 “(4) USE OF DISASTER LOAN APPRAISALS TO
24 ESTABLISH AMOUNT OF LOSS.—Nothing in this title

1 shall be construed to prohibit the Secretary from
2 prescribing regulations or other guidance under
3 which an appraisal for the purpose of obtaining a
4 loan of Federal funds or a loan guarantee from the
5 Federal Government as a result of a Presidentially
6 declared disaster (as defined by section 1033(h)(3))
7 may be used to establish the amount of any loss de-
8 scribed in paragraph (1) or (2).”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall take effect on the date of the enact-
11 ment of this Act.

12 **SEC. 923. TREATMENT OF LIVESTOCK SOLD ON ACCOUNT**
13 **OF WEATHER-RELATED CONDITIONS.**

14 (a) DEFERRAL OF INCOME INCLUSION.—Subsection
15 (e) of section 451 (relating to special rules for proceeds
16 from livestock sold on account of drought) is amended—

17 (1) by striking “drought conditions, and that
18 these drought conditions” in paragraph (1) and in-
19 sserting “drought, flood, or other weather-related
20 conditions, and that such conditions”; and

21 (2) by inserting “, FLOOD, OR OTHER WEATH-
22 ER-RELATED CONDITIONS” after “DROUGHT” in the
23 subsection heading.

1 (b) INVOLUNTARY CONVERSIONS.—Subsection (e) of
2 section 1033 (relating to livestock sold on account of
3 drought) is amended—

4 (1) by inserting “, flood, or other weather-relat-
5 ed conditions” before the period at the end thereof;
6 and

7 (2) by inserting “, FLOOD, OR OTHER WEATH-
8 ER-RELATED CONDITIONS” after “DROUGHT” in the
9 subsection heading.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to sales and exchanges after De-
12 cember 31, 1996.

13 **SEC. 924. MORTGAGE FINANCING FOR RESIDENCES LO-**
14 **CATED IN DISASTER AREAS.**

15 Subsection (k) of section 143 (relating to mortgage
16 revenue bonds; qualified mortgage bond and qualified vet-
17 eran’s mortgage bond) is amended by adding at the end
18 the following new paragraph:

19 “(11) SPECIAL RULES FOR RESIDENCES LO-
20 CATED IN DISASTER AREAS.—In the case of a resi-
21 dence located in an area determined by the Presi-
22 dent to warrant assistance from the Federal Govern-
23 ment under the Disaster Relief and Emergency As-
24 sistance Act (as in effect on the date of the enact-
25 ment of the Taxpayer Relief Act of 1997), this sec-

1 tion shall be applied with the following modifications
2 to financing provided with respect to such residence
3 within 1 year after the date of the disaster declara-
4 tion:

5 “(A) Subsection (d) (relating to 3-year re-
6 quirement) shall not apply.

7 “(B) Subsections (e) and (f) (relating to
8 purchase price requirement and income require-
9 ment) shall be applied as if such residence were
10 a targeted area residence.

11 The preceding sentence shall apply only with respect
12 to bonds issued after December 31, 1996, and before
13 January 1, 2000.”.

14 **Subtitle D—Provisions Relating to** 15 **Employment Taxes**

16 **SEC. 931. CLARIFICATION OF EMPLOYMENT TAX STATUS OF** 17 **INDIVIDUALS DISTRIBUTING BAKERY PROD-** 18 **UCTS.**

19 (a) INTERNAL REVENUE CODE.—Subparagraph (A)
20 of section 3121(d)(3) is amended by striking “bakery
21 products,”.

22 (b) SOCIAL SECURITY ACT.—Subparagraph (A) of
23 section 210(j)(3) of the Social Security Act is amended
24 by striking “bakery products,”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to services performed after Decem-
3 ber 31, 1997.

4 **SEC. 932. CLARIFICATION OF STANDARD TO BE USED IN**
5 **DETERMINING EMPLOYMENT TAX STATUS OF**
6 **SECURITIES BROKERS.**

7 (a) IN GENERAL.—In determining for purposes of
8 the Internal Revenue Code of 1986 whether a registered
9 representative of a securities broker-dealer is an employee
10 (as defined in section 3121(d) of the Internal Revenue
11 Code of 1986), no weight shall be given to instructions
12 from the service recipient which are imposed only in com-
13 pliance with investor protection standards imposed by the
14 Federal Government, any State government, or a govern-
15 ing body pursuant to a delegation by a Federal or State
16 agency.

17 (b) EFFECTIVE DATE.—Subsection (a) shall apply to
18 services performed after December 31, 1997.

19 **SEC. 933. CLARIFICATION OF EXEMPTION FROM SELF-EM-**
20 **PLOYMENT TAX FOR CERTAIN TERMINATION**
21 **PAYMENTS RECEIVED BY FORMER INSUR-**
22 **ANCE SALESMEN.**

23 (a) INTERNAL REVENUE CODE.—Section 1402 (re-
24 lating to definitions) is amended by adding at the end the
25 following new subsection:

1 “(k) CODIFICATION OF TREATMENT OF CERTAIN
2 TERMINATION PAYMENTS RECEIVED BY FORMER INSUR-
3 ANCE SALESMEN.—Nothing in subsection (a) shall be con-
4 strued as including in the net earnings from self-employ-
5 ment of an individual any amount received during the tax-
6 able year from an insurance company on account of serv-
7 ices performed by such individual as an insurance sales-
8 man for such company if—

9 “(1) such amount is received after termination
10 of such individual’s agreement to perform such serv-
11 ices for such company,

12 “(2) such individual performs no services for
13 such company after such termination and before the
14 close of such taxable year,

15 “(3) such individual enters into a covenant not
16 to compete against such company which applies to at
17 least the 1-year period beginning on the date of such
18 termination, and

19 “(4) the amount of such payment—

20 “(A) depends solely on policies sold by
21 such individual during the last year of such
22 agreement and the extent to which such policies
23 remain in force for some period after such ter-
24 mination, and

1 “(B) does not depend to any extent on
2 length of service or overall earnings from serv-
3 ices performed for such company.”.

4 (b) SOCIAL SECURITY ACT.—Section 211 of the So-
5 cial Security Act is amended by adding at the end the fol-
6 lowing new subsection:

7 “Codification of Treatment of Certain Termination
8 Payments Received by Former Insurance Salesmen

9 “(j) Nothing in subsection (a) shall be construed as
10 including in the net earnings from self-employment of an
11 individual any amount received during the taxable year
12 from an insurance company on account of services per-
13 formed by such individual as an insurance salesman for
14 such company if—

15 “(1) such amount is received after termination
16 of such individual’s agreement to perform such serv-
17 ices for such company,

18 “(2) such individual performs no services for
19 such company after such termination and before the
20 close of such taxable year,

21 “(3) such individual enters into a covenant not
22 to compete against such company which applies to at
23 least the 1-year period beginning on the date of such
24 termination, and

25 “(4) the amount of such payment—

1 “(A) depends solely on policies sold by
2 such individual during the last year of such
3 agreement and the extent to which such policies
4 remain in force for some period after such ter-
5 mination, and

6 “(B) does not depend to any extent on
7 length of service or overall earnings from serv-
8 ices performed for such company.”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to payments after December 31,
11 1997.

12 **SEC. 934. STANDARDS FOR DETERMINING WHETHER INDI-**
13 **VIDUALS ARE NOT EMPLOYEES.**

14 (a) IN GENERAL.—Chapter 25 (general provisions re-
15 lating to employment taxes) is amended by adding after
16 section 3510 the following new section:

17 **“SEC. 3511. STANDARDS FOR DETERMINING WHETHER IN-**
18 **DIVIDUALS ARE NOT EMPLOYEES.**

19 “(a) GENERAL RULE.—For purposes of this title,
20 and notwithstanding any provision of this title to the con-
21 trary, if the requirements of subsections (b), (c), and (d)
22 are met with respect to any service performed by any indi-
23 vidual, then with respect to such service—

24 “(1) the service provider shall not be treated as
25 an employee,

1 “(2) the service recipient shall not be treated as
2 an employer, and

3 “(3) the payor shall not be treated as an em-
4 ployer.

5 “(b) SERVICE PROVIDER REQUIREMENTS WITH RE-
6 GARD TO SERVICE RECIPIENT.—For the purposes of sub-
7 section (a), the requirements of this subsection are met
8 if the service provider, in connection with performing the
9 service—

10 “(1) has a significant investment in assets and/
11 or training,

12 “(2) incurs significant unreimbursed expenses,

13 “(3) agrees to perform the service for a particu-
14 lar amount of time or to complete a specific result
15 and is liable for damages for early termination with-
16 out cause,

17 “(4) is paid primarily on a commissioned basis,
18 or

19 “(5) purchases products for resale.

20 “(c) ADDITIONAL SERVICE PROVIDER REQUIRE-
21 MENTS WITH REGARD TO OTHERS.—For the purposes of
22 subsection (a), the requirements of this subsection are met
23 if—

24 “(1) the service provider—

25 “(A) has a principal place of business,

1 “(B) does not primarily provide the service
2 in the service recipient’s place of business, or

3 “(C) pays a fair market rent for use of the
4 service recipient’s place of business; or

5 “(2) the service provider—

6 “(A) is not required to perform service ex-
7 clusively for the service recipient, and

8 “(B) in the year involved, or in the preced-
9 ing or subsequent year—

10 “(i) has performed a significant
11 amount of service for other persons,

12 “(ii) has offered to perform service for
13 other persons through—

14 “(I) advertising,

15 “(II) individual written or oral
16 solicitations,

17 “(III) listing with registries,
18 agencies, brokers, and other persons
19 in the business of providing referrals
20 to other service recipients, or

21 “(IV) other similar activities, or

22 “(iii) provides service under a busi-
23 ness name which is registered with (or for
24 which a license has been obtained from) a
25 State, a political subdivision of a State, or

1 any agency or instrumentality of 1 or more
2 States or political subdivisions.

3 “(d) WRITTEN DOCUMENT REQUIREMENTS.—For
4 purposes of subsection (a), the requirements of this sub-
5 section are met if the services performed by the individual
6 are performed pursuant to a written contract between
7 such individual and the person for whom the services are
8 performed, or the payor, and such contract provides that
9 the individual will not be treated as an employee with re-
10 spect to such services for purposes of this subtitle or sub-
11 title A.

12 “(e) SPECIAL RULES.—For purposes of this sec-
13 tion—

14 “(1) If for any taxable year any service recipi-
15 ent or payor fails to meet the applicable reporting
16 requirements of sections 6041(a), 6041A(a), or 6051
17 with respect to a service provider, then, unless such
18 failure is due to reasonable cause and not willful ne-
19 glect, this section shall not apply in determining
20 whether such service provider shall not be treated as
21 an employee of such service recipient or payor for
22 such year.

23 “(2) If the service provider is performing serv-
24 ices through an entity owned in whole or in part by
25 such service provider, then the references to ‘service

1 provider' in subsections (b) through (d) may include
2 such entity, provided that the written contract re-
3 ferred to in paragraph (1) of subsection (d) may be
4 with either the service provider or such entity and
5 need not be with both.

6 “(f) DEFINITIONS.—For the purposes of this sec-
7 tion—

8 “(1) SERVICE PROVIDER.—The term ‘service
9 provider’ means any individual who performs service
10 for another person.

11 “(2) SERVICE RECIPIENT.—Except as provided
12 in paragraph (5), the term ‘service recipient’ means
13 the person for whom the service provider performs
14 such service.

15 “(3) PAYOR.—Except as provided in paragraph
16 (5), the term ‘payor’ means the person who pays the
17 service provider for the performance of such service
18 in the event that the service recipients do not pay
19 the service provider.

20 “(4) IN CONNECTION WITH PERFORMING THE
21 SERVICE.—The term ‘in connection with performing
22 the service’ means in connection or related to—

23 “(A) the actual service performed by the
24 service provider for the service recipients or for

1 other persons for whom the service provider has
2 performed similar service, or

3 “(B) the operation of the service provider’s
4 trade or business.

5 “(5) EXCEPTIONS.—The terms ‘service recipi-
6 ent’ and ‘payor’ do not include any entity which is
7 owned in whole or in part by the service provider.”.

8 (b) CLERICAL AMENDMENT.—The table of sections
9 for chapter 25 is amended by adding at the end the follow-
10 ing new item:

“Sec. 3511. Standards for determining whether individuals are
not employees.”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to services performed after Decem-
13 ber 31, 1997.

14 **Subtitle E—Provisions Relating to** 15 **Small Businesses**

16 **SEC. 941. WAIVER OF PENALTY THROUGH 1998 ON SMALL** 17 **BUSINESSES FAILING TO MAKE ELECTRONIC** 18 **FUND TRANSFERS OF TAXES.**

19 No penalty shall be imposed under the Internal Reve-
20 nue Code of 1986 solely by reason of a failure by a person
21 to use the electronic fund transfer system established
22 under section 6302(h) of such Code if—

1 (1) such person is a member of a class of tax-
2 payers first required to use such system on or after
3 July 1, 1997, and

4 (2) such failure occurs before January 1, 1999.

5 **SEC. 942. CLARIFICATION OF TREATMENT OF HOME OF-**
6 **FIGE USE FOR ADMINISTRATIVE AND MAN-**
7 **AGEMENT ACTIVITIES.**

8 (a) IN GENERAL.—Paragraph (1) of section 280A(c)
9 is amended by adding at the end the following new sen-
10 tence: “For purposes of subparagraph (A), the term ‘prin-
11 cipal place of business’ includes a place of business which
12 is used by the taxpayer for the administrative or manage-
13 ment activities of any trade or business of the taxpayer
14 if there is no other fixed location of such trade or business
15 where the taxpayer conducts substantial administrative or
16 management activities of such trade or business.”.

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

20 **Subtitle F—Other Provisions**

21 **SEC. 951. USE OF ESTIMATES OF SHRINKAGE FOR INVEN-**
22 **TORY ACCOUNTING.**

23 (a) IN GENERAL.—Section 471 (relating to general
24 rule for inventories) is amended by redesignating sub-

1 section (b) as subsection (c) and by inserting after sub-
2 section (a) the following new subsection:

3 “(b) ESTIMATES OF INVENTORY SHRINKAGE PER-
4 MITTED.—A method of determining inventories shall not
5 be deemed not to clearly reflect income solely because it
6 utilizes estimates of inventory shrinkage that are con-
7 firmed by a physical count only after the last day of the
8 taxable year if—

9 “(1) the taxpayer normally does a physical
10 count of inventories at each location on a regular
11 and consistent basis, and

12 “(2) the taxpayer makes proper adjustments to
13 such inventories and to its estimating methods to
14 the extent such estimates are greater than or less
15 than the actual shrinkage.”.

16 (b) EFFECTIVE DATE.—

17 (1) IN GENERAL.—The amendment made by
18 this section shall apply to taxable years ending after
19 the date of the enactment of this Act.

20 (2) COORDINATION WITH SECTION 481.—In the
21 case of any taxpayer permitted by this section to
22 change its method of accounting to a permissible
23 method for any taxable year—

24 (A) such changes shall be treated as initi-
25 ated by the taxpayer,

1 (B) such changes shall be treated as made
2 with the consent of the Secretary, and

3 (C) the period for taking into account the
4 adjustments under section 481 by reason of
5 such change shall be 4 years.

6 **SEC. 952. ASSIGNMENT OF WORKMEN'S COMPENSATION LI-**
7 **ABILITY ELIGIBLE FOR EXCLUSION RELAT-**
8 **ING TO PERSONAL INJURY LIABILITY AS-**
9 **SIGNMENTS.**

10 (a) **IN GENERAL.**—Subsection (c) of section 130 (re-
11 lating to certain personal injury liability assignments) is
12 amended—

13 (1) by inserting “, or as compensation under
14 any workmen’s compensation act,” after “(whether
15 by suit or agreement)” in the material preceding
16 paragraph (1),

17 (2) by inserting “or the workmen’s compensa-
18 tion claim,” after “agreement,” in paragraph (1),
19 and

20 (3) by striking “section 104(a)(2)” in para-
21 graph (2)(D) and inserting “paragraph (1) or (2) of
22 section 104(a)”.

23 (b) **EFFECTIVE DATE.**—The amendments made by
24 subsection (a) shall apply to claims under workmen’s com-

1 pension acts filed after the date of the enactment of this
2 Act.

3 **SEC. 953. TAX-EXEMPT STATUS FOR CERTAIN STATE WORK-**
4 **ER'S COMPENSATION ACT COMPANIES.**

5 (a) IN GENERAL.—Section 501(c)(27) (relating to
6 membership organizations under workmen's compensation
7 acts) is amended by adding at the end the following:

8 “(B) Any organization (including a mutual in-
9 surance company) if—

10 “(i) such organization is created by State
11 law and is organized and operated under State
12 law exclusively to—

13 “(I) provide workmen's compensation
14 insurance which is required by State law or
15 with respect to which State law provides
16 significant disincentives if such insurance
17 is not purchased by an employer, and

18 “(II) provide related coverage which is
19 incidental to workmen's compensation in-
20 surance,

21 “(ii) such organization must provide work-
22 men's compensation insurance to any employer
23 in the State (for employees in the State or tem-
24 porarily assigned out-of-State) which seeks such

1 insurance and meets other reasonable require-
2 ments relating thereto,

3 “(iii)(I) the State makes a financial com-
4 mitment with respect to such organization ei-
5 ther by extending the full faith and credit of
6 the State to debt of such organization or by
7 providing the initial operating capital of such
8 organization and (II) in the case of periods
9 after the date of enactment of this subpara-
10 graph, the assets of such organization revert to
11 the State upon dissolution, and

12 “(iv) the majority of the board of directors
13 or oversight body of such organization are ap-
14 pointed by the chief executive officer or other
15 executive branch official of the State, by the
16 State legislature, or by both.”.

17 (b) CONFORMING AMENDMENTS.—Section
18 501(e)(27) of such Code is amended by inserting “(A)”
19 after “(27)”, by redesignating subparagraphs (A), (B),
20 and (C) as clauses (i), (ii), and (iii), respectively, and by
21 redesignating clauses (i) and (ii) of subparagraphs (B)
22 and (C) (before redesignation) as subclauses (I) and (II),
23 respectively.

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

4 **SEC. 954. ELECTION TO CONTINUE EXCEPTION FROM**
5 **TREATMENT OF PUBLICLY TRADED PART-**
6 **NERSHIPS AS CORPORATIONS.**

7 (a) IN GENERAL.—Section 7704 is amended by add-
8 ing at the end thereof the following new subsection:

9 “(g) EXCEPTION FOR EXISTING PUBLICLY TRADED
10 PARTNERSHIPS.—

11 “(1) IN GENERAL.—Subsection (a) shall not
12 apply to an existing publicly traded partnership
13 which elects the application of this subsection and
14 consents to the application of the tax imposed by
15 paragraph (3).

16 “(2) EXISTING PUBLICLY TRADED PARTNER-
17 SHIP.—For purposes of this section, the term ‘exist-
18 ing publicly traded partnership’ means any publicly
19 traded partnership to which subsection (a) does not
20 apply as of the date of the enactment of this para-
21 graph (other than by reason of subsection (c)(1)).

22 “(3) ADDITIONAL TAX ON ELECTING PUBLICLY
23 TRADED PARTNERSHIPS.—

24 “(A) IMPOSITION OF TAX.—There is here-
25 by imposed for each taxable year on the income

1 of every electing publicly traded partnership a
2 tax equal to 15 percent of the gross income for
3 such taxable year from the active conduct of
4 trades and businesses by the partnership.

5 “(B) ELECTING PUBLICLY TRADED PART-
6 NERSHIP.—For purposes of this paragraph, the
7 term ‘electing publicly traded partnership’
8 means any partnership for which the consent
9 under paragraph (1) is in effect.

10 “(C) ADJUSTMENTS IN THE CASE OF
11 TIERED PARTNERSHIPS.—For purposes of this
12 paragraph, if the income of the partnership in-
13 cludes its distributive share of income from an-
14 other partnership for any taxable year, the
15 gross income referred to in subparagraph (A)
16 shall include the gross income of such other
17 partnership from the active conduct of trades
18 and businesses of such other partnership (in
19 lieu of such distributive share). A similar rule
20 shall apply in the case of lower-tiered partner-
21 ships.

22 “(D) TREATMENT OF TAX.—For purposes
23 of this title, the tax imposed by this paragraph
24 shall be treated as imposed by chapter 1 other

1 than for purposes of determining the amount of
2 any credit allowable under chapter 1.

3 “(4) ELECTION.—An election and consent
4 under this subsection shall apply to the taxable year
5 for which made and all subsequent taxable years un-
6 less revoked by the partnership. Such revocation
7 may be made without the consent of the Secretary,
8 but, once so revoked, may not be reinstated.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to taxable years beginning after
11 December 31, 1997.

12 **SEC. 955. EXCLUSION FROM UNRELATED BUSINESS TAX-**
13 **ABLE INCOME FOR CERTAIN SPONSORSHIP**
14 **PAYMENTS.**

15 (a) IN GENERAL.—Section 513 (relating to unrelated
16 trade or business income) is amended by adding at the
17 end the following new subsection:

18 “(i) TREATMENT OF CERTAIN SPONSORSHIP PAY-
19 MENTS.—

20 “(1) IN GENERAL.—The term ‘unrelated trade
21 or business’ does not include the activity of soliciting
22 and receiving qualified sponsorship payments.

23 “(2) QUALIFIED SPONSORSHIP PAYMENTS.—
24 For purposes of this subsection—

1 “(A) IN GENERAL.—The term ‘qualified
2 sponsorship payment’ means any payment made
3 by any person engaged in a trade or business
4 with respect to which there is no arrangement
5 or expectation that such person will receive any
6 substantial return benefit other than the use or
7 acknowledgement of the name or logo (or prod-
8 uct lines) of such person’s trade or business in
9 connection with the activities of the organiza-
10 tion that receives such payment. Such a use or
11 acknowledgement does not include advertising
12 such person’s products or services (including
13 messages containing qualitative or comparative
14 language, price information or other indications
15 of savings or value, an endorsement, or an in-
16 ducement to purchase, sell, or use such prod-
17 ucts or services).

18 “(B) LIMITATIONS.—

19 “(i) CONTINGENT PAYMENTS.—The
20 term ‘qualified sponsorship payment’ does
21 not include any payment if the amount of
22 such payment is contingent upon the level
23 of attendance at one or more events,
24 broadcast ratings, or other factors indicat-

1 ing the degree of public exposure to one or
2 more events.

3 “(ii) ACKNOWLEDGEMENTS OR AD-
4 VERTISING IN PERIODICALS.—The term
5 ‘qualified sponsorship payment’ does not
6 include any payment which entitles the
7 payor to an acknowledgement or advertis-
8 ing in regularly scheduled and printed ma-
9 terial published by or on behalf of the
10 payee organization that is not related to
11 and primarily distributed in connection
12 with a specific event conducted by the
13 payee organization.

14 “(3) ALLOCATION OF PORTIONS OF SINGLE
15 PAYMENT.—For purposes of this subsection, to the
16 extent that a portion of a payment would (if made
17 as a separate payment) be a qualified sponsorship
18 payment, such portion of such payment and the
19 other portion of such payment shall be treated as
20 separate payments.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to payments solicited or received
23 after December 31, 1997.

1 **SEC. 956. ASSOCIATIONS OF HOLDERS OF TIMESHARE IN-**
2 **TERESTS TO BE TAXED LIKE OTHER HOME-**
3 **OWNERS ASSOCIATIONS.**

4 (a) TIMESHARE ASSOCIATIONS INCLUDED AS HOME-
5 OWNER ASSOCIATIONS.—

6 (1) IN GENERAL.—Paragraph (1) of section
7 528(c) (defining homeowners association) is amend-
8 ed—

9 (A) by striking “or a residential real estate
10 management association” and inserting “, a
11 residential real estate management association,
12 or a timeshare association” in the material pre-
13 ceding subparagraph (A),

14 (B) by striking “or” at the end of clause
15 (i) of subparagraph (B), by striking the period
16 at the end of clause (ii) of subparagraph (B)
17 and inserting “, or”, and by adding at the end
18 of subparagraph (B) the following new clause:

19 “(iii) owners of timeshare rights to
20 use, or timeshare ownership interests in,
21 association property in the case of a
22 timeshare association,” and

23 (C) by inserting “and, in the case of a
24 timeshare association, for activities provided to
25 or on behalf of members of the association” be-
26 fore the comma at the end of subparagraph (C).

1 (2) **TIMESHARE ASSOCIATION DEFINED.**—Sub-
2 section (c) of section 528 is amended by redesignat-
3 ing paragraph (4) as paragraph (5) and by inserting
4 after paragraph (3) the following new paragraph:

5 “(4) **TIMESHARE ASSOCIATION.**—The term
6 ‘timeshare association’ means any organization
7 (other than a condominium management associa-
8 tion) meeting the requirement of subparagraph (A)
9 of paragraph (1) if any member thereof holds a
10 timeshare right to use, or a timeshare ownership in-
11 terest in, real property constituting association prop-
12 erty.”.

13 (b) **EXEMPT FUNCTION INCOME.**—Paragraph (3) of
14 section 528(d) is amended by striking “or” at the end of
15 subparagraph (A), by striking the period at the end of
16 subparagraph (B) and inserting “, or”, and by adding at
17 the end the following new subparagraph:

18 “(C) owners of timeshare rights to use, or
19 timeshare ownership interests in, real property
20 in the case of a timeshare association.”.

21 (c) **RATE OF TAX.**—Subsection (b) of section 528 (re-
22 lating to certain homeowners associations) is amended by
23 inserting before the period “(32 percent of such income
24 in the case of a timeshare association)”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 1996.

4 **SEC. 957. ADDITIONAL ADVANCE REFUNDING OF CERTAIN**
5 **VIRGIN ISLAND BONDS.**

6 Subclause (I) of section 149(d)(3)(A)(i) of the Inter-
7 nal Revenue Code of 1986 shall not apply to the second
8 advance refunding of any issue of the Virgin Islands which
9 was first advance refunded before June 9, 1997, if the
10 debt provisions of the refunding bonds are changed to re-
11 peal the priority first lien requirement of the refunded
12 bonds.

13 **SEC. 958. NONRECOGNITION OF GAIN ON SALE OF STOCK**
14 **TO CERTAIN FARMERS' COOPERATIVES.**

15 (a) IN GENERAL.—Section 1042 (relating to sales of
16 stock to employee stock ownership plans or certain co-
17 operatives) is amended by adding at the end the following
18 new subsection:

19 “(g) APPLICATION OF SECTION TO SALES OF STOCK
20 IN AGRICULTURAL REFINERS AND PROCESSORS TO ELI-
21 GIBLE FARM COOPERATIVES.—

22 “(1) IN GENERAL.—This section shall apply to
23 the sale of stock of a qualified refiner or processor
24 to an eligible farmers' cooperative.

1 “(2) QUALIFIED REFINER OR PROCESSOR.—For
2 purposes of this subsection, the term ‘qualified re-
3 finer or processor’ means a domestic corporation—

4 “(A) substantially all of the activities of
5 which consist of the active conduct of the trade
6 or business of refining or processing agricul-
7 tural or horticultural products, and

8 “(B) which purchases more than one-half
9 of such products to be refined or processed
10 from—

11 “(i) farmers who make up the eligible
12 farmers’ cooperative which is purchasing
13 stock in the corporation in a transaction to
14 which this subsection is to apply, and

15 “(ii) such cooperative.

16 “(3) ELIGIBLE FARMERS’ COOPERATIVE.—For
17 purposes of this section, the term ‘eligible farmers’
18 cooperative’ means an organization to which part I
19 of subchapter T applies which is engaged in the
20 marketing of agricultural or horticultural products.

21 “(4) SPECIAL RULES.—In applying this section
22 to a sale to which paragraph (1) applies—

23 “(A) the eligible farmers’ cooperative shall
24 be treated in the same manner as a cooperative
25 described in subsection (b)(1)(B),

1 “(B) subsection (b)(2) shall be applied by
2 substituting ‘100 percent’ for ‘30 percent’ each
3 place it appears,

4 “(C) the determination as to whether any
5 stock in the domestic corporation is a qualified
6 security shall be made without regard to wheth-
7 er the stock is an employer security or to sub-
8 section (c)(1)(A), and

9 “(D) paragraphs (2)(D) and (7) of sub-
10 section (c) shall not apply.”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to sales after December 31, 1997.

13 **SEC. 959. EXCEPTION FROM REPORTING OF REAL ESTATE**
14 **TRANSACTIONS FOR SALES AND EXCHANGES**
15 **OF CERTAIN PRINCIPAL RESIDENCES.**

16 (a) IN GENERAL.—Subsection (e) of section 6045
17 (relating to return required in the case of real estate
18 transactions) is amended by adding at the end the follow-
19 ing new paragraph:

20 “(5) EXCEPTION FOR SALES OR EXCHANGES OF
21 CERTAIN PRINCIPAL RESIDENCES.—

22 “(A) IN GENERAL.—Paragraph (1) shall
23 not apply to any sale or exchange of a residence
24 for \$250,000 or less if the person referred to in
25 paragraph (2)(A) receives written assurance in

1 a form acceptable to the Secretary from the
2 seller that—

3 “(i) such residence is the principal
4 residence (within the meaning of section
5 121) of the seller,

6 “(ii) there is no federally subsidized
7 mortgage financing assistance with respect
8 to the mortgage on such residence, and

9 “(iii) the seller meets the require-
10 ments of section 121(a) with respect to
11 such sale or exchange.

12 If such assurance includes an assurance that
13 the seller is married, the preceding sentence
14 shall be applied by substituting ‘\$500,000’ for
15 ‘\$250,000’.

16 “(B) SELLER.—For purposes of this para-
17 graph, the term ‘seller’ includes the person re-
18 linquishing the residence in an exchange.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall apply to sales and exchanges after the
21 date of the enactment of this Act.

1 **SEC. 960. INCREASED DEDUCTIBILITY OF BUSINESS MEAL**
 2 **EXPENSES FOR INDIVIDUALS SUBJECT TO**
 3 **FEDERAL HOURS OF SERVICE.**

4 (a) IN GENERAL.—Section 274(n) (relating to only
 5 50 percent of meal and entertainment expenses allowed
 6 as deduction) is amended by adding at the end the follow-
 7 ing new paragraph:

8 “(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT
 9 TO FEDERAL HOURS OF SERVICE.—

10 “(A) IN GENERAL.—In the case of any ex-
 11 penses for food or beverages consumed while
 12 away from home (within the meaning of section
 13 162(a)(2)) by an individual during, or incident
 14 to, the period of duty subject to the hours of
 15 service limitations of the Department of Trans-
 16 portation, paragraph (1) shall be applied by
 17 substituting ‘the applicable percentage’ for ‘50
 18 percent’.

19 “(B) APPLICABLE PERCENTAGE.—For
 20 purposes of this paragraph, the term ‘applicable
 21 percentage’ means the percentage determined
 22 under the following table:

| “For taxable years beginning in calendar year— | The applicable percentage is— |
|---|--|
| 1998 or 1999 | 55 |
| 2000 or 2001 | 60 |
| 2002 or 2003 | 65 |
| 2004 or 2005 | 70 |
| 2006 or 2007 | 75 |
| 2008 or thereafter | 80.”. |

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

4 **SEC. 961. QUALIFIED LESSEE CONSTRUCTION ALLOW-**
5 **ANCES FOR SHORT-TERM LEASES.**

6 (a) IN GENERAL.—Part III of subchapter B of chap-
7 ter 1 is amended by inserting after section 109 the follow-
8 ing new section:

9 **“SEC. 110. QUALIFIED LESSEE CONSTRUCTION ALLOW-**
10 **ANCES FOR SHORT-TERM LEASES.**

11 “(a) IN GENERAL.—Gross income of a lessee does
12 not include any amount received in cash (or treated as
13 a rent reduction) by a lessee from a lessor—

14 “(1) under a short-term lease of retail space,
15 and

16 “(2) for the purpose of such lessee’s construct-
17 ing or improving qualified long-term real property
18 for use in such lessee’s trade or business at such re-
19 tail space,

20 but only to the extent that such amount does not exceed
21 the amount expended by the lessee for such construction
22 or improvement.

23 “(b) CONSISTENT TREATMENT BY LESSOR.—Quali-
24 fied long-term real property constructed or improved in
25 connection with any amount excluded from a lessee’s in-

1 come by reason of subsection (a) shall be treated as non-
2 residential real property by the lessor.

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

4 “(1) QUALIFIED LONG-TERM REAL PROP-
5 ERTY.—The term ‘qualified long-term real property’
6 means nonresidential real property which is part of,
7 or otherwise present at, the retail space referred to
8 in subsection (a) and which reverts to the lessor at
9 the termination of the lease.

10 “(2) SHORT-TERM LEASE.—The term ‘short-
11 term lease’ means a lease (or other agreement for
12 occupancy or use) of retail space for 15 years or less
13 (as determined under the rules of section 168(i)(3)).

14 “(3) RETAIL SPACE.—The term ‘retail space’
15 means real property leased, occupied, or otherwise
16 used by a lessee in its trade or business of selling
17 tangible personal property or services to the general
18 public.

19 “(d) INFORMATION REQUIRED TO BE FURNISHED
20 TO SECRETARY.—Under regulations, the lessee and lessor
21 described in subsection (a) shall, at such times and in such
22 manner as may be provided in such regulations, furnish
23 to the Secretary—

1 “(1) information concerning the amounts re-
2 ceived (or treated as a rent reduction) and expended
3 as described in subsection (a), and

4 “(2) any other information which the Secretary
5 deems necessary to carry out the provisions of this
6 section.”.

7 (b) TREATMENT AS INFORMATION RETURN.—Sub-
8 paragraph (A) of section 6724(d)(1)(A) is amended by
9 striking “or” at the end of clause (vii), by adding “or”
10 at the end of clause (viii), and by adding at the end the
11 following new clause:

12 “(ix) section 110(d) (relating to quali-
13 fied lessee construction allowances for
14 short-term leases),”.

15 (c) CROSS REFERENCE.—Paragraph (8) of section
16 168(i) (relating to treatment of leasehold improvements)
17 is amended by adding at the end the following new sub-
18 paragraph:

19 “(C) CROSS REFERENCE.—

**“For treatment of qualified long-term real prop-
erty constructed or improved in connection with
cash or rent reduction from lessor to lessee, see sec-
tion 110(b).”.**

20 (d) CLERICAL AMENDMENT.—The table of sections
21 for part III of subchapter B of chapter 1 is amended by
22 inserting after the item relating to section 109 the follow-
23 ing new item:

“Sec. 110. Qualified lessee construction allowances for short-term leases.”.

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

4 **SEC. 962. TAX TREATMENT OF CONSOLIDATIONS OF LIFE**
5 **INSURANCE DEPARTMENTS OF MUTUAL SAV-**
6 **INGS BANKS.**

7 (a) GENERAL RULE.—Section 594 (relating to alter-
8 native tax for mutual savings banks conducting life insur-
9 ance business) is amended by adding at the end thereof
10 the following new subsection:

11 “(c) TREATMENT OF CONSOLIDATIONS.—If 2 or
12 more life insurance departments to which subsection (a)
13 applied are consolidated into a single life insurance com-
14 pany pursuant to a requirement of State law—

15 “(1) such consolidation shall be treated as a re-
16 organization described in section 368(a)(1)(E), and

17 “(2) any payments required to be made to pol-
18 icyholders in connection with such consolidation
19 shall be treated as policyholder dividends deductible
20 under section 808 but only if—

21 “(A) such payments are only with respect
22 to policies in effect immediately before such
23 consolidation,

1 “(B) such payments are only with respect
2 to policies which are participating before and
3 after such consolidation,

4 “(C) such payments shall cease with re-
5 spect to any policy if such policy lapses after
6 such consolidation,

7 “(D) the policyholders before such consoli-
8 dation had no divisible right to the surplus of
9 any such department and had no right to vote,
10 and

11 “(E) the approval of such policyholders
12 was not required for such consolidation.”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 subsection (a) shall take effect on December 31, 1991.

15 **SEC. 963. OFFSET OF PAST-DUE, LEGALLY ENFORCEABLE**
16 **STATE TAX OBLIGATIONS AGAINST OVERPAY-**
17 **MENTS.**

18 (a) IN GENERAL.—Section 6402 is amended by re-
19 designating subsections (e) through (i) as subsections (f)
20 through (j), respectively, and by inserting after subsection
21 (d) the following new subsection:

22 “(e) COLLECTION OF PAST-DUE, LEGALLY EN-
23 FORCEABLE STATE TAX OBLIGATIONS.—

24 “(1) IN GENERAL.—Upon receiving notice from
25 any State that a named person owes a past-due, le-

1 gally enforceable State tax obligation to such State,
2 the Secretary shall, under such conditions as may be
3 prescribed by the Secretary—

4 “(A) reduce the amount of any overpay-
5 ment payable to such person by the amount of
6 such State tax obligation;

7 “(B) pay the amount by which such over-
8 payment is reduced under subparagraph (A) to
9 such State and notify such State of such per-
10 son’s name, taxpayer identification number, ad-
11 dress, and the amount collected; and

12 “(C) notify the person making such over-
13 payment that the overpayment has been re-
14 duced by an amount necessary to satisfy a past-
15 due, legally enforceable State tax obligation.

16 If an offset is made pursuant to a joint return, the
17 notice under subparagraph (B) shall include the
18 names, taxpayer identification numbers, and ad-
19 dresses of each person filing such return.

20 “(2) OFFSET PERMITTED ONLY AGAINST RESI-
21 DENTS OF STATE SEEKING OFFSET.—Paragraph (1)
22 shall apply to an overpayment by any person for a
23 taxable year only if the address shown on the return
24 for such taxable year is an address within the State
25 seeking the offset.

1 “(3) PRIORITIES FOR OFFSET.—Any overpay-
2 ment by a person shall be reduced pursuant to this
3 subsection—

4 “(A) after such overpayment is reduced
5 pursuant to—

6 “(i) subsection (a) with respect to any
7 liability for any internal revenue tax on the
8 part of the person who made the overpay-
9 ment,

10 “(ii) subsection (c) with respect to
11 past-due support, and

12 “(iii) subsection (d) with respect to
13 any past-due, legally enforceable debt owed
14 to a Federal agency, and

15 “(B) before such overpayment is credited
16 to the future liability for any Federal internal
17 revenue tax of such person pursuant to sub-
18 section (b).

19 If the Secretary receives notice from 1 or more
20 agencies of the State of more than 1 debt subject to
21 paragraph (1) that is owed by such person to such
22 an agency, any overpayment by such person shall be
23 applied against such debts in the order in which
24 such debts accrued.

1 “(4) NOTICE; CONSIDERATION OF EVIDENCE.—
2 No State may take action under this subsection until
3 such State—

4 “(A) notifies the person owing the past-due
5 State tax liability that the State proposes to
6 take action pursuant to this section,

7 “(B) gives such person at least 60 days to
8 present evidence that all or part of such liability
9 is not past-due or not legally enforceable,

10 “(C) considers any evidence presented by
11 such person and determines that an amount of
12 such debt is past-due and legally enforceable,
13 and

14 “(D) satisfies such other conditions as the
15 Secretary may prescribe to ensure that the de-
16 termination made under subparagraph (C) is
17 valid and that the State has made reasonable
18 efforts to obtain payment of such State tax ob-
19 ligation.

20 “(5) PAST-DUE, LEGALLY ENFORCEABLE STATE
21 TAX OBLIGATION.—For purposes of this subsection,
22 the term ‘past-due, legally enforceable State tax obli-
23 gation’ means a debt—

24 “(A)(i) which resulted from—

1 “(I) a judgment rendered by a court
2 of competent jurisdiction which has deter-
3 mined an amount of State tax to be due,
4 or

5 “(II) a determination after an admin-
6 istrative hearing which has determined an
7 amount of State tax to be due, and

8 “(ii) which is no longer subject to judicial
9 review, or

10 “(B) which resulted from a State tax
11 which has been assessed but not collected, the
12 time for redetermination of which has expired,
13 and which has not been delinquent for more
14 than 10 years.

15 For purposes of this paragraph, the term ‘State tax’
16 includes any local tax administered by the chief tax
17 administration agency of the State.

18 “(6) REGULATIONS.—The Secretary shall issue
19 regulations prescribing the time and manner in
20 which States must submit notices of past-due, legally
21 enforceable State tax obligations and the necessary
22 information that must be contained in or accompany
23 such notices. The regulations shall specify the types
24 of State taxes and the minimum amount of debt to
25 which the reduction procedure established by para-

1 graph (1) may be applied. The regulations may re-
2 quire States to pay a fee to reimburse the Secretary
3 for the cost of applying such procedure. Any fee paid
4 to the Secretary pursuant to the preceding sentence
5 shall be used to reimburse appropriations which bore
6 all or part of the cost of applying such procedure.

7 “(7) ERRONEOUS PAYMENT TO STATE.—Any
8 State receiving notice from the Secretary that an er-
9 roneous payment has been made to such State under
10 paragraph (1) shall pay promptly to the Secretary,
11 in accordance with such regulations as the Secretary
12 may prescribe, an amount equal to the amount of
13 such erroneous payment (without regard to whether
14 any other amounts payable to such State under such
15 paragraph have been paid to such State).”.

16 (b) DISCLOSURE OF CERTAIN INFORMATION TO
17 STATES REQUESTING REFUND OFFSETS FOR PAST-DUE,
18 LEGALLY ENFORCEABLE STATE TAX OBLIGATIONS.—

19 (1) Paragraph (10) of section 6103(l) is amend-
20 ed by striking “(c) or (d)” each place it appears and
21 inserting “(c), (d), or (e)”.

22 (2) The paragraph heading for such paragraph
23 (10) is amended by striking “SECTION 6402(c) OR
24 6402(d)” and inserting “SUBSECTION (c), (d), OR (e)
25 OF SECTION 6402”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) Subsection (a) of section 6402 is amended
3 by striking “(c) and (d)” and inserting “(c), (d),
4 and (e)”.

5 (2) Paragraph (2) of section 6402(d) is amend-
6 ed by striking “and before such overpayment” and
7 inserting “and before such overpayment is reduced
8 pursuant to subsection (e) and before such overpay-
9 ment”.

10 (3) Subsection (f) of section 6402, as redesign-
11 nated by subsection (a), is amended—

12 (A) by striking “(c) or (d)” and inserting
13 “(c), (d), or (e)”, and

14 (B) by striking “Federal agency” and in-
15 sserting “Federal agency or State”.

16 (4) Subsection (h) of section 6402, as redesign-
17 nated by subsection (a), is amended by striking
18 “subsection (c)” and inserting “subsection (c) or
19 (e)”.

20 (d) AMENDMENTS APPLIED AFTER TECHNICAL COR-
21 RECTIONS TO PERSONAL RESPONSIBILITY AND WORK OP-
22 PORTUNITY RECONCILIATION ACT OF 1996.—

23 (1) Section 110(l) of the Personal Responsibil-
24 ity and Work Opportunity Reconciliation Act of
25 1996 is amended by striking paragraphs (4), (5),

1 and (7) (and the amendments made by such para-
2 graphs), and the Internal Revenue Code of 1986
3 shall be applied as if such paragraphs (and amend-
4 ments) had never been enacted.

5 (2) For purposes of applying the amendments
6 made by this section other than this subsection, the
7 provisions of this subsection shall be treated as hav-
8 ing been enacted immediately before the other provi-
9 sions of this section.

10 (e) EFFECTIVE DATE.—The amendments made by
11 this section (other than subsection (d)) shall apply to re-
12 funds payable under section 6402 of the Internal Revenue
13 Code of 1986 after December 31, 1998.

14 **SEC. 964. EXEMPTION OF THE INCREMENTAL COST OF A**
15 **CLEAN FUEL VEHICLE FROM THE LIMITS ON**
16 **DEPRECIATION FOR VEHICLES.**

17 (a) IN GENERAL.—Section 280F(a)(1) (relating to
18 limiting depreciation on luxury automobiles) is amended
19 by adding at the end the following new subparagraph:

20 “(C) SPECIAL RULE FOR CERTAIN CLEAN-
21 FUEL PASSENGER AUTOMOBILES.—

22 “(i) MODIFIED AUTOMOBILES.—In
23 the case of a passenger automobile which
24 is propelled by a fuel which is not a clean-
25 burning fuel to which is installed qualified

1 clean-fuel vehicle property (as defined in
2 section 179A(e)(1)(A)) for purposes of per-
3 mitting such vehicle to be propelled by a
4 clean burning fuel (as defined in section
5 179A(e)(1)), subparagraph (A) shall not
6 apply to the cost of the installed qualified
7 clean burning vehicle property as depre-
8 ciated pursuant to section 168 by applying
9 the rules under subsections (b)(1), (d)(1),
10 and (e)(3)(B) thereof.

11 “(ii) PURPOSE BUILT PASSENGER VE-
12 HICLES.—In the case of a purpose built
13 passenger vehicle (as defined in section
14 4001(a)(2)(C)(ii)), each of the annual limi-
15 tations specified in subparagraph (A) shall
16 be tripled.”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to property placed in service on
19 or after the date of enactment of this Act and before Janu-
20 ary 1, 2005.

21 **SEC. 965. TAX BENEFITS FOR LAW ENFORCEMENT OFFI-**
22 **CERS KILLED IN THE LINE OF DUTY.**

23 (a) IN GENERAL.—Part III of subchapter B of chap-
24 ter 1 (relating to items specifically excluded from gross
25 income) is amended by redesignating section 138 as sec-

1 tion 139 and by inserting after section 137 the following
2 new section:

3 **“SEC. 138. SURVIVOR BENEFITS ATTRIBUTABLE TO SERV-**
4 **ICE BY A LAW ENFORCEMENT OFFICER WHO**
5 **IS KILLED IN THE LINE OF DUTY.**

6 “(a) IN GENERAL.—Gross income shall not include
7 any amount paid as a survivor annuity on account of the
8 death of a law enforcement officer killed in the line of
9 duty—

10 “(1) if such annuity is provided under a govern-
11 mental plan which meets the requirements of section
12 401(a) to the spouse (or a former spouse) of the law
13 enforcement officer or to a child of such officer, and

14 “(2) to the extent such annuity is attributable
15 to such officer’s service as a law enforcement officer.

16 “(b) EXCEPTIONS.—

17 “(1) IN GENERAL.—Subsection (a) shall not
18 apply with respect to the death of any law enforce-
19 ment officer if—

20 “(A) the death was caused by the inten-
21 tional misconduct of the officer or by such offi-
22 cer’s intention to bring about such officer’s
23 death,

24 “(B) the officer was voluntarily intoxicated
25 (as defined in section 1204 of the Omnibus

1 Crime Control and Safe Streets Act of 1968) at
2 the time of death, or

3 “(C) the officer was performing such offi-
4 cer’s duties in a grossly negligent manner at
5 the time of death.

6 “(2) EXCEPTION FOR BENEFITS PAID TO CER-
7 TAIN INDIVIDUALS.—Subsection (a) shall not apply
8 to any payment to an individual whose actions were
9 a substantial contributing factor to the death of the
10 officer.

11 “(c) LAW ENFORCEMENT OFFICER.—For purposes
12 of this section, the term ‘law enforcement officer’ means
13 an individual serving a public agency (as defined in section
14 1204 of the Omnibus Crime Control and Safe Streets Act
15 of 1968) in an official capacity, with or without compensa-
16 tion, as a law enforcement officer (as defined in such sec-
17 tion).”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 for part III of subchapter B of chapter 1 is amended by
20 striking the last item and inserting the following new
21 items:

“Sec. 138. Survivor benefits attributable to service by a law en-
forcement officer who is killed in the line of duty.
“Sec. 139. Cross references to other Acts.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this subsection shall apply to amounts received in taxable

1 years beginning after December 31, 1996, with respect to
2 individuals dying after such date.

3 **SEC. 966. TEMPORARY SUSPENSION OF TAXABLE INCOME**
4 **LIMIT ON PERCENTAGE DEPLETION FOR**
5 **MARGINAL PRODUCTION.**

6 In the case of taxable years beginning after December
7 31, 1997, and before January 1, 2000, paragraph (1) of
8 section 613A(d) of the Internal Revenue Code of 1986
9 shall not apply to so much of the allowance for depletion
10 computed under section 613A(e) of such Code as is attrib-
11 utable to paragraph (6) thereof.

12 **Subtitle G—Extension of Duty-Free**
13 **Treatment Under Generalized**
14 **System of Preferences; Tariff**
15 **Treatment of Certain Equip-**
16 **ment and Repair of Vessels**

17 **SEC. 971. GENERALIZED SYSTEM OF PREFERENCES.**

18 (a) EXTENSION OF DUTY-FREE TREATMENT UNDER
19 SYSTEM.—Section 505 of the Trade Act of 1974 (19
20 U.S.C. 2465) is amended by striking “May 31, 1997” and
21 inserting “May 31, 1999”.

22 (b) RETROACTIVE APPLICATION FOR CERTAIN LIQ-
23 UIDATIONS AND RELIQUIDATIONS.—

1 (1) IN GENERAL.—Notwithstanding section 514
2 of the Tariff Act of 1930 or any other provision of
3 law and subject to paragraph (2), the entry—

4 (A) of any article to which duty-free treat-
5 ment under title V of the Trade Act of 1974
6 would have applied if the entry had been made
7 on May 31, 1997, and

8 (B) that was made after May 31, 1997,
9 and before the date of the enactment of this
10 Act,

11 shall be liquidated or reliquidated as free of duty,
12 and the Secretary of the Treasury shall refund any
13 duty paid with respect to such entry. As used in this
14 subsection, the term “entry” includes a withdrawal
15 from warehouse for consumption.

16 (2) REQUESTS.—Liquidation or reliquidation
17 may be made under paragraph (1) with respect to
18 an entry only if a request therefor is filed with the
19 Customs Service, within 180 days after the date of
20 the enactment of this Act, that contains sufficient
21 information to enable the Customs Service—

22 (A) to locate the entry; or

23 (B) to reconstruct the entry if it cannot be
24 located.

1 **SEC. 972. EQUIPMENT AND REPAIR OF VESSELS.**

2 (a) TARIFF TREATMENT.—Section 466 of the Tariff
3 Act of 1930 (19 U.S.C. 1466), is amended by adding at
4 the end the following new subsection:

5 “(i)(1) The duty imposed by subsection (a) shall not
6 apply with respect to activities occurring in a Shipbuilding
7 Agreement Party, with respect to—

8 “(A) self-propelled seagoing vessels of 100 gross
9 tons or more that are used for transportation of
10 goods or persons or for performance of a specialized
11 service (including, but not limited to, ice breakers
12 and dredges), and

13 “(B) tugs of 365 kilowatts or more.

14 A vessel shall be considered ‘self-propelled seagoing’ if its
15 permanent propulsion and steering provide it all the char-
16 acteristics of self-navigability in the high seas.

17 “(2) As used in this subsection—

18 “(A) the term ‘Shipbuilding Agreement Party’
19 means a state or separate customs territory that is
20 a signatory to the Shipbuilding Agreement; and

21 “(B) the term ‘Shipbuilding Agreement’ means
22 The Agreement Respecting Normal Competitive
23 Conditions in the Commercial Shipbuilding and Re-
24 pair Industry, resulting from negotiations under the
25 auspices of the Organization for Economic Coopera-

1 tion and Development, and entered into on Decem-
2 ber 21, 1994.”.

3 (b) APPLICABILITY.—The amendment made by sub-
4 section (a) applies only with respect to activities occurring
5 in a Shipbuilding Agreement Party (as defined in section
6 466(i) of the Tariff Act of 1930) during the 1-year period
7 beginning on the date of the enactment of this Act.

8 **Subtitle H—United States-Carib-**
9 **bean Basin Trade Partnership**
10 **Act**

11 **SEC. 981. SHORT TITLE.**

12 This subtitle may be cited as the “United States-Car-
13 ibbean Basin Trade Partnership Act”.

14 **SEC. 982. FINDINGS AND POLICY.**

15 (a) FINDINGS.—The Congress makes the following
16 findings:

17 (1) The United States apparel industry is a
18 major component of the United States manufactur-
19 ing sector of the United States, employing nearly
20 825,000 people who are located in every State in the
21 country. The United States apparel industry con-
22 sumes 42 percent of the fabric produced by United
23 States textile mills, which employ more than
24 650,000 people.

1 (2) In 1973 the United States apparel industry
2 supplied 88 percent of the garments consumed by
3 Americans, and in 1995 that share fell to less than
4 50 percent.

5 (3) Countries in the Western Hemisphere offer
6 the greatest opportunities for increased exports of
7 United States textile and apparel products.

8 (4) Given the greater propensity of countries lo-
9 cated in the Western Hemisphere to use United
10 States components and to purchase United States
11 products compared to other countries, increased
12 trade and economic activity between the United
13 States and countries in the Western Hemisphere will
14 create new jobs in the United States as a result of
15 expanding export opportunities.

16 (5) The Caribbean Basin Economic Recovery
17 Act represents a permanent commitment by the
18 United States to encourage the development of
19 strong democratic governments and revitalized
20 economies in neighboring countries in the Caribbean
21 Basin.

22 (6) The economic security of the countries in
23 the Caribbean Basin is potentially threatened by the
24 diversion of investment to Mexico as a result of the
25 North American Free Trade Agreement.

1 (7) Offering NAFTA equivalent benefits to
2 Caribbean Basin beneficiary countries, pending their
3 eventual accession to the NAFTA or a free trade
4 agreement comparable to the NAFTA, will promote
5 the growth of free enterprise and economic oppor-
6 tunity in the region, and thereby enhance the na-
7 tional security interests of the United States.

8 (b) POLICY.—It is the policy of the United States—

9 (1) to assure that the domestic textile and ap-
10 parel industry remains competitive in the global
11 marketplace by encouraging the formation and ex-
12 pansion of “partnerships” between the textile and
13 apparel industry of the United States and the textile
14 and apparel industry of various countries located in
15 the Western Hemisphere; and

16 (2) to offer to the products of Caribbean Basin
17 partnership countries tariffs and quota treatment
18 equivalent to that accorded to products of NAFTA
19 countries, and to seek the accession of these partner-
20 ship countries to the NAFTA or a free trade agree-
21 ment comparable to the NAFTA at the earliest pos-
22 sible date, with the goal of achieving full participa-
23 tion in the NAFTA or in a free trade agreement
24 comparable to the NAFTA by all partnership coun-
25 tries by not later than January 1, 2005.

1 **SEC. 983. DEFINITIONS.**

2 As used in this Act:

3 (1) PARTNERSHIP COUNTRY.—The term “part-
4 nership country” means a beneficiary country as de-
5 fined in section 212(a)(1)(A) of the Caribbean Basin
6 Economic Recovery Act (19 U.S.C. 2702(a)(1)(A)).

7 (2) NAFTA.—The term “NAFTA” means the
8 North American Free Trade Agreement entered into
9 between the United States, Mexico, and Canada on
10 December 17, 1992.

11 (3) TRADE REPRESENTATIVE.—The term
12 “Trade Representative” means the United States
13 Trade Representative.

14 (4) WTO AND WTO MEMBER.—The terms
15 “WTO” and “WTO member” have the meanings
16 given those terms in section 2 of the Uruguay
17 Round Agreements Act (19 U.S.C. 3501).

18 **SEC. 984. TEMPORARY PROVISIONS TO PROVIDE NAFTA**
19 **PARTY TO PARTNERSHIP COUNTRIES.**

20 (a) TEMPORARY PROVISIONS.—Section 213(b) of the
21 Caribbean Basin Economic Recovery Act (19 U.S.C.
22 2703(b)) is amended to read as follows:

23 “(b) IMPORT-SENSITIVE ARTICLES.—

24 “(1) IN GENERAL.—Subject to paragraphs (2)
25 through (5), the duty-free treatment provided under
26 this title does not apply to—

1 “(A) textile and apparel articles which are
2 subject to textile agreements;

3 “(B) footwear not designated at the time
4 of the effective date of this title as eligible arti-
5 cles for the purpose of the generalized system
6 of preferences under title V of the Trade Act of
7 1974;

8 “(C) tuna, prepared or preserved in any
9 manner, in airtight containers;

10 “(D) petroleum, or any product derived
11 from petroleum, provided for in headings 2709
12 and 2710 of the HTS;

13 “(E) watches and watch parts (including
14 cases, bracelets and straps), of whatever type
15 including, but not limited to, mechanical, quartz
16 digital, or quartz analog, if such watches or
17 watch parts contain any material which is the
18 product of any country with respect to which
19 HTS column 2 rates of duty apply; or

20 “(F) articles to which reduced rates of
21 duty apply under subsection (h).

22 “(2) NAFTA TRANSITION PERIOD TREATMENT
23 OF CERTAIN TEXTILE AND APPAREL ARTICLES.—

24 “(A) EQUIVALENT TARIFF AND QUOTA
25 TREATMENT.—During the transition period—

1 “(i) the tariff treatment accorded at
2 any time to any textile or apparel article
3 that originates in the territory of a part-
4 nership country shall be identical to the
5 tariff treatment that is accorded at such
6 time under section 2 of the Annex to an
7 article described in the same 8-digit sub-
8 heading of the HTS that is an originating
9 good of Mexico and is imported into the
10 United States;

11 “(ii) duty-free treatment under this
12 title shall apply to any textile or apparel
13 article that is imported into the United
14 States from a partnership country and
15 that—

16 “(I) is assembled in a partner-
17 ship country, from fabrics wholly
18 formed and cut in the United States
19 from yarns formed in the United
20 States, and is entered—

21 “(aa) under subheading
22 9802.00.80 of the HTS; or

23 “(bb) under chapter 61 or
24 62 of the HTS if, after such as-
25 sembly, the article would have

1 qualified for treatment under
2 subheading 9802.00.80 of the
3 HTS, but for the fact the article
4 was subjected to bleaching, dye-
5 ing, stone-washing, enzyme-wash-
6 ing, acid-washing, perma-press-
7 ing, or similar processes or em-
8 broidery; or

9 “(II) is knit-to-shape in a part-
10 nership country from yarns wholly
11 formed in the United States;

12 “(III) is made from fabric knit in
13 a partnership country from yarns
14 wholly formed in the United States;

15 “(IV) is cut and assembled in a
16 partnership country from yarns wholly
17 formed in the United States; or

18 “(V) is identified under subpara-
19 graph (C) as a handloomed, hand-
20 made, or folklore article of such coun-
21 try and is certified as such by the
22 competent authority of such country;
23 and

24 “(iii) no quantitative restriction under
25 any bilateral textile agreement may be ap-

1 plied to the importation into the United
2 States of any textile or apparel article
3 that—

4 “(I) originates in the territory of
5 a partnership country, or

6 “(II) qualifies for duty-free treat-
7 ment under subclause (I), (II), (III),
8 (IV), or (V) of clause (ii).

9 “(B) NAFTA TRANSITION PERIOD TREAT-
10 MENT OF NONORIGINATING TEXTILE AND AP-
11 PAREL ARTICLES.—

12 “(i) PREFERENTIAL TARIFF TREAT-
13 MENT.—Subject to clause (ii), the Presi-
14 dent may place in effect at any time dur-
15 ing the transition period with respect to
16 any textile or apparel article that—

17 “(I) is a product of a partnership
18 country, but

19 “(II) does not qualify as a good
20 that originates in the territory of a
21 partnership country,
22 tariff treatment that is identical to the in-
23 preference-level tariff treatment accorded
24 at such time under Appendix 6.B of the
25 Annex to an article described in the same

1 8-digit subheading of the HTS that is a
2 product of Mexico and is imported into the
3 United States. For purposes of this clause,
4 the ‘in-preference-level tariff treatment’ ac-
5 corded to an article that is a product of
6 Mexico is the rate of duty applied to that
7 article when imported in quantities less
8 than or equal to the quantities specified in
9 Schedule 6.B.1, 6.B.2., or 6.B.3. of the
10 Annex for imports of that article from
11 Mexico into the United States.

12 “(ii) LIMITATIONS ON CERTAIN ARTI-
13 CLES.—(I) Tariff treatment under clause
14 (i) may be extended, during any calendar
15 year, to not more than 45,000,000 square
16 meter equivalents of cotton or man-made
17 fiber apparel, to not more than 1,500,000
18 square meter equivalents of wool apparel,
19 and to not more than 25,000,000 square
20 meter equivalents of goods entered under
21 subheading 9802.00.80 of the HTS.

22 “(II) Except as provided in subclause
23 (III), the amounts set forth in subclause
24 (I) shall be allocated among the 7 partner-
25 ship countries with the largest volume of

1 exports to the United States of textile and
2 apparel goods in calendar year 1996, based
3 upon a pro rata share of the volume of tex-
4 tile and apparel goods of each of those 7
5 countries that entered the United States
6 under subheading 9802.00.80 of the HTS
7 during the first 12 months of the 14-
8 month period ending on the date of the en-
9 actment of the United States-Caribbean
10 Basin Trade Partnership Act.

11 “(III) Five percent of the amounts set
12 forth in subclause (I) shall be allocated
13 among the partnership countries, other
14 than those to which subclause (II) applies,
15 based upon a pro rata share of the exports
16 to the United States of textile and apparel
17 goods of each of those countries during the
18 first 12 months of the 14-month period
19 ending on the date of the enactment of the
20 United States-Caribbean Basin Trade
21 Partnership Act.

22 “(iii) PRIOR CONSULTATION.—The
23 President may implement the preferential
24 tariff treatment described in clause (i) only
25 after consultation with representatives of

1 the United States textile and apparel in-
2 dustry and other interested parties regard-
3 ing—

4 “(I) the specific articles to which
5 such treatment will be extended,

6 “(II) the annual quantities of
7 such articles that may be imported at
8 the preferential duty rates described
9 in clause (i), and

10 “(III) the allocation of such an-
11 nual quantities among beneficiary
12 countries.

13 “(C) HANDLOOMED, HANDMADE, AND
14 FOLKLORE ARTICLES.—For purposes of sub-
15 paragraph (A), the Trade Representative shall
16 consult with representatives of the partnership
17 country for the purpose of identifying particular
18 textile and apparel goods that are mutually
19 agreed upon as being handloomed, handmade,
20 or folklore goods of a kind described in section
21 2.3 (a), (b), or (c) or Appendix 3.1.B.11 of the
22 Annex.

23 “(D) BILATERAL EMERGENCY ACTIONS.—

24 (i) The President may take—

1 “(I) bilateral emergency tariff actions
2 of a kind described in section 4 of the
3 Annex with respect to any textile or ap-
4 parel article imported from a partnership
5 country if the application of tariff treat-
6 ment under subparagraph (A) to such arti-
7 cle results in conditions that would be
8 cause for the taking of such actions under
9 such section 4 with respect to an article
10 described in the same 8-digit subheading
11 of the HTS that is imported from Mexico;
12 or

13 “(II) bilateral emergency quantitative
14 restriction actions of a kind described in
15 section 5 of the Annex with respect to im-
16 ports of any textile or apparel article de-
17 scribed in subparagraph (B)(i) (I) and (II)
18 if the importation of such article into the
19 United States results in conditions that
20 would be cause for the taking of such ac-
21 tions under such section 5 with respect to
22 a like article that is a product of Mexico.

23 “(ii) The requirement in paragraph (5) of
24 section 4 of the Annex (relating to providing
25 compensation) shall not be deemed to apply to

1 a bilateral emergency action taken under this
2 subparagraph.

3 “(iii) For purposes of applying bilateral
4 emergency action under this subparagraph—

5 “(I) the term ‘transition period’ in
6 sections 4 and 5 of the Annex shall be
7 deemed to be the period defined in para-
8 graph (5)(D); and

9 “(II) any requirements to consult
10 specified in section 4 or 5 of the Annex are
11 deemed to be satisfied if the President re-
12 quests consultations with the partnership
13 country in question and the country does
14 not agree to consult within the time period
15 specified in such section.

16 “(3) NAFTA TRANSITION PERIOD TREATMENT
17 OF CERTAIN OTHER ARTICLES ORIGINATING IN BEN-
18 EFICIARY COUNTRIES.—

19 “(A) EQUIVALENT TARIFF TREATMENT.—

20 “(i) IN GENERAL.—Subject to clause
21 (ii), the tariff treatment accorded at any
22 time during the transition period to any
23 article referred to in any of subparagraphs
24 (B) through (F) of paragraph (1) that
25 originates in the territory of a partnership

1 country shall be identical to the tariff
2 treatment that is accorded at such time
3 under Annex 302.2 of the NAFTA to an
4 article described in the same 8-digit sub-
5 heading of the HTS that is an originating
6 good of Mexico and is imported into the
7 United States.

8 “(ii) EXCEPTION.—Clause (i) does not
9 apply to any article accorded duty-free
10 treatment under U.S. Note 2(b) to sub-
11 chapter II of chapter 98 of the HTS.

12 “(B) RELATIONSHIP TO SUBSECTION (h)
13 DUTY REDUCTIONS.—If at any time during the
14 transition period the rate of duty that would
15 (but for action taken under subparagraph (A)(i)
16 in regard to such period) apply with respect to
17 any article under subsection (h) is a rate of
18 duty that is lower than the rate of duty result-
19 ing from such action, then such lower rate of
20 duty shall be applied for the purposes of imple-
21 menting such action.

22 “(4) CUSTOMS PROCEDURES.—

23 “(A) IN GENERAL.—

24 “(i) The obligations under chapter 5
25 of the NAFTA regarding customs proce-

1 dures, as such obligations apply to the ex-
2 porting country, shall apply to importa-
3 tions under paragraphs (2) and (3) of arti-
4 cles from partnership countries.

5 “(ii) The Secretary of the Treasury
6 shall prescribe regulations that require, as
7 a condition of entry, that any importer of
8 record that claims preferential treatment
9 under paragraph (2) or (3) must comply
10 with requirements similar in all material
11 respects to the requirements of article
12 502.1 of the NAFTA. The certificate of or-
13 igin that otherwise would be required
14 under this subparagraph shall not be re-
15 quired in the case of an article imported
16 under paragraph (2) or (3) if such certifi-
17 cate of origin would not be required under
18 article 503 of the NAFTA for a similar
19 importation from Mexico.

20 “(B) PENALTIES FOR ENGAGING IN
21 TRANSSHIPMENT OR OTHER CUSTOMS
22 FRAUD.—If an exporter is determined under
23 the laws of the United States to have engaged
24 in illegal transshipment of textile or apparel
25 products from a partnership country, then the

1 President shall deny all benefits under this title
2 to such exporter, and any successors of such ex-
3 porter, for a period of 2 years.

4 “(C) STUDY BY USTR ON COOPERATION
5 OF OTHER COUNTRIES CONCERNING CIR-
6 CUMVENTION.—The Trade Representative, in
7 consultation with the United States Commis-
8 sioner of Customs, shall conduct a study ana-
9 lyzing the extent to which each partnership
10 country—

11 “(i) has cooperated fully with the
12 United States, consistent with its domestic
13 laws and procedures, in instances of cir-
14 cumvention or alleged circumvention of ex-
15 isting quotas on imports of textile and ap-
16 parel goods, to establish necessary relevant
17 facts in the places of import, export, and,
18 where applicable, transshipment, including
19 investigation of circumvention practices,
20 exchanges of documents, correspondence,
21 reports, and other relevant information, to
22 the extent such information is available;

23 “(ii) has taken appropriate measures,
24 consistent with its domestic laws and pro-
25 cedures, against exporters and importers

1 involved in instances of false declaration
2 concerning fiber content, quantities, de-
3 scription, classification, or origin of textile
4 and apparel goods; and

5 “(iii) has penalized the individuals
6 and entities involved in any such cir-
7 cumvention, consistent with its domestic
8 laws and procedures, and has worked
9 closely to seek the cooperation of any third
10 country to prevent such circumvention
11 from taking place in that third country.

12 The Trade Representative shall submit to the
13 Congress, not later than October 1, 1998, a re-
14 port on the study conducted under this sub-
15 paragraph.

16 “(5) DEFINITIONS.—For purposes of this sub-
17 section—

18 “(A) The term ‘the Annex’ means Annex
19 300–B of the NAFTA.

20 “(B) The term ‘NAFTA’ means the North
21 American Free Trade Agreement entered into
22 between the United States, Mexico, and Canada
23 on December 17, 1992.

24 “(C) The term ‘partnership country’
25 means a beneficiary country.

1 “(D) The term ‘textile or apparel article’
2 means any article referred to in paragraph
3 (1)(A) that is a good listed in Appendix 1.1 of
4 the Annex.

5 “(E) The term ‘transition period’ means,
6 with respect to a partnership country, the pe-
7 riod that begins on January 1, 1998, and ends
8 on the earlier of—

9 “(i) December 31, 1998; or

10 “(ii) the date on which—

11 “(I) the United States first ap-
12 plies the NAFTA to the partnership
13 country upon its accession to the
14 NAFTA, or

15 “(II) there enters into force with
16 respect to the United States and the
17 partnership country a free trade
18 agreement comparable to the NAFTA
19 that makes substantial progress in
20 achieving the negotiating objectives
21 set forth in section 108(b)(5) of the
22 North American Free Trade Agree-
23 ment Implementation Act (19 U.S.C.
24 3317(b)(5)).

1 “(F) An article shall be deemed as origi-
2 nating in the territory of a partnership country
3 if the article meets the rules of origin for a
4 good set forth in chapter 4 of the NAFTA, and,
5 in the case of an article described in Appendix
6 6.A of the Annex, the requirements stated in
7 such Appendix 6.A for such article to be treated
8 as if it were an originating good. In applying
9 such chapter 4 or Appendix 6.A with respect to
10 a partnership country for purposes of this sub-
11 section—

12 “(i) no countries other than the Unit-
13 ed States and partnership countries may
14 be treated as being Parties to the NAFTA,

15 “(ii) references to trade between the
16 United States and Mexico shall be deemed
17 to refer to trade between the United States
18 and partnership countries, and

19 “(iii) references to a Party shall be
20 deemed to refer to the United States or a
21 partnership country, and references to the
22 Parties shall be deemed to refer to any
23 combination of partnership countries or
24 the United States.”.

1 (b) DETERMINATION REGARDING RETENTION OF
2 DESIGNATION.—Section 212(e)(1) of the Caribbean Basin
3 Economic Recovery Act (19 U.S.C. 2702(e)) is amended—

4 (1) by inserting “(A)” after “(1)”;

5 (2) by redesignating subparagraphs (A) and
6 (B) as clauses (i) and (ii), respectively;

7 (3) by adding at the end the following:

8 “(B)(i) Based on the President’s review and
9 analysis described in subsection (f), the President
10 may determine if the preferential treatment under
11 section 213(b)(2) and (3) should be withdrawn, sus-
12 pended, or limited with respect to any article of a
13 partnership country. Such determination shall be in-
14 cluded in the report required by subsection (f).

15 “(ii) Withdrawal, suspension, or limitation of
16 the preferential treatment under section 213(b)(2)
17 and (3) with respect to a partnership country shall
18 be taken only after the requirements of subsection
19 (a)(2) and paragraph (2) of this subsection have
20 been met.”.

21 (c) REPORTING REQUIREMENTS.—Section 212(f) of
22 the Caribbean Basin Economic Recovery Act (19 U.S.C.
23 2702(f)) is amended to read as follows:

24 “(f) REPORTING REQUIREMENTS.—Not later than 1
25 year after the date of the enactment of the United States-

1 Caribbean Basin Trade Partnership Act and at the close
2 of each 3-year period thereafter, the President shall sub-
3 mit to the Congress a complete report regarding the oper-
4 ation of this title, including—

5 “(1) with respect to subsections (b) and (c) of
6 this section, the results of a general review of bene-
7 ficiary countries based on the considerations de-
8 scribed in such subsections;

9 “(2) with respect to subsection (c)(4), the de-
10 gree to which a country follows accepted rules of
11 international trade provided for under the General
12 Agreement on Tariffs and Trade and the World
13 Trade Organization;

14 “(3) with respect to subsection (c)(9), the ex-
15 tent to which beneficiary countries are providing or
16 taking steps to provide protection of intellectual
17 property rights comparable to the protection pro-
18 vided to the United States in bilateral intellectual
19 property rights agreements;

20 “(4) with respect to subsection (b)(2) and sub-
21 section (c)(5), the extent that beneficiary countries
22 are providing or taking steps to provide protection of
23 investment and investors comparable to the protec-
24 tion provided to the United States in bilateral in-
25 vestment treaties;

1 “(5) with respect to subsection (c)(3), the ex-
2 tent that beneficiary countries are providing the
3 United States with equitable and reasonable market
4 access in the product sectors for which benefits are
5 provided under this title;

6 “(6) with respect to subsection (c)(11), the ex-
7 tent that beneficiary countries are cooperating with
8 the United States in administering the provisions of
9 section 213(b); and

10 “(7) with respect to subsection (c)(8), the ex-
11 tent that beneficiary countries are meeting the inter-
12 nationally recognized worker rights criteria under
13 such subsection.

14 In the first report under this subsection, the President
15 shall include a review of the implementation of section
16 213(b), and his analysis of whether the benefits under
17 paragraphs (2) and (3) of such section further the objec-
18 tives of this title and whether such benefits should be con-
19 tinued.”.

20 (d) CONFORMING AMENDMENT.—Section 213(a)(1)
21 of the Caribbean Basin Economic Recovery Act is amend-
22 ed by inserting “and except as provided in section
23 213(b)(2) and (3),” after “Tax Reform Act of 1986,”.

1 **SEC. 985. EFFECT OF NAFTA ON SUGAR IMPORTS FROM**
2 **BENEFICIARY COUNTRIES.**

3 The President shall monitor the effects, if any, that
4 the implementation of the NAFTA has on the access of
5 beneficiary countries under the Caribbean Basin Economic
6 Recovery Act to the United States market for sugars, syr-
7 ups, and molasses. If the President considers that the im-
8 plementation of the NAFTA is affecting, or will likely af-
9 fect, in an adverse manner the access of such countries
10 to the United States market, the President shall prompt-
11 ly—

12 (1) take such actions, after consulting with in-
13 terested parties and with the appropriate committees
14 of the House of Representatives and the Senate, or

15 (2) propose to the Congress such legislative ac-
16 tions,

17 as may be necessary or appropriate to ameliorate such ad-
18 verse effect.

19 **SEC. 986. DUTY-FREE TREATMENT FOR CERTAIN BEV-**
20 **ERAGES MADE WITH CARIBBEAN RUM.**

21 Section 213(a) of the Caribbean Basin Economic Re-
22 covery Act (19 U.S.C. 2703(a)) is amended—

23 (1) in paragraph (5), by striking “chapter” and
24 inserting “title”; and

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

1 “(6) Notwithstanding paragraph (1), the duty-free
2 treatment provided under this title shall apply to liqueurs
3 and spirituous beverages produced in the territory of Can-
4 ada from rum if—

5 “(A) such rum is the growth, product, or manu-
6 facture of a beneficiary country or of the Virgin Is-
7 lands of the United States;

8 “(B) such rum is imported directly from a ben-
9 efitary country or the Virgin Islands of the United
10 States into the territory of Canada, and such li-
11 queurs and spirituous beverages are imported di-
12 rectly from the territory of Canada into the customs
13 territory of the United States;

14 “(C) when imported into the customs territory
15 of the United States, such liqueurs and spirituous
16 beverages are classified in subheading 2208.90 or
17 2208.40 of the HTS; and

18 “(D) such rum accounts for at least 90 percent
19 by volume of the alcoholic content of such liqueurs
20 and spiritous beverages.”.

21 **SEC. 987. MEETINGS OF TRADE MINISTERS AND USTR.**

22 (a) SCHEDULE OF MEETINGS.—The President shall
23 take the necessary steps to convene a meeting with the
24 trade ministers of the partnership countries in order to
25 establish a schedule of regular meetings, to commence as

1 soon as is practicable, of the trade ministers and the
2 Trade Representative, for the purpose set forth in sub-
3 section (b).

4 (b) PURPOSE.—The purpose of the meetings sched-
5 uled under subsection (a) is to reach agreement between
6 the United States and partnership countries on the likely
7 timing and procedures for initiating negotiations for part-
8 nership to accede to the NAFTA, or to enter into mutually
9 advantageous free trade agreements with the United
10 States that contain provisions comparable to those in the
11 NAFTA and would make substantial progress in achieving
12 the negotiating objectives set forth in section 108(b)(5)
13 of the North American Free Trade Agreement Implemen-
14 tation Act (19 U.S.C. 3317(b)(5)).

15 **SEC. 988. REPORT ON ECONOMIC DEVELOPMENT AND MAR-**
16 **KET ORIENTED REFORMS IN THE CARIB-**
17 **BEAN.**

18 (a) IN GENERAL.—The Trade Representative shall
19 make an assessment of the economic development efforts
20 and market oriented reforms in each partnership country
21 and the ability of each such country, on the basis of such
22 efforts and reforms, to undertake the obligations of the
23 NAFTA. The Trade Representative shall, not later than
24 July 1, 1998, submit to the President and to the Commit-
25 tee on Finance of the Senate and the Committee on Ways

1 and Means of the House of Representatives a report on
2 that assessment.

3 (b) ACCESSION TO NAFTA.—

4 (1) ABILITY OF COUNTRIES TO IMPLEMENT
5 NAFTA.—The Trade Representative shall include in
6 the report under subsection (a) a discussion of pos-
7 sible timetables and procedures pursuant to which
8 partnership countries can complete the economic re-
9 forms necessary to enable them to negotiate acces-
10 sion to the NAFTA. The Trade Representative shall
11 also include an assessment of the potential phase-in
12 periods that may be necessary for those partnership
13 countries with less developed economies to imple-
14 ment the obligations of the NAFTA.

15 (2) FACTORS IN ASSESSING ABILITY TO IMPLE-
16 MENT NAFTA.—In assessing the ability of each part-
17 nership country to undertake the obligations of the
18 NAFTA, the Trade Representative should consider,
19 among other factors—

20 (A) whether the country has joined the
21 WTO;

22 (B) the extent to which the country pro-
23 vides equitable access to the markets of that
24 country;

1 (C) the degree to which the country uses
2 export subsidies or imposes export performance
3 requirements or local content requirements;

4 (D) macroeconomic reforms in the country
5 such as the abolition of price controls on traded
6 goods and fiscal discipline;

7 (E) progress the country has made in the
8 protection of intellectual property rights;

9 (F) progress the country has made in the
10 elimination of barriers to trade in services;

11 (G) whether the country provides national
12 treatment to foreign direct investment;

13 (H) the level of tariffs bound by the coun-
14 try under the WTO (if the country is a WTO
15 member);

16 (I) the extent to which the country has
17 taken other trade liberalization measures; and

18 (J) the extent which the country works to
19 accommodate market access objectives of the
20 United States.

21 (c) PARITY REVIEW IN THE EVENT A NEW COUNTRY
22 ACCEDES TO NAFTA.—If—

23 (1) a country or group of countries accedes to
24 the NAFTA, or

1 (2) the United States negotiates a comparable
2 free trade agreement with another country or group
3 of countries,
4 the Trade Representative shall provide to the committees
5 referred to in subsection (a) a separate report on the eco-
6 nomic impact of the new trade relationship on partnership
7 countries. The report shall include any measures the
8 Trade Representative proposes to minimize the potential
9 for the diversion of investment from partnership countries
10 to the new NAFTA member or free trade agreement part-
11 ner.

12 **TITLE X—REVENUES**

13 **Subtitle A—Financial Products**

14 **SEC. 1001. CONSTRUCTIVE SALES TREATMENT FOR APPRE-** 15 **CIATED FINANCIAL POSITIONS.**

16 (a) IN GENERAL.—Part IV of subchapter P of chap-
17 ter 1 is amended by adding at the end the following new
18 section:

19 **“SEC. 1259. CONSTRUCTIVE SALES TREATMENT FOR AP-** 20 **PRECIATED FINANCIAL POSITIONS.**

21 “(a) IN GENERAL.—If there is a constructive sale of
22 an appreciated financial position—

23 “(1) the taxpayer shall recognize gain as if such
24 position were sold, assigned, or otherwise terminated
25 at its fair market value on the date of such con-

1 constructive sale (and any gain shall be taken into ac-
2 count for the taxable year which includes such date),
3 and

4 “(2) for purposes of applying this title for peri-
5 ods after the constructive sale—

6 “(A) proper adjustment shall be made in
7 the amount of any gain or loss subsequently re-
8 alized with respect to such position for any gain
9 taken into account by reason of paragraph (1),
10 and

11 “(B) the holding period of such position
12 shall be determined as if such position were
13 originally acquired on the date of such con-
14 structive sale.

15 “(b) APPRECIATED FINANCIAL POSITION.—For pur-
16 poses of this section—

17 “(1) IN GENERAL.—Except as provided in para-
18 graph (2), the term ‘appreciated financial position’
19 means any position with respect to any stock, debt
20 instrument, or partnership interest if there would be
21 gain were such position sold, assigned, or otherwise
22 terminated at its fair market value.

23 “(2) EXCEPTIONS.—The term ‘appreciated fi-
24 nancial position’ shall not include—

1 “(A) any position with respect to straight
2 debt (as defined in section 1361(c)(5)(B) with-
3 out regard to clause (iii) thereof), and

4 “(B) any position which is marked to mar-
5 ket under any provision of this title or the regu-
6 lations thereunder.

7 “(3) POSITION.—The term ‘position’ means an
8 interest, including a futures or forward contract,
9 short sale, or option.

10 “(c) CONSTRUCTIVE SALE.—For purposes of this
11 section—

12 “(1) IN GENERAL.—A taxpayer shall be treated
13 as having made a constructive sale of an appreciated
14 financial position if the taxpayer (or a related per-
15 son)—

16 “(A) enters into a short sale of the same
17 or substantially identical property,

18 “(B) enters into an offsetting notional
19 principal contract with respect to the same or
20 substantially identical property,

21 “(C) enters into a futures or forward con-
22 tract to deliver the same or substantially iden-
23 tical property,

24 “(D) in the case of an appreciated finan-
25 cial position that is a short sale or a contract

1 described in subparagraph (B) or (C) with re-
2 spect to any property, acquires the same or
3 substantially identical property, or

4 “(E) to the extent prescribed by the Sec-
5 retary in regulations, enters into 1 or more
6 other transactions (or acquires 1 or more posi-
7 tions) that have substantially the same effect as
8 a transaction described in any of the preceding
9 subparagraphs.

10 “(2) EXCEPTION FOR SALES OF NONPUBLICLY
11 TRADED PROPERTY.—The term ‘constructive sale’
12 shall not include any contract for sale of any stock,
13 debt instrument, or partnership interest which is not
14 a marketable security (as defined in section 453(f))
15 if the contract settles within 1 year after the date
16 such contract is entered into.

17 “(3) EXCEPTION FOR CERTAIN CLOSED TRANS-
18 ACTIONS.—In applying this section, there shall be
19 disregarded any transaction (which would otherwise
20 be treated as a constructive sale) during the taxable
21 year if—

22 “(A) such transaction is closed before the
23 end of the 30th day after the close of such tax-
24 able year, and

1 “(B) in the case of a transaction which is
2 closed during the 90-day period ending on such
3 30th day—

4 “(i) the taxpayer holds the appre-
5 ciated financial position throughout the 60-
6 day period beginning on the date such
7 transaction is closed, and

8 “(ii) at no time during such 60-day
9 period is the taxpayer’s risk of loss with
10 respect to such position reduced by reason
11 of a circumstance which would be de-
12 scribed in section 246(c)(4) if references to
13 stock included references to such position.

14 “(4) RELATED PERSON.—A person is related to
15 another person with respect to a transaction if—

16 “(A) the relationship is described in sec-
17 tion 267 or 707(b), and

18 “(B) such transaction is entered into with
19 a view toward avoiding the purposes of this sec-
20 tion.

21 “(d) OTHER DEFINITIONS.—For purposes of this
22 section—

23 “(1) FORWARD CONTRACT.—The term ‘forward
24 contract’ means a contract to deliver a substantially

1 fixed amount of property for a substantially fixed
2 price.

3 “(2) OFFSETTING NOTIONAL PRINCIPAL CON-
4 TRACT.—The term ‘offsetting notional principal con-
5 tract’ means, with respect to any property, an agree-
6 ment which includes—

7 “(A) a requirement to pay (or provide
8 credit for) all or substantially all of the invest-
9 ment yield (including appreciation) on such
10 property for a specified period, and

11 “(B) a right to be reimbursed for (or re-
12 ceive credit for) all or substantially all of any
13 decline in the value of such property.

14 “(e) SPECIAL RULES.—

15 “(1) TREATMENT OF SUBSEQUENT SALE OF
16 POSITION WHICH WAS DEEMED SOLD.—If—

17 “(A) there is a constructive sale of any ap-
18 preciated financial position,

19 “(B) such position is subsequently dis-
20 posed of, and

21 “(C) at the time of such disposition, the
22 transaction resulting in the constructive sale of
23 such position is open with respect to the tax-
24 payer or any related person,

1 solely for purposes of determining whether the tax-
2 payer has entered into a constructive sale of any
3 other appreciated financial position held by the tax-
4 payer, the taxpayer shall be treated as entering into
5 such transaction immediately after such disposition.
6 For purposes of the preceding sentence, an assign-
7 ment or other termination shall be treated as a dis-
8 position.

9 “(2) CERTAIN TRUST INSTRUMENTS TREATED
10 AS STOCK.—For purposes of this section, an interest
11 in a trust which is actively traded (within the mean-
12 ing of section 1092(d)(1)) shall be treated as stock.

13 “(3) MULTIPLE POSITIONS IN PROPERTY.—If a
14 taxpayer holds multiple positions in property, the de-
15 termination of whether a specific transaction is a
16 constructive sale and, if so, which appreciated finan-
17 cial position is deemed sold shall be made in the
18 same manner as actual sales.

19 “(f) REGULATIONS.—The Secretary shall prescribe
20 such regulations as may be necessary or appropriate to
21 carry out the purposes of this section.”.

22 (b) ELECTION OF MARK TO MARKET FOR SECURI-
23 TIES TRADERS AND FOR TRADERS AND DEALERS IN COM-
24 MODITIES.—Subsection (d) of section 475 (relating to
25 mark to market accounting method for dealers in securi-

1 ties) is amended by adding at the end the following new
2 paragraph:

3 “(4) ELECTION OF MARK TO MARKET FOR SE-
4 CURITIES TRADERS AND FOR TRADERS AND DEAL-
5 ERS IN COMMODITIES.—

6 “(A) IN GENERAL.—In the case of a per-
7 son—

8 “(i) who is engaged in a trade or busi-
9 ness to which this paragraph applies, and

10 “(ii) who elects to be treated as a
11 dealer in securities for purposes of this
12 section with respect to such trade or busi-
13 ness,

14 subsections (a), (b)(3), (c)(3), and (e) and the
15 preceding provisions of this subsection (or, in
16 the case of a dealer in commodities, this sec-
17 tion) shall apply to all commodities and securi-
18 ties held by such person in any trade or busi-
19 ness with respect to which such election is in ef-
20 fect in the same manner as if such person were
21 a dealer in securities and all references to secu-
22 rities included references to commodities.

23 “(B) APPLICATION OF PARAGRAPH.—This
24 paragraph shall apply to any active trade or
25 business—

1 “(i) as a trader in securities, or

2 “(ii) as a trader or dealer in commod-
3 ities.

4 “(C) EXCEPTION FOR CERTAIN HOLDINGS
5 OF TRADERS.—In the case of a trader in securi-
6 ties or commodities, subsection (a) shall not
7 apply to any security or commodity (to which
8 subsection (a) would otherwise apply solely by
9 reason of this paragraph) if such security or
10 commodity is clearly identified in the trader’s
11 records (before the close of the day applicable
12 under subsection (b)(2)) as being held other
13 than in a trade or business to which the elec-
14 tion under subparagraph (A) is in effect. A se-
15 curity or commodity so identified shall be treat-
16 ed as described in subsection (b)(1).

17 “(D) COMMODITY.—For purposes of this
18 paragraph, the term ‘commodities’ includes only
19 commodities of a kind customarily dealt in on
20 an organized commodity exchange.

21 “(E) ELECTION.—An election under this
22 paragraph may be made separately for each
23 trade or business and without the consent of
24 the Secretary. Such an election, once made,
25 shall apply to the taxable year for which made

1 and all subsequent taxable years unless revoked
2 with the consent of the Secretary.”.

3 (c) CLERICAL AMENDMENT.—The table of sections
4 for part IV of subchapter P of chapter 1 is amended by
5 adding at the end the following new item:

 “Sec. 1259. Constructive sales treatment for appreciated financial
 positions.”.

6 (d) EFFECTIVE DATES.—

7 (1) IN GENERAL.—Except as otherwise pro-
8 vided in this subsection, the amendments made by
9 this section shall apply to any constructive sale after
10 June 8, 1997.

11 (2) EXCEPTION FOR SALES OF POSITIONS, ETC.
12 HELD BEFORE JUNE 9, 1997.—A constructive sale
13 before June 9, 1997, and the property to which the
14 position involved in the transaction relates, shall not
15 be taken into account in determining whether any
16 other constructive sale after June 8, 1997, has oc-
17 curred if, within before the close of the 30-day pe-
18 riod beginning on the date of the enactment of this
19 Act, such position and property are clearly identified
20 in the taxpayer’s records as offsetting. The preced-
21 ing sentence shall cease to apply as of the date the
22 taxpayer ceases to hold such position or property.

23 (3) SPECIAL RULE.—In the case of a decedent
24 dying after June 8, 1997, if—

1 (A) there was a constructive sale on or be-
2 fore such date of any appreciated financial posi-
3 tion,

4 (B) the transaction resulting in such con-
5 structive sale of such position remains open
6 (with respect to the decedent or any related
7 person) for not less than 2 years after the date
8 of such transaction (whether such period is be-
9 fore or after such date), and

10 (C) such transaction is not closed within
11 the 30-day period beginning on the date of the
12 enactment of this Act,

13 then, for purposes of such Code, such position (and
14 any property related thereto, as determined under
15 the principles of section 1259(d)(1) of such Code (as
16 so added)) shall be treated as property constituting
17 rights to receive an item of income in respect of a
18 decedent under section 691 of such Code.

19 (4) ELECTION OF SECURITIES TRADERS, AND
20 FOR TRADERS AND DEALERS IN COMMODITIES, TO
21 BE TREATED AS DEALERS IN SECURITIES.—

22 (A) IN GENERAL.—The amendment made
23 by subsection (b) shall apply to taxable years
24 ending after the date of the enactment of this
25 Act.

1 (B) 4-YEAR SPREAD OF ADJUSTMENTS.—

2 In the case of a taxpayer who elects under sec-
3 tion 475(d)(4) of the Internal Revenue Code of
4 1986 (as added by this section) to change its
5 method of accounting for its first taxable year
6 ending after the date of the enactment of this
7 Act, the net amount of the adjustments re-
8 quired to be taken into account by the taxpayer
9 under section 481 of the Internal Revenue Code
10 of 1986 shall be taken into account ratably over
11 the 4-taxable year period beginning with such
12 first taxable year.

13 **SEC. 1002. LIMITATION ON EXCEPTION FOR INVESTMENT**
14 **COMPANIES UNDER SECTION 351.**

15 (a) IN GENERAL.—Paragraph (1) of section 351(e)
16 (relating to exceptions) is amended by adding at the end
17 the following: “For purposes of the preceding sentence,
18 the determination of whether a company is an investment
19 company shall be made—

20 “(A) by taking into account all stock and
21 securities held by the company, whether or not
22 readily marketable, and

23 “(B) by treating all of the following as se-
24 curities:

25 “(i) Money.

1 “(ii) Any financial instrument (as de-
2 fined in section 731(c)(2)(C)).

3 “(iii) Any foreign currency.

4 “(iv) Any interest in a real estate in-
5 vestment trust, a common trust fund, a
6 regulated investment company, or a pub-
7 licly traded partnership (as defined in sec-
8 tion 7704(b)).

9 “(v) Any interest described in clause
10 (iv), (v), or (vi) of section 731(c)(2)(B) (or
11 which would be so described without re-
12 gard to any reference to active trading or
13 marketability).

14 “(vi) Any other asset specified in reg-
15 ulations prescribed by the Secretary.”.

16 (b) EFFECTIVE DATE.—

17 (1) IN GENERAL.—The amendment made by
18 subsection (a) shall apply to transfers after June 8,
19 1997, in taxable years ending after such date.

20 (2) BINDING CONTRACTS.—The amendment
21 made by subsection (a) shall not apply to any trans-
22 fer pursuant to a written binding contract in effect
23 on June 8, 1997, that provides for the transfer of
24 a fixed amount of property, and at all times there-
25 after before such transfer.

1 **SEC. 1003. MODIFICATION OF RULES FOR ALLOCATING IN-**
2 **TEREST EXPENSE TO TAX-EXEMPT INTEREST.**

3 (a) PRO RATA ALLOCATION RULES APPLICABLE TO
4 CORPORATIONS.—

5 (1) IN GENERAL.—Paragraph (1) of section
6 265(b) is amended by striking “In the case of a fi-
7 nancial institution” and inserting “In the case of a
8 corporation”.

9 (2) ONLY OBLIGATIONS ACQUIRED AFTER JUNE
10 8, 1997, TAKEN INTO ACCOUNT.—Subparagraph (A)
11 of section 265(b)(2) is amended by striking “August
12 7, 1986” and inserting “June 8, 1997 (August 7,
13 1986, in the case of a financial institution)”.

14 (3) SMALL ISSUER EXCEPTION NOT TO
15 APPLY.—Subparagraph (A) of section 265(b)(3) is
16 amended by striking “Any qualified” and inserting
17 “In the case of a financial institution, any quali-
18 fied”.

19 (4) EXCEPTION FOR CERTAIN BONDS ACQUIRED
20 ON SALE OF GOODS OR SERVICES.—Subparagraph
21 (B) of section 265(b)(4) is amended by adding at
22 the end the following new sentence: “In the case of
23 a taxpayer other than a financial institution, such
24 term shall not include a nonsalable obligation ac-
25 quired by such taxpayer in the ordinary course of

1 business as payment for goods or services provided
2 by such taxpayer to any State or local government.”.

3 (5) LOOK-THRU RULES FOR PARTNERSHIPS.—
4 Paragraph (6) of section 265(b) is amended by add-
5 ing at the end the following new subparagraph:

6 “(C) LOOK-THRU RULES FOR PARTNER-
7 SHIPS.—In the case of a corporation which is a
8 partner in a partnership, such corporation shall
9 be treated for purposes of this subsection as
10 holding directly its allocable share of the assets
11 of the partnership.”.

12 (6) APPLICATION OF PRO RATA DISALLOWANCE
13 ON AFFILIATED GROUP BASIS.—Subsection (b) of
14 section 265 is amended by adding at the end the fol-
15 lowing new paragraph:

16 “(7) APPLICATION OF DISALLOWANCE ON AF-
17 FILLATED GROUP BASIS.—

18 “(A) IN GENERAL.—For purposes of this
19 subsection, all members of an affiliated group
20 filing a consolidated return under section 1501
21 shall be treated as 1 taxpayer.

22 “(B) TREATMENT OF INSURANCE COMPA-
23 NIES.—This subsection shall not apply to an in-
24 surance company, and subparagraph (A) shall
25 be applied without regard to any member of an

1 affiliated group which is an insurance com-
2 pany.”.

3 (6) DE MINIMIS EXCEPTION FOR NON-
4 FINANCIAL INSTITUTIONS.—Subsection (b) of sec-
5 tion 265 is amended by adding at the end the follow-
6 ing new paragraph:

7 “(8) DE MINIMIS EXCEPTION FOR NON-
8 FINANCIAL INSTITUTIONS.—In the case of a cor-
9 poration, paragraph (1) shall not apply for any tax-
10 able year if the amount described in paragraph
11 (2)(A) with respect to such corporation does not ex-
12 ceed the lesser of—

13 “(A) 2 percent of the amount described in
14 paragraph (2)(B), or

15 “(B) \$1,000,000.

16 The preceding sentence shall not apply to a financial
17 institution or to a dealer in tax-exempt obligations.”.

18 (7) CLERICAL AMENDMENT.—The subsection
19 heading for section 265(b) is amended by striking
20 “FINANCIAL INSTITUTIONS” and inserting “COR-
21 PORATIONS”.

22 (b) APPLICATION OF SECTION 265(a)(2) WITH RE-
23 SPECT TO CONTROLLED GROUPS.—Paragraph (2) of sec-
24 tion 265(a) is amended after “obligations” by inserting
25 “held by the taxpayer (or any corporation which is a mem-

1 ber of a controlled group (as defined in section 267(f)(1))
2 which includes the taxpayer)”.
3

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

7 **SEC. 1004. GAINS AND LOSSES FROM CERTAIN TERMI-**
8 **NATIONS WITH RESPECT TO PROPERTY.**

9 (a) APPLICATION OF CAPITAL TREATMENT TO PROP-
10 erty OTHER THAN PERSONAL PROPERTY.—

11 (1) IN GENERAL.—Paragraph (1) of section
12 1234A (relating to gains and losses from certain ter-
13 minations) is amended by striking “personal prop-
14 erty (as defined in section 1092(d)(1))” and insert-
15 ing “property”.

16 (2) EFFECTIVE DATE.—The amendment made
17 by paragraph (1) shall apply to terminations more
18 than 30 days after the date of the enactment of this
19 Act.

20 (b) APPLICATION OF CAPITAL TREATMENT, ETC. TO
21 OBLIGATIONS ISSUED BY NATURAL PERSONS.—

22 (1) IN GENERAL.—Section 1271(b) is amended
23 to read as follows:

24 “(b) EXCEPTION FOR CERTAIN OBLIGATIONS.—

25 “(1) IN GENERAL.—This section shall not apply
to—

1 “(A) any obligation issued by a natural
2 person before June 9, 1997, and

3 “(B) any obligation issued before July 2,
4 1982, by an issuer which is not a corporation
5 and is not a government or political subdivision
6 thereof.

7 “(2) TERMINATION.—Paragraph (1) shall not
8 apply to any obligation purchased (within the mean-
9 ing of section 179(d)(2)) after June 8, 1997.”.

10 (2) EFFECTIVE DATE.—The amendment made
11 by paragraph (1) shall take effect on the date of en-
12 actment of this Act.

13 **SEC. 1005. DETERMINATION OF ORIGINAL ISSUE DISCOUNT**
14 **WHERE POOLED DEBT OBLIGATIONS SUB-**
15 **JECT TO ACCELERATION.**

16 (a) IN GENERAL.—Subparagraph (C) of section
17 1272(a)(6) (relating to debt instruments to which the
18 paragraph applies) is amended by striking “or” at the end
19 of clause (i), by striking the period at the end of clause
20 (ii) and inserting “, or”, and by inserting after clause (i)
21 the following:

22 “(iii) any pool of debt instruments the
23 yield on which may be reduced by reason
24 of prepayments (or to the extent provided
25 in regulations, by reason of other events).

1 To the extent provided in regulations prescribed
2 by the Secretary, in the case of a small business
3 engaged in the trade or business of selling tan-
4 gible personal property at retail, clause (iii)
5 shall not apply to debt instruments incurred in
6 the ordinary course of such trade or business
7 while held by such business.”.

8 (b) EFFECTIVE DATES.—

9 (1) IN GENERAL.—The amendment made by
10 this section shall apply to taxable years beginning
11 after the date of the enactment of this Act.

12 (2) CHANGE IN METHOD OF ACCOUNTING.—In
13 the case of any taxpayer required by this section to
14 change its method of accounting for its first taxable
15 year beginning after the date of the enactment of
16 this Act—

17 (A) such change shall be treated as initi-
18 ated by the taxpayer,

19 (B) such change shall be treated as made
20 with the consent of the Secretary, and

21 (C) the net amount of the adjustments re-
22 quired to be taken into account by the taxpayer
23 under section 481 of the Internal Revenue Code
24 of 1986 shall be taken into account ratably over

1 the 4-taxable year period beginning with such
2 first taxable year.

3 **SEC. 1006. DENIAL OF INTEREST DEDUCTIONS ON CERTAIN**
4 **DEBT INSTRUMENTS.**

5 (a) IN GENERAL.—Section 163 (relating to deduction
6 for interest) is amended by redesignating subsection (k)
7 as subsection (l) and by inserting after subsection (j) the
8 following new subsection:

9 “(k) DISALLOWANCE OF DEDUCTION ON CERTAIN
10 DEBT INSTRUMENTS OF CORPORATIONS.—

11 “(1) IN GENERAL.—No deduction shall be al-
12 lowed under this chapter for any interest paid or ac-
13 crued on a disqualified debt instrument.

14 “(2) DISQUALIFIED DEBT INSTRUMENT.—For
15 purposes of this subsection, the term ‘disqualified
16 debt instrument’ means any indebtedness of a cor-
17 poration which is payable in equity of the issuer or
18 a related party.

19 “(3) SPECIAL RULES FOR AMOUNTS PAYABLE
20 IN EQUITY.—For purposes of paragraph (2), indebt-
21 edness shall be treated as payable in equity of the
22 issuer or a related party only if—

23 “(A) a substantial amount of the principal
24 or interest is required to be paid or converted,

1 or at the option of the issuer or a related party
2 is payable in, or convertible into, such equity,

3 “(B) a substantial amount of the principal
4 or interest is required to be determined, or at
5 the option of the issuer or a related party is de-
6 termined, by reference to the value of such eq-
7 uity, or

8 “(C) the indebtedness is part of an ar-
9 rangement which is reasonably expected to re-
10 sult in a transaction described in subparagraph
11 (A) or (B).

12 For purposes of subparagraphs (A) and (B), prin-
13 cipal or interest shall be treated as required to be
14 so paid, converted, or determined if it may be re-
15 quired at the option of the holder or a related party
16 and there is a substantial certainty the option will
17 be exercised.

18 “(4) RELATED PARTY.—For purposes of this
19 subsection, a person is a related party with respect
20 to another person if such person bears a relationship
21 to such other person described in section 267(b) or
22 707(b).

23 “(5) REGULATIONS.—The Secretary shall pre-
24 scribe such regulations as may be necessary or ap-
25 propriate to carry out the purposes of this sub-

1 section, including regulations preventing avoidance
2 of this subsection through the use of an issuer other
3 than a corporation.”.

4 (b) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendment made by
6 this section shall apply to disqualified debt instru-
7 ments issued after June 8, 1997.

8 (2) TRANSITION RULE.—The amendment made
9 by this section shall not apply to any instrument is-
10 sued after June 8, 1997, if such instrument is—

11 (A) issued pursuant to a written agree-
12 ment which was binding on such date and at all
13 times thereafter,

14 (B) described in a ruling request submitted
15 to the Internal Revenue Service on or before
16 such date, or

17 (C) described on or before such date in a
18 public announcement or in a filing with the Se-
19 curities and Exchange Commission required
20 solely by reason of the distribution.

1 **Subtitle B—Corporate**
2 **Organizations and Reorganizations**

3 **SEC. 1011. TAX TREATMENT OF CERTAIN EXTRAORDINARY**
4 **DIVIDENDS.**

5 (a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN
6 EXCESS OF BASIS.—Paragraph (2) of section 1059(a) (re-
7 lating to corporate shareholder’s recognition of gain at-
8 tributable to nontaxed portion of extraordinary dividends)
9 is amended to read as follows:

10 “(2) AMOUNTS IN EXCESS OF BASIS.—If the
11 nontaxed portion of such dividends exceeds such
12 basis, such excess shall be treated as gain from the
13 sale or exchange of such stock for the taxable year
14 in which the extraordinary dividend is received.”.

15 (b) TREATMENT OF REDEMPTIONS WHERE OPTIONS
16 INVOLVED.—Paragraph (1) of section 1059(e) (relating to
17 treatment of partial liquidations and non-pro rata redemp-
18 tions) is amended to read as follows:

19 “(1) TREATMENT OF PARTIAL LIQUIDATIONS
20 AND CERTAIN REDEMPTIONS.—Except as otherwise
21 provided in regulations—

22 “(A) REDEMPTIONS.—In the case of any
23 redemption of stock—

1 “(i) which is part of a partial liquida-
2 tion (within the meaning of section 302(e))
3 of the redeeming corporation,

4 “(ii) which is not pro rata as to all
5 shareholders, or

6 “(iii) which would not have been
7 treated (in whole or in part) as a dividend
8 if any options had not been taken into ac-
9 count under section 318(a)(4),

10 any amount treated as a dividend with respect
11 to such redemption shall be treated as an ex-
12 traordinary dividend to which paragraphs (1)
13 and (2) of subsection (a) apply without regard
14 to the period the taxpayer held such stock. In
15 the case of a redemption described in clause
16 (iii), only the basis in the stock redeemed shall
17 be taken into account under subsection (a).

18 “(B) REORGANIZATIONS, ETC.—An ex-
19 change described in section 356 which is treat-
20 ed as a dividend shall be treated as a redemp-
21 tion of stock for purposes of applying subpara-
22 graph (A).”.

23 (c) TIME FOR REDUCTION.—Paragraph (1) of sec-
24 tion 1059(d) is amended to read as follows:

1 “(1) TIME FOR REDUCTION.—Any reduction in
2 basis under subsection (a)(1) shall be treated as oc-
3 ccurring at the beginning of the ex-dividend date of
4 the extraordinary dividend to which the reduction re-
5 lates.”.

6 (d) EFFECTIVE DATES.—

7 (1) IN GENERAL.—The amendments made by
8 this section shall apply to distributions after May 3,
9 1995.

10 (2) TRANSITION RULE.—The amendments
11 made by this section shall not apply to any distribu-
12 tion made pursuant to the terms of—

13 (A) a written binding contract in effect on
14 May 3, 1995, and at all times thereafter before
15 such distribution, or

16 (B) a tender offer outstanding on May 3,
17 1995.

18 (3) CERTAIN DIVIDENDS NOT PURSUANT TO
19 CERTAIN REDEMPTIONS.—In determining whether
20 the amendment made by subsection (a) applies to
21 any extraordinary dividend other than a dividend
22 treated as an extraordinary dividend under section
23 1059(e)(1) of the Internal Revenue Code of 1986
24 (as amended by this Act), paragraphs (1) and (2)

1 shall be applied by substituting “September 13,
2 1995” for “May 3, 1995”.

3 **SEC. 1012. APPLICATION OF SECTION 355 TO DISTRIBUTIONS FOLLOWED BY ACQUISITIONS AND TO**
4 **INTRAGROUP TRANSACTIONS.**
5

6 (a) DISTRIBUTIONS FOLLOWED BY ACQUISITIONS.—
7 Section 355 (relating to distribution of stock and securities of a controlled corporation) is amended by adding at
8 the end the following new subsection:
9

10 “(e) RECOGNITION OF GAIN WHERE CERTAIN DISTRIBUTIONS OF STOCK OR SECURITIES ARE FOLLOWED
11 BY ACQUISITION.—
12

13 “(1) GENERAL RULE.—If there is a distribution
14 to which this subsection applies, the following rules
15 shall apply:

16 “(A) ACQUISITION OF CONTROLLED CORPORATION.—If there is an acquisition described
17 in paragraph (2)(A)(ii) with respect to any controlled corporation, any stock or securities in
18 the controlled corporation shall not be treated
19 as qualified property for purposes of subsection
20 (c)(2) of this section or section 361(c)(2).
21

22 “(B) ACQUISITION OF DISTRIBUTING CORPORATION.—If there is an acquisition described
23 in paragraph (2)(A)(ii) with respect to the dis-
24
25

1 tributing corporation, the controlled corporation
2 shall recognize gain in an amount equal to the
3 amount of net gain which would be recognized
4 if all the assets of the distributing corporation
5 (immediately after the distribution) were sold
6 (at such time) for fair market value. Any gain
7 recognized under the preceding sentence shall
8 be treated as long-term capital gain and shall
9 be taken into account for the taxable year
10 which includes the day after the date of such
11 distribution.

12 “(2) DISTRIBUTIONS TO WHICH SUBSECTION
13 APPLIES.—

14 “(A) IN GENERAL.—This subsection shall
15 apply to any distribution—

16 “(i) to which this section (or so much
17 of section 356 as relates to this section)
18 applies, and

19 “(ii) which is part of a plan (or series
20 of related transactions) pursuant to which
21 1 or more persons acquire directly or indi-
22 rectly stock representing a 50-percent or
23 greater interest in the distributing corpora-
24 tion or any controlled corporation.

1 “(B) PLAN PRESUMED TO EXIST IN CER-
2 TAIN CASES.—If 1 or more persons acquire di-
3 rectly or indirectly stock representing a 50-per-
4 cent or greater interest in the distributing cor-
5 poration or any controlled corporation during
6 the 4-year period beginning on the date which
7 is 2 years before the date of the distribution,
8 such acquisition shall be treated as pursuant to
9 a plan described in subparagraph (A)(ii) unless
10 it is established that the distribution and the
11 acquisition are not pursuant to a plan or series
12 of related transactions.

13 “(C) COORDINATION WITH SUBSECTION
14 (d).—This subsection shall not apply to any
15 distribution to which subsection (d) applies.

16 “(3) SPECIAL RULES RELATING TO ACQUISI-
17 TIONS.—

18 “(A) CERTAIN ACQUISITIONS NOT TAKEN
19 INTO ACCOUNT.—Except as provided in regula-
20 tions, the following acquisitions shall not be
21 treated as described in paragraph (2)(A)(ii):

22 “(i) The acquisition of stock in any
23 controlled corporation by the distributing
24 corporation.

1 “(ii) The acquisition by a person of
2 stock in any controlled corporation by rea-
3 son of holding stock in the distributing
4 corporation.

5 “(iii) The acquisition by a person of
6 stock in any successor corporation of the
7 distributing corporation or any controlled
8 corporation by reason of holding stock in
9 such distributing or controlled corporation.

10 “(iv) The acquisition of stock in a cor-
11 poration if shareholders owning directly or
12 indirectly a 50-percent or greater interest
13 in the distributing corporation or any con-
14 trolled corporation before such acquisition
15 own indirectly a 50-percent or greater in-
16 terest in such distributing or controlled
17 corporation after such acquisition.

18 This subparagraph shall not apply to any acqui-
19 sition if the stock held before the acquisition
20 was acquired pursuant to a plan described in
21 subparagraph (A)(ii).

22 “(B) ASSET ACQUISITIONS.—Except as
23 provided in regulations, for purposes of this
24 subsection, if the assets of the distributing cor-
25 poration or any controlled corporation are ac-

1 required by a successor corporation in a trans-
2 action described in subparagraph (A), (C), or
3 (D) of section 368(a)(1) or any other trans-
4 action specified in regulations by the Secretary,
5 the shareholders (immediately before the acqui-
6 sition) of the corporation acquiring such assets
7 shall be treated as acquiring stock in the cor-
8 poration from which the assets were acquired.

9 “(4) DEFINITION AND SPECIAL RULES.—For
10 purposes of this subsection—

11 “(A) 50-PERCENT OR GREATER INTER-
12 EST.—The term ‘50-percent or greater interest’
13 has the meaning given such term by subsection
14 (d)(4).

15 “(B) DISTRIBUTIONS IN TITLE 11 OR SIMI-
16 LAR CASE.—Paragraph (1) shall not apply to
17 any distribution made in a title 11 or similar
18 case (as defined in section 368(a)(3)).

19 “(C) AGGREGATION AND ATTRIBUTION
20 RULES.—

21 “(i) AGGREGATION.—The rules of
22 paragraph (7)(A) of subsection (d) shall
23 apply.

24 “(ii) ATTRIBUTION.—Section
25 355(d)(8)(A) shall apply in determining

1 whether a person holds stock or securities
2 in any corporation.

3 “(D) SUCCESSORS AND PREDECESSORS.—
4 For purposes of this subsection, any reference
5 to a controlled corporation or a distributing cor-
6 poration shall include a reference to any prede-
7 cessor or successor of such corporation.

8 “(E) STATUTE OF LIMITATIONS.—If there
9 is an acquisition to which paragraph (1) (A) or
10 (B) applies—

11 “(i) the statutory period for the as-
12 sessment of any deficiency attributable to
13 any part of the gain recognized under this
14 subsection by reason of such acquisition
15 shall not expire before the expiration of 3
16 years from the date the Secretary is noti-
17 fied by the taxpayer (in such manner as
18 the Secretary may by regulations pre-
19 scribe) that such acquisition occurred, and

20 “(ii) such deficiency may be assessed
21 before the expiration of such 3-year period
22 notwithstanding the provisions of any
23 other law or rule of law which would other-
24 wise prevent such assessment.

1 “(5) REGULATIONS.—The Secretary shall pre-
2 scribe such regulations as may be necessary to carry
3 out the purposes of this subsection, including regula-
4 tions—

5 “(A) providing for the application of this
6 subsection where there is more than 1 con-
7 trolled corporation,

8 “(B) treating 2 or more distributions as 1
9 distribution where necessary to prevent the
10 avoidance of such purposes, and

11 “(C) providing for the application of rules
12 similar to the rules of subsection (d)(6) where
13 appropriate for purposes of paragraph (2)(B).”.

14 (b) SECTION 355 NOT TO APPLY TO CERTAIN
15 INTRAGROUP TRANSACTIONS.—Section 355, as amended
16 by subsection (a), is amended by adding at the end the
17 following new subsection:

18 “(f) SECTION NOT TO APPLY TO CERTAIN
19 INTRAGROUP TRANSACTIONS.—Except as provided in reg-
20 ulations, this section shall not apply to the distribution
21 of stock from 1 member of an affiliated group filing a con-
22 solidated return to another member of such group, and
23 the Secretary shall provide proper adjustments for the
24 treatment of such distribution, including (if necessary) ad-
25 justments to—

1 “(1) the adjusted basis of any stock which—

2 “(A) is in a corporation which is a member
3 of such group, and

4 “(B) is held by another member of such
5 group, and

6 “(2) the earnings and profits of any member of
7 such group.”.

8 (c) DETERMINATION OF CONTROL IN CERTAIN DIVI-
9 SIVE TRANSACTIONS.—

10 (1) SECTION 351 TRANSACTIONS.—Section
11 351(c) (relating to special rule) is amended to read
12 as follows:

13 “(c) SPECIAL RULES WHERE DISTRIBUTION TO
14 SHAREHOLDERS.—

15 “(1) IN GENERAL.—In determining control for
16 purposes of this section—

17 “(A) the fact that any corporate transferor
18 distributes part or all of the stock in the cor-
19 poration which it receives in the exchange to its
20 shareholders shall not be taken into account,
21 and

22 “(B) if the requirements of section 355 are
23 met with respect to such distribution, the share-
24 holders shall be treated as in control of such
25 corporation immediately after the exchange if

1 the shareholders hold at least a 50-percent in-
2 terest in such corporation immediately after the
3 distribution.

4 “(2) 50-PERCENT INTEREST.—For purposes of
5 this subsection, the term ‘50-percent interest’ means
6 stock possessing 50 percent of the total combined
7 voting power of all classes of stock entitled to vote
8 and 50 percent of the total value of shares of all
9 classes of stock.”.

10 (2) D REORGANIZATIONS.—Section
11 368(a)(2)(H) (relating to special rule for determin-
12 ing whether certain transactions are qualified under
13 paragraph (1)(D)) is amended to read as follows:

14 “(H) SPECIAL RULES FOR DETERMINING
15 WHETHER CERTAIN TRANSACTIONS ARE QUALI-
16 FIED UNDER PARAGRAPH (1)(D).—For purposes
17 of determining whether a transaction qualifies
18 under paragraph (1)(D)—

19 “(i) in the case of a transaction with
20 respect to which the requirements of sub-
21 paragraphs (A) and (B) of section
22 354(b)(1) are met, the term ‘control’ has
23 the meaning given such term by section
24 304(c), and

1 “(ii) in the case of a transaction with
2 respect to which the requirements of sec-
3 tion 355 are met, the shareholders de-
4 scribed in paragraph (1)(D) shall be treat-
5 ed as having control of the corporation to
6 which the assets are transferred if such
7 shareholders hold a 50-percent or greater
8 interest (as defined in section 351(c)(2)) in
9 such corporation immediately after the
10 transfer.”.

11 (d) EFFECTIVE DATES.—

12 (1) SECTION 355 RULES.—The amendments
13 made by subsections (a) and (b) shall apply to dis-
14 tributions after April 16, 1997.

15 (2) DIVISIVE TRANSACTIONS.—The amend-
16 ments made by subsection (c) shall apply to trans-
17 fers after the date of the enactment of this Act.

18 (3) TRANSITION RULE.—The amendments
19 made by this section shall not apply to any distribu-
20 tion after April 16, 1997, if such distribution is—

21 (A) made pursuant to a written agreement
22 which was binding on such date and at all times
23 thereafter,

1 (B) described in a ruling request submitted
2 to the Internal Revenue Service on or before
3 such date, or

4 (C) described on or before such date in a
5 public announcement or in a filing with the Se-
6 curities and Exchange Commission required
7 solely by reason of the distribution.

8 This paragraph shall not apply to any written agree-
9 ment, ruling request, or public announcement or fil-
10 ing unless it identifies the unrelated acquirer of the
11 distributing corporation or of any controlled corpora-
12 tion, whichever is applicable.

13 **SEC. 1013. TAX TREATMENT OF REDEMPTIONS INVOLVING**
14 **RELATED CORPORATIONS.**

15 (a) STOCK PURCHASES BY RELATED CORPORA-
16 TIONS.—The last sentence of section 304(a)(1) (relating
17 to acquisition by related corporation other than subsidi-
18 ary) is amended to read as follows: “To the extent that
19 such distribution is treated as a distribution to which sec-
20 tion 301 applies, the transferor and the acquiring corpora-
21 tion shall be treated in the same manner as if the trans-
22 feror had transferred the stock so acquired to the acquir-
23 ing corporation in exchange for stock of the acquiring cor-
24 poration in a transaction to which section 351(a) applies,

1 and then the acquiring corporation had redeemed the
2 stock it was treated as issuing in such transaction.”.

3 (b) COORDINATION WITH SECTION 1059.—Clause
4 (iii) of section 1059(e)(1)(A), as amended by this title, is
5 amended to read as follows:

6 “(iii) which would not have been
7 treated (in whole or in part) as a dividend
8 if—

9 “(I) any options had not been
10 taken into account under section
11 318(a)(4), or

12 “(II) section 304(a) had not ap-
13 plied,”.

14 (c) SPECIAL RULE FOR ACQUISITIONS BY FOREIGN
15 CORPORATIONS.—Section 304(b) (relating to special rules
16 for application of subsection (a)) is amended by adding
17 at the end the following new paragraph:

18 “(5) ACQUISITIONS BY FOREIGN CORPORA-
19 TIONS.—

20 “(A) IN GENERAL.—In the case of any ac-
21 quisition to which subsection (a) applies in
22 which the acquiring corporation is a foreign
23 corporation, the only earnings and profits taken
24 into account under paragraph (2)(A) shall be
25 those earnings and profits—

1 “(i) which are attributable (under reg-
2 ulations prescribed by the Secretary) to
3 stock of the acquiring corporation owned
4 (within the meaning of section 958(a)) by
5 a corporation or individual which is—

6 “(I) a United States shareholder
7 (within the meaning of section
8 951(b)) of the acquiring corporation,
9 and

10 “(II) the transferor or a person
11 who bears a relationship to the trans-
12 feror described in section 267(b) or
13 707(b), and

14 “(ii) which were accumulated during
15 the period or periods such stock was owned
16 by such person while the acquiring cor-
17 poration was a controlled foreign corpora-
18 tion.

19 “(B) APPLICATION OF SECTION 1248.—For
20 purposes of subparagraph (A), the rules of sec-
21 tion 1248(d) shall apply except to the extent
22 otherwise provided by the Secretary.

23 “(C) REGULATIONS.—The Secretary shall
24 prescribe such regulations as are appropriate to
25 carry out the purposes of this paragraph.”.

1 (d) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendments made by
3 this section shall apply to distributions and acqui-
4 sitions after June 8, 1997.

5 (2) TRANSITION RULE.—The amendments
6 made by this section shall not apply to any distribu-
7 tion or acquisition after June 8, 1997, if such dis-
8 tribution or acquisition is—

9 (A) made pursuant to a written agreement
10 which was binding on such date and at all times
11 thereafter,

12 (B) described in a ruling request submitted
13 to the Internal Revenue Service on or before
14 such date, or

15 (C) described in a public announcement or
16 filing with the Securities and Exchange Com-
17 mission on or before such date.

18 **SEC. 1014. MODIFICATION OF HOLDING PERIOD APPLICA-**
19 **BLE TO DIVIDENDS RECEIVED DEDUCTION.**

20 (a) IN GENERAL.—Subparagraph (A) of section
21 246(c)(1) is amended to read as follows:

22 “(A) which is held by the taxpayer for 45
23 days or less during the 90-day period beginning
24 on the date which is 45 days before the date on

1 which such share becomes ex-dividend with re-
2 spect to such dividend, or”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Paragraph (2) of section 246(c) is amended
5 to read as follows:

6 “(2) 90-DAY RULE IN THE CASE OF CERTAIN
7 PREFERENCE DIVIDENDS.—In the case of stock hav-
8 ing preference in dividends, if the taxpayer receives
9 dividends with respect to such stock which are at-
10 tributable to a period or periods aggregating in ex-
11 cess of 366 days, paragraph (1)(A) shall be ap-
12 plied—

13 “(A) by substituting ‘90 days’ for ‘45
14 days’ each place it appears, and

15 “(B) by substituting ‘180-day period’ for
16 ‘90-day period.’”.

17 (2) Paragraph (3) of section 246(c) is amended
18 by adding “and” at the end of subparagraph (A), by
19 striking subparagraph (B), and by redesignating
20 subparagraph (C) as subparagraph (B).

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to dividends received or accrued
23 after the 30th day after the date of the enactment of this
24 Act.

1 **Subtitle C—Other Corporate**
2 **Provisions**

3 **SEC. 1021. REGISTRATION AND OTHER PROVISIONS RELAT-**
4 **ING TO CONFIDENTIAL CORPORATE TAX**
5 **SHELTERS.**

6 (a) IN GENERAL.—Section 6111 (relating to registra-
7 tion of tax shelters) is amended by redesignating sub-
8 sections (d) and (e) as subsections (e) and (f), respectively,
9 and by inserting after subsection (e) the following new
10 subsection:

11 “(d) CERTAIN CONFIDENTIAL ARRANGEMENTS
12 TREATED AS TAX SHELTERS.—

13 “(1) IN GENERAL.—For purposes of this sec-
14 tion, the term ‘tax shelter’ includes any entity, plan,
15 arrangement, or transaction—

16 “(A) a significant purpose of the structure
17 of which is the avoidance or evasion of Federal
18 income tax for a direct or indirect participant
19 which is a corporation,

20 “(B) which is offered to any potential par-
21 ticipant under conditions of confidentiality, and

22 “(C) for which the tax shelter promoters
23 may receive fees in excess of \$100,000 in the
24 aggregate.

1 “(2) CONDITIONS OF CONFIDENTIALITY.—For
2 purposes of paragraph (1)(B), an offer is under con-
3 ditions of confidentiality if—

4 “(A) the potential participant to whom the
5 offer is made (or any other person acting on be-
6 half of such participant) has an understanding
7 or agreement with or for the benefit of any pro-
8 moter of the tax shelter that such participant
9 (or such other person) will limit disclosure of
10 the tax shelter or any significant tax features of
11 the tax shelter, or

12 “(B) any promoter of the tax shelter—

13 “(i) claims, knows, or has reason to
14 know,

15 “(ii) knows or has reason to know
16 that any other person (other than the po-
17 tential participant) claims, or

18 “(iii) causes another person to claim,
19 that the tax shelter (or any aspect thereof) is
20 proprietary to any person other than the poten-
21 tial participant or is otherwise protected from
22 disclosure to or use by others.

23 For purposes of this subsection, the term ‘promoter’
24 means any person or any related person (within the
25 meaning of section 267 or 707) who participates in

1 the organization, management, or sale of the tax
2 shelter.

3 “(3) PERSONS OTHER THAN PROMOTER RE-
4 QUIRED TO REGISTER IN CERTAIN CASES.—

5 “(A) IN GENERAL.—If—

6 “(i) the requirements of subsection (a)
7 are not met with respect to any tax shelter
8 (as defined in paragraph (1)) by any tax
9 shelter promoter, and

10 “(ii) no tax shelter promoter is a
11 United States person,

12 then each United States person who discussed
13 participation in such shelter shall register such
14 shelter under subsection (a).

15 “(B) EXCEPTION.—Subparagraph (A)
16 shall not apply to a United States person who
17 discussed participation in a tax shelter if—

18 “(i) such person notified the promoter
19 in writing (not later than the close of the
20 90th day after the day on which such dis-
21 cussions began) that such person would
22 not participate in such shelter, and

23 “(ii) such person does not participate
24 in such shelter.

1 “(4) OFFER TO PARTICIPATE TREATED AS
2 OFFER FOR SALE.—For purposes of subsections (a)
3 and (b), an offer to participate in a tax shelter (as
4 defined in paragraph (1)) shall be treated as an
5 offer for sale.”.

6 (b) PENALTY.—Subsection (a) of section 6707 (relat-
7 ing to failure to furnish information regarding tax shel-
8 ters) is amended by adding at the end the following new
9 paragraph:

10 “(3) CONFIDENTIAL ARRANGEMENTS.—

11 “(A) IN GENERAL.—In the case of a tax
12 shelter (as defined in section 6111(d)), the pen-
13 alty imposed under paragraph (1) shall be an
14 amount equal to the greater of—

15 “(i) 50 percent of the fees paid to all
16 promoters of the tax shelter with respect to
17 offerings made before the date such shelter
18 is registered under section 6111, or

19 “(ii) \$10,000.

20 Clause (i) shall be applied by substituting ‘75
21 percent’ for ‘50 percent’ in the case of an inten-
22 tional failure or act described in paragraph (1).

23 “(B) SPECIAL RULE FOR PARTICIPANTS
24 REQUIRED TO REGISTER SHELTER.—In the

1 case of a person required to register such a tax
2 shelter by reason of section 6111(d)(3)—

3 “(i) such person shall be required to
4 pay the penalty under paragraph (1) only
5 if such person actually participated in such
6 shelter,

7 “(ii) the amount of such penalty shall
8 be determined by taking into account
9 under subparagraph (A)(i) only the fees
10 paid by such person, and

11 “(iii) such penalty shall be in addition
12 to the penalty imposed on any other person
13 for failing to register such shelter.”.

14 (c) MODIFICATIONS TO SUBSTANTIAL UNDERSTATE-
15 MENT PENALTY.—

16 (1) RESTRICTION ON REASONABLE BASIS FOR
17 CORPORATE UNDERSTATEMENT OF INCOME TAX.—
18 Subparagraph (B) of section 6662(d)(2) is amended
19 by adding at the end the following new flush sen-
20 tence:

21 “For purposes of clause (ii)(II), in no event
22 shall a corporation be treated as having a rea-
23 sonable basis for its tax treatment of an item
24 attributable to a multiple-party financing trans-

1 action if such treatment does not clearly reflect
2 the income of the corporation.”.

3 (2) MODIFICATION TO DEFINITION OF TAX
4 SHELTER.—Clause (iii) of section 6662(d)(2)(C) is
5 amended by striking “the principal purpose” and in-
6 serting “a significant purpose”.

7 (d) CONFORMING AMENDMENTS.—

8 (1) Paragraph (2) of section 6707(a) is amend-
9 ed by striking “The penalty” and inserting “Except
10 as provided in paragraph (3), the penalty”.

11 (2) Subparagraph (A) of section 6707(a)(1) is
12 amended by striking “paragraph (2)” and inserting
13 “paragraph (2) or (3), as the case may be”.

14 (e) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), the amendments made by this section
17 shall apply to any tax shelter (as defined in section
18 6111(d) of the Internal Revenue Code of 1986, as
19 amended by this section) interests in which are of-
20 fered to potential participants after the Secretary of
21 the Treasury prescribes guidance with respect to
22 meeting requirements added by such amendments.

23 (2) MODIFICATIONS TO SUBSTANTIAL UNDER-
24 STATEMENT PENALTY.—The amendments made by
25 subsection (c) shall apply to items with respect to

1 transactions entered into after the date of the enact-
2 ment of this Act.

3 **SEC. 1022. CERTAIN PREFERRED STOCK TREATED AS BOOT.**

4 (a) SECTION 351.—Section 351 (relating to transfer
5 to corporation controlled by transferor) is amended by re-
6 designating subsection (g) as subsection (h) and by insert-
7 ing after subsection (f) the following new subsection:

8 “(g) NONQUALIFIED PREFERRED STOCK NOT
9 TREATED AS STOCK.—

10 “(1) IN GENERAL.—For purposes of sub-
11 sections (a) and (b), the term ‘stock’ shall not in-
12 clude nonqualified preferred stock.

13 “(2) NONQUALIFIED PREFERRED STOCK.—For
14 purposes of paragraph (1)—

15 “(A) IN GENERAL.—The term ‘non-
16 qualified preferred stock’ means preferred stock
17 if—

18 “(i) the holder of such stock has the
19 right to require the issuer or a related per-
20 son to redeem or purchase the stock,

21 “(ii) the issuer or a related person is
22 required to redeem or purchase such stock,

23 “(iii) the issuer or a related person
24 has the right to redeem or purchase the
25 stock and, as of the issue date, it is more

1 likely than not that such right will be exer-
2 cised, or

3 “*(iv)* the dividend rate on such stock
4 varies in whole or in part (directly or indi-
5 rectly) with reference to interest rates,
6 commodity prices, or other similar indices.

7 “(B) LIMITATIONS.—Clauses (i), (ii), and
8 (iii) of subparagraph (A) shall apply only if the
9 right or obligation referred to therein may be
10 exercised within the 20-year period beginning
11 on the issue date of such stock and such right
12 or obligation is not subject to a contingency
13 which, as of the issue date, makes remote the
14 likelihood of the redemption or purchase.

15 “(C) EXCEPTIONS FOR CERTAIN RIGHTS
16 OR OBLIGATIONS.—

17 “(i) IN GENERAL.—A right or obliga-
18 tion shall not be treated as described in
19 clause (i), (ii), or (iii) of subparagraph (A)
20 if—

21 “(I) it may be exercised only
22 upon the death, disability, or mental
23 incompetency of the holder, or

24 “(II) in the case of a right or ob-
25 ligation to redeem or purchase stock

1 transferred in connection with the
2 performance of services for the issuer
3 or a related person (and which rep-
4 resents reasonable compensation), it
5 may be exercised only upon the hold-
6 er’s separation from service from the
7 issuer or a related person.

8 “(ii) EXCEPTION.—Clause (i)(I) shall
9 not apply if the stock relinquished in the
10 exchange, or the stock acquired in the ex-
11 change is in—

12 “(I) a corporation if any class of
13 stock in such corporation or a related
14 party is readily tradable on an estab-
15 lished securities market or otherwise,
16 or

17 “(II) any other corporation if
18 such exchange is part of a transaction
19 or series of transactions in which such
20 corporation is to become a corporation
21 described in subclause (I).

22 “(3) DEFINITIONS.—For purposes of this sub-
23 section—

24 “(A) PREFERRED STOCK.—The term ‘pre-
25 ferred stock’ means stock which is limited and

1 preferred as to dividends and does not partici-
2 pate (including through a conversion privilege)
3 in corporate growth to any significant extent.

4 “(B) RELATED PERSON.—A person shall
5 be treated as related to another person if they
6 bear a relationship to such other person de-
7 scribed in section 267(b) or 707(b).

8 “(4) REGULATIONS.—The Secretary may pre-
9 scribe such regulations as may be necessary or ap-
10 propriate to carry out the purposes of this sub-
11 section and sections 354(a)(2)(C), 355(a)(3)(D),
12 and 356(e). The Secretary may also prescribe regu-
13 lations, consistent with the treatment under this
14 subsection and such sections, for the treatment of
15 nonqualified preferred stock under other provisions
16 of this title.”.

17 (b) SECTION 354.—Paragraph (2) of section 354(a)
18 (relating to exchanges of stock and securities in certain
19 reorganizations) is amended by adding at the end the fol-
20 lowing new subparagraph:

21 “(C) NONQUALIFIED PREFERRED
22 STOCK.—

23 “(i) IN GENERAL.—Nonqualified pre-
24 ferred stock (as defined in section
25 351(g)(2)) received in exchange for stock

1 other than nonqualified preferred stock (as
2 so defined) shall not be treated as stock or
3 securities.

4 “(ii) RECAPITALIZATIONS OF FAMILY-
5 OWNED CORPORATIONS.—

6 “(I) IN GENERAL.—Clause (i)
7 shall not apply in the case of a recapiti-
8 talization under section 368(a)(1)(E)
9 of a family-owned corporation.

10 “(II) FAMILY-OWNED CORPORA-
11 TION.—For purposes of this clause,
12 except as provided in regulations, the
13 term ‘family-owned corporation’
14 means any corporation which is de-
15 scribed in clause (i) of section
16 447(d)(2)(C) throughout the 8-year
17 period beginning on the date which is
18 5 years before the date of the recapiti-
19 talization. For purposes of the preced-
20 ing sentence, stock shall not be treat-
21 ed as owned by a family member dur-
22 ing any period described in section
23 355(d)(6)(B).”.

1 (c) SECTION 355.—Paragraph (3) of section 355(a)
2 is amended by adding at the end the following new sub-
3 paragraph:

4 “(D) NONQUALIFIED PREFERRED
5 STOCK.—Nonqualified preferred stock (as de-
6 fined in section 351(g)(2)) received in a dis-
7 tribution with respect to stock other than non-
8 qualified preferred stock (as so defined) shall
9 not be treated as stock or securities.”.

10 (d) SECTION 356.—Section 356 is amended by redес-
11 ignating subsections (e) and (f) as subsections (f) and (g),
12 respectively, and by inserting after subsection (d) the fol-
13 lowing new subsection:

14 “(e) NONQUALIFIED PREFERRED STOCK TREATED
15 AS OTHER PROPERTY.—For purposes of this section—

16 “(1) IN GENERAL.—Except as provided in para-
17 graph (2), the term ‘other property’ includes non-
18 qualified preferred stock (as defined in section
19 351(g)(2)).

20 “(2) EXCEPTION.—The term ‘other property’
21 does not include nonqualified preferred stock (as so
22 defined) to the extent that, under section 354 or
23 355, such preferred stock would be permitted to be
24 received without the recognition of gain.”.

25 (e) CONFORMING AMENDMENTS.—

1 (1) Subparagraph (B) of section 354(a)(2) and
2 subparagraph (C) of section 355(a)(3)(C) are each
3 amended by inserting “(including nonqualified pre-
4 ferred stock, as defined in section 351(g)(2))” after
5 “stock”.

6 (2) Subparagraph (A) of section 354(a)(3) and
7 subparagraph (A) of section 355(a)(4) are each
8 amended by inserting “nonqualified preferred stock
9 and” after “including”.

10 (3) Section 1036 is amended by redesignating
11 subsection (b) as subsection (c) and by inserting
12 after subsection (a) the following new subsection:

13 “(b) NONQUALIFIED PREFERRED STOCK NOT
14 TREATED AS STOCK.—For purposes of this section, non-
15 qualified preferred stock (as defined in section 351(g)(2))
16 shall be treated as property other than stock.”.

17 (f) EFFECTIVE DATE.—

18 (1) IN GENERAL.—The amendments made by
19 this section shall apply to transactions after June 8,
20 1997.

21 (2) TRANSITION RULE.—The amendments
22 made by this section shall not apply to any trans-
23 action after June 8, 1997, if such transaction is—

1 (A) made pursuant to a written agreement
2 which was binding on such date and at all times
3 thereafter,

4 (B) described in a ruling request submitted
5 to the Internal Revenue Service on or before
6 such date, or

7 (C) described on or before such date in a
8 public announcement or in a filing with the Se-
9 curities and Exchange Commission required
10 solely by reason of the distribution.

11 **Subtitle D—Administrative**
12 **Provisions**

13 **SEC. 1031. REPORTING OF CERTAIN PAYMENTS MADE TO**
14 **ATTORNEYS.**

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

18 “(f) RETURN REQUIRED IN THE CASE OF PAYMENTS
19 TO ATTORNEYS.—

20 “(1) IN GENERAL.—Any person engaged in a
21 trade or business and making a payment (in the
22 course of such trade or business) to which this sub-
23 section applies shall file a return under subsection
24 (a) and a statement under subsection (b) with re-
25 spect to such payment.

1 “(2) APPLICATION OF SUBSECTION.—

2 “(A) IN GENERAL.—This subsection shall
3 apply to any payment to an attorney in connec-
4 tion with legal services (whether or not such
5 services are performed for the payor).

6 “(B) EXCEPTION.—This subsection shall
7 not apply to the portion of any payment which
8 is required to be reported under section 6041(a)
9 (or would be so required but for the dollar limi-
10 tation contained therein) or section 6051.”.

11 (b) REPORTING OF ATTORNEYS’ FEES PAYABLE TO
12 CORPORATIONS.—The regulations providing an exception
13 under section 6041 of the Internal Revenue Code of 1986
14 for payments made to corporations shall not apply to pay-
15 ments of attorneys’ fees.

16 (c) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to payments made after December
18 31, 1997.

19 **SEC. 1032. DECREASE OF THRESHOLD FOR REPORTING**
20 **PAYMENTS TO CORPORATIONS PERFORMING**
21 **SERVICES FOR FEDERAL AGENCIES.**

22 (a) IN GENERAL.—Subsection (d) of section 6041A
23 (relating to returns regarding payments of remuneration
24 for services and direct sales) is amended by adding at the
25 end the following new paragraph:

1 “(3) PAYMENTS TO CORPORATIONS BY FED-
2 ERAL EXECUTIVE AGENCIES.—

3 “(A) IN GENERAL.—Notwithstanding any
4 regulation prescribed by the Secretary before
5 the date of the enactment of this paragraph,
6 subsection (a) shall apply to remuneration paid
7 to a corporation by any Federal executive agen-
8 cy (as defined in section 6050M(b)).

9 “(B) EXCEPTION.—Subparagraph (A)
10 shall not apply to—

11 “(i) services under contracts described
12 in section 6050M(e)(3) with respect to
13 which the requirements of section
14 6050M(e)(2) are met, and

15 “(ii) such other services as the Sec-
16 retary may specify in regulations pre-
17 scribed after the date of the enactment of
18 this paragraph.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to returns the due date for which
21 (determined without regard to any extension) is more than
22 90 days after the date of the enactment of this Act.

1 **SEC. 1033. DISCLOSURE OF RETURN INFORMATION FOR AD-**
2 **MINISTRATION OF CERTAIN VETERANS PRO-**
3 **GRAMS.**

4 (a) **GENERAL RULE.**—Subparagraph (D) of section
5 6103(l)(7) (relating to disclosure of return information to
6 Federal, State, and local agencies administering certain
7 programs) is amended by striking “Clause (viii) shall not
8 apply after September 30, 1998.”.

9 (b) **EFFECTIVE DATE.**—The amendment made by
10 subsection (a) shall take effect on the date of the enact-
11 ment of this Act.

12 **SEC. 1034. CONTINUOUS LEVY ON CERTAIN PAYMENTS.**

13 (a) **IN GENERAL.**—Section 6331 (relating to levy and
14 distraint) is amended—

15 (1) by redesignating subsection (h) as sub-
16 section (i), and

17 (2) by inserting after subsection (g) the follow-
18 ing new subsection:

19 “(h) **CONTINUING LEVY ON CERTAIN PAYMENTS.**—

20 “(1) **IN GENERAL.**—The effect of a levy on
21 specified payments to or received by a taxpayer shall
22 be continuous from the date such levy is first made
23 until such levy is released. Notwithstanding section
24 6334, such continuous levy shall attach to up to 15
25 percent of any specified payment due to the tax-
26 payer.

1 “(2) SPECIFIED PAYMENT.—For the purposes
2 of paragraph (1), the term ‘specified payment’
3 means—

4 “(A) any Federal payment other than a
5 payment for which eligibility is based on the in-
6 come or assets (or both) of a payee,

7 “(B) any payment described in paragraph
8 (4), (7), (9), or (11) of section 6334(a), and

9 “(C) any annuity or pension payment
10 under the Railroad Retirement Act or benefit
11 under the Railroad Unemployment Insurance
12 Act described in subsection (a)(6) of this sec-
13 tion.”.

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

17 **SEC. 1035. MODIFICATION OF LEVY EXEMPTION.**

18 (a) IN GENERAL.—Section 6334 (relating to property
19 exempt from levy) is amended by redesignating subsection
20 (f) as subsection (g) and by inserting after subsection (e)
21 the following new subsection:

22 “(f) LEVY ALLOWED ON CERTAIN SPECIFIED PAY-
23 MENTS.—Any payment described in subparagraph (B) or
24 (C) of section 6331(h)(2) shall not be exempt from levy

1 if the Secretary approves the levy thereon under section
2 6331(h).”.

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

6 **SEC. 1036. CONFIDENTIALITY AND DISCLOSURE OF RE-**
7 **TURNS AND RETURN INFORMATION.**

8 (a) **IN GENERAL.**—Subsection (k) of section 6103 is
9 amended by adding at the end the following new para-
10 graph:

11 “(8) **LEVIES ON CERTAIN GOVERNMENT PAY-**
12 **MENTS.**—

13 “(A) **DISCLOSURE OF RETURN INFORMA-**
14 **TION IN LEVIES ON FINANCIAL MANAGEMENT**
15 **SERVICE.**—In serving a notice of levy, or release
16 of such levy, with respect to any applicable gov-
17 ernment payment, the Secretary may disclose to
18 officers and employees of the Financial Man-
19 agement Service—

20 “(i) return information, including tax-
21 payer identity information,

22 “(ii) the amount of any unpaid liabil-
23 ity under this title (including penalties and
24 interest), and

1 “(iii) the type of tax and tax period to
2 which such unpaid liability relates.

3 “(B) RESTRICTION ON USE OF DISCLOSED
4 INFORMATION.—Return information disclosed
5 under subparagraph (A) may be used by offi-
6 cers and employees of the Financial Manage-
7 ment Service only for the purpose of, and to the
8 extent necessary in, transferring levied funds in
9 satisfaction of the levy, maintaining appropriate
10 agency records in regard to such levy or the re-
11 lease thereof, notifying the taxpayer and the
12 agency certifying such payment that the levy
13 has been honored, or in the defense of any liti-
14 gation ensuing from the honor of such levy.

15 “(C) APPLICABLE GOVERNMENT PAY-
16 MENT.—For purposes of this paragraph, the
17 term ‘applicable government payment’ means—

18 “(i) any Federal payment (other than
19 a payment for which eligibility is based on
20 the income or assets (or both) of a payee)
21 certified to the Financial Management
22 Service for disbursement, and

23 “(ii) any other payment which is cer-
24 tified to the Financial Management Service

1 for disbursement and which the Secretary
2 designates by published notice.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 6301(p) is amended—

5 (A) in paragraph (3)(A), by striking “(2),
6 or (6)” and inserting “(2), (6), or (8), and

7 (B) in paragraph (4), by inserting
8 “(k)(8),” after “(j) (1) or (2),” each place it
9 appears.

10 (2) Section 552a(a)(8)(B) of title 5, United
11 States Code, is amended by striking “or” at the end
12 of clause (v), by adding “or” at the end of clause
13 (vi), and by adding at the end the following new
14 clause:

15 “(vii) matches performed incident to a
16 levy described in section 6103(k)(8) of the
17 Internal Revenue Code of 1986;”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to levies issued after the date of
20 the enactment of this Act.

1 **SEC. 1037. RETURNS OF BENEFICIARIES OF ESTATES AND**
2 **TRUSTS REQUIRED TO FILE RETURNS CON-**
3 **SISTENT WITH ESTATE OR TRUST RETURN**
4 **OR TO NOTIFY SECRETARY OF INCONSIST-**
5 **ENCY.**

6 (a) DOMESTIC ESTATES AND TRUSTS.—Section
7 6034A (relating to information to beneficiaries of estates
8 and trusts) is amended by adding at the end the following
9 new subsection:

10 “(c) BENEFICIARY’S RETURN MUST BE CONSISTENT
11 WITH ESTATE OR TRUST RETURN OR SECRETARY NOTI-
12 FIED OF INCONSISTENCY.—

13 “(1) IN GENERAL.—A beneficiary of any estate
14 or trust to which subsection (a) applies shall, on
15 such beneficiary’s return, treat any reported item in
16 a manner which is consistent with the treatment of
17 such item on the applicable entity’s return.

18 “(2) NOTIFICATION OF INCONSISTENT TREAT-
19 MENT.—

20 “(A) IN GENERAL.—In the case of any re-
21 ported item, if—

22 “(i)(I) the applicable entity has filed a
23 return but the beneficiary’s treatment on
24 such beneficiary’s return is (or may be) in-
25 consistent with the treatment of the item
26 on the applicable entity’s return, or

1 “(II) the applicable entity has not
2 filed a return, and

3 “(ii) the beneficiary files with the Sec-
4 retary a statement identifying the incon-
5 sistency,

6 paragraph (1) shall not apply to such item.

7 “(B) BENEFICIARY RECEIVING INCORRECT
8 INFORMATION.—A beneficiary shall be treated
9 as having complied with clause (ii) of subpara-
10 graph (A) with respect to a reported item if the
11 beneficiary—

12 “(i) demonstrates to the satisfaction
13 of the Secretary that the treatment of the
14 reported item on the beneficiary’s return is
15 consistent with the treatment of the item
16 on the statement furnished under sub-
17 section (a) to the beneficiary by the appli-
18 cable entity, and

19 “(ii) elects to have this paragraph
20 apply with respect to that item.

21 “(3) EFFECT OF FAILURE TO NOTIFY.—In any
22 case—

23 “(A) described in subparagraph (A)(i)(I)
24 of paragraph (2), and

1 “(B) in which the beneficiary does not
2 comply with subparagraph (A)(ii) of paragraph
3 (2),
4 any adjustment required to make the treatment of
5 the items by such beneficiary consistent with the
6 treatment of the items on the applicable entity’s re-
7 turn shall be treated as arising out of mathematical
8 or clerical errors and assessed according to section
9 6213(b)(1). Paragraph (2) of section 6213(b) shall
10 not apply to any assessment referred to in the pre-
11 ceding sentence.

12 “(4) DEFINITIONS.—For purposes of this sub-
13 section—

14 “(A) REPORTED ITEM.—The term ‘re-
15 ported item’ means any item for which informa-
16 tion is required to be furnished under sub-
17 section (a).

18 “(B) APPLICABLE ENTITY.—The term ‘ap-
19 plicable entity’ means the estate or trust of
20 which the taxpayer is the beneficiary.

21 “(5) ADDITION TO TAX FOR FAILURE TO COM-
22 PLY WITH SECTION.—For addition to tax in the case
23 of a beneficiary’s negligence in connection with, or
24 disregard of, the requirements of this section, see
25 part II of subchapter A of chapter 68.”.

1 (b) FOREIGN TRUSTS.—Subsection (d) of section
2 6048 (relating to information with respect to certain for-
3 eign trusts) is amended by adding at the end the following
4 new paragraph:

5 “(5) UNITED STATES PERSON’S RETURN MUST
6 BE CONSISTENT WITH TRUST RETURN OR SEC-
7 RETARY NOTIFIED OF INCONSISTENCY.—Rules simi-
8 lar to the rules of section 6034A(c) shall apply to
9 items reported by a trust under subsection (b)(1)(B)
10 and to United States persons referred to in such
11 subsection.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to returns of beneficiaries and own-
14 ers filed after the date of the enactment of this Act.

15 **Subtitle E—Excise Tax Provisions**

16 **SEC. 1041. EXTENSION AND MODIFICATION OF AIRPORT 17 AND AIRWAY TRUST FUND TAXES.**

18 (a) FUEL TAXES.—

19 (1) AVIATION FUEL.—Clause (ii) of section
20 4091(b)(3)(A) is amended by striking “September
21 30, 1997” and inserting “September 30, 2007”.

22 (2) AVIATION GASOLINE.—Subparagraph (B) of
23 section 4081(d)(2) is amended by striking “Septem-
24 ber 30, 1997” and inserting “September 30, 2007”.

1 (3) NONCOMMERCIAL AVIATION.—Subpara-
2 graph (B) of section 4041(c)(3) is amended by strik-
3 ing “September 30, 1997” and inserting “September
4 30, 2007”.

5 (b) TICKET TAXES.—

6 (1) PERSONS.—Clause (ii) of section
7 4261(g)(1)(A) is amended by striking “September
8 30, 1997” and inserting “September 30, 2007”.

9 (2) PROPERTY.—Clause (ii) of section
10 4271(d)(1)(A) is amended by striking “September
11 30, 1997” and inserting “September 30, 2007”.

12 (c) MODIFICATIONS TO TAX ON TRANSPORTATION OF
13 PERSONS BY AIR.—

14 (1) IN GENERAL.—Section 4261 (relating to
15 imposition of tax) is amended by striking sub-
16 sections (a), (b), and (c) and inserting the following
17 new subsections:

18 “(a) IN GENERAL.—There is hereby imposed on the
19 amount paid for taxable transportation of any person a
20 tax equal to 7.5 percent of the amount so paid.

21 “(b) DOMESTIC SEGMENTS OF TAXABLE TRANSPOR-
22 TATION.—

23 “(1) IN GENERAL.—There is hereby imposed on
24 the amount paid for each domestic segment of tax-
25 able transportation by air a tax in the amount deter-

1 mined in accordance with the following table for the
2 calendar year in which the segment begins:

| In the case of segments beginning during: | The tax is: |
|--|--------------------|
| 1997 or 1998 | \$2.00 |
| 1999 | \$2.25 |
| 2000 | \$2.50 |
| 2001 | \$2.75 |
| 2002 or thereafter | \$3.00. |

3 “(2) DOMESTIC SEGMENT.—For purposes of
4 this section, the term ‘domestic segment’ means any
5 segment which is taxable transportation described in
6 section 4262(a)(1).

7 “(3) CHANGES IN SEGMENTS BY REASON OF
8 REROUTING.—If—

9 “(A) a ticket is purchased for transpor-
10 tation between 2 locations on specified flights,
11 and

12 “(B) at the initiation of the air carrier
13 after such purchase, there is a change in the
14 route taken which changes the number of do-
15 mestic segments, but there is no change in the
16 amount charged for such transportation,
17 the tax imposed by paragraph (1) shall be deter-
18 mined without regard to such change in route.

19 “(c) USE OF INTERNATIONAL TRAVEL FACILITIES.—

20 “(1) IN GENERAL.—There is hereby imposed a
21 tax of \$15.50 on any amount paid (whether within
22 or without the United States) for any transportation

1 of any person by air, if such transportation begins
2 or ends in the United States.

3 “(2) EXCEPTION FOR TRANSPORTATION EN-
4 TIRELY TAXABLE UNDER SUBSECTION (a).—This
5 subsection shall not apply to any transportation all
6 of which is taxable under subsection (a) (determined
7 without regard to sections 4281 and 4282).

8 “(3) SPECIAL RULE FOR ALASKA AND HA-
9 WAI.—In any case in which the tax imposed by
10 paragraph (1) applies to a domestic segment, such
11 tax shall apply only on departure.”.

12 (2) SPECIAL RULES.—Section 4261 is amended
13 by redesignating subsections (e), (f), and (g), as sub-
14 sections (f), (g), and (h), respectively, and by insert-
15 ing after subsection (d) the following new sub-
16 section:

17 “(e) SPECIAL RULES.—

18 “(1) AMOUNTS PAID OUTSIDE THE UNITED
19 STATES.—In the case of amounts paid outside the
20 United States for taxable transportation, the taxes
21 imposed by subsections (a) and (b) shall apply only
22 to segments of such transportation which begin and
23 end in the United States.

24 “(2) AMOUNTS PAID FOR RIGHT TO AWARD
25 FREE OR REDUCED RATE AIR TRANSPORTATION.—

1 Any amount paid (and the value of any other benefit
2 provided) to an air carrier (or any related person)
3 for the right to provide mileage awards for (or other
4 reductions in the cost of) any transportation of per-
5 sons by air shall be treated for purposes of sub-
6 section (a) as an amount paid for taxable transpor-
7 tation, and such amount shall be taxable under sub-
8 section (a) without regard to any other provision of
9 this subchapter. The Secretary shall prescribe rules
10 which reallocate items of income, deduction, credit,
11 exclusion, or other allowance to the extent necessary
12 to prevent the avoidance of tax imposed by reason
13 of this paragraph.

14 “(3) INFLATION ADJUSTMENT OF DOLLAR
15 RATES OF TAX.—

16 “(A) IN GENERAL.—In the case of taxable
17 events in a calendar year after the last non-
18 indexed year, the dollar amount contained in
19 subsection (b) and the dollar amount contained
20 in subsection (c) shall each be increased by an
21 amount equal to—

22 “(i) such dollar amount, multiplied by

23 “(ii) the cost-of-living adjustment de-
24 termined under section 1(f)(3) for such
25 calendar year by substituting the year be-

1 fore the last nonindexed year for ‘calendar
2 year 1992’ in subparagraph (B) thereof.

3 If any increase determined under the preceding
4 sentence is not a multiple of 10 cents, such in-
5 crease shall be rounded to the nearest multiple
6 of 10 cents.

7 “(B) LAST NONINDEXED YEAR.—For pur-
8 poses of subparagraph (A), the last nonindexed
9 year is—

10 “(i) 2002 in the case of a dollar
11 amount contained in subsection (b), and

12 “(ii) 1998 in the case of a dollar
13 amount contained in subsection (c).

14 “(C) TAXABLE EVENT.—For purposes of
15 subparagraph (A), in the case of the tax im-
16 posed subsection (b), the beginning of the do-
17 mestic segment shall be treated as the taxable
18 event.”.

19 (3) SECONDARY LIABILITY OF CARRIER FOR
20 UNPAID TAX.—Subsection (c) of section 4263 is
21 amended by striking “subchapter—” and all that
22 follows and inserting “, such tax shall be paid by the
23 carrier providing the initial segment of such trans-
24 portation which begins or ends in the United
25 States.”.

1 (d) MODIFICATION OF RULES ON AIRLINE FARE AD-
2 VERTISING.—Subsection (b) of section 7275 (relating to
3 advertising) is amended by striking “shall—” and all that
4 follows and inserting “shall—

5 “(1) separately state—

6 “(A) the amount to be paid for such trans-
7 portation, and

8 “(B) the amount of the taxes imposed by
9 subsections (a), (b), and (c) of section 4261 at
10 a location proximate to (and in a type size not
11 less than half the type size of) the statement of
12 the amount described in subparagraph (A), and

13 “(2) describe such taxes substantially as: ‘user
14 taxes to pay for airport construction and airway
15 safety and operations’.”.

16 (e) INCREASED AIRPORT AND AIRWAY TRUST FUND
17 DEPOSITS.—

18 (1) Paragraph (1) of section 9502(b) is amend-
19 ed—

20 (A) by striking “(to the extent that the
21 rate of the tax on such gasoline exceeds 4.3
22 cents per gallon)” in subparagraph (C), and

23 (B) by striking “to the extent attributable
24 to the Airport and Airway Trust Fund financ-
25 ing rate” in subparagraph (C).

1 (2) Section 9502 is amended by striking sub-
2 section (f).

3 (f) EFFECTIVE DATES.—

4 (1) FUEL TAXES.—The amendments made by
5 subsection (a) shall apply take effect on October 1,
6 1997.

7 (2) TICKET TAXES.—

8 (A) IN GENERAL.—Except as otherwise
9 provided in this paragraph, the amendments
10 made by subsections (b) and (c) shall apply to
11 transportation beginning on or after October 1,
12 1997.

13 (B) TREATMENT OF AMOUNTS PAID FOR
14 TICKETS PURCHASED BEFORE DATE OF ENACT-
15 MENT.—The amendments made by subsection
16 (c) shall not apply to amounts paid for a ticket
17 purchased before the date of the enactment of
18 this Act for a specified flight beginning on or
19 after October 1, 1997.

20 (C) AMOUNTS PAID FOR RIGHT TO AWARD
21 MILEAGE AWARDS.—

22 (i) IN GENERAL.—Paragraph (2) of
23 section 4261(e) of the Internal Revenue
24 Code of 1986 (as added by the amendment

1 made by subsection (c) shall apply to
2 amounts paid after September 30, 1997.

3 (ii) PAYMENTS WITHIN CONTROLLED
4 GROUP.—For purposes of clause (i), any
5 amount paid after June 11, 1997, and be-
6 fore October 1, 1997, by 1 member of a
7 controlled group for a right which is de-
8 scribed in such section 4261(e)(2) and is
9 furnished by another member of such
10 group after September 30, 1997, shall be
11 treated as paid after September 30, 1997.
12 For purposes of the preceding sentence, all
13 persons treated as a single employer under
14 subsection (a) or (b) of section 52 of such
15 Code shall be treated as members of a con-
16 trolled group.

17 (3) ADVERTISING.—The amendment made by
18 subsection (d) shall take effect on October 1, 1997.

19 (4) INCREASED DEPOSITS INTO AIRPORT AND
20 AIRWAY TRUST FUND.—The amendments made by
21 subsection (e) shall apply with respect to taxes re-
22 ceived in the Treasury on and after October 1, 1997.

23 (g) DELAYED DEPOSITS OF AIRLINE TICKET TAX
24 REVENUES.—Notwithstanding section 6302 of the Inter-
25 nal Revenue Code of 1986, in the case of deposits of taxes

1 imposed by section 4261 of the Internal Revenue Code of
2 1986, the due date for any such deposit which would (but
3 for this subsection) be required to be made—

4 (1) after August 14, 1997, and before October
5 1, 1997, shall be October 10, 1997, or

6 (2) after June 30, 1998, and before October 1,
7 1998, shall be October 13, 1998.

8 **SEC. 1042. KEROSENE TAXED AS DIESEL FUEL.**

9 (a) IN GENERAL.—Subsection (a) of section 4083
10 (defining taxable fuel) is amended by striking “and” at
11 the end of subparagraph (A), by striking the period at
12 the end of subparagraph (B) and inserting “, and”, and
13 by adding at the end the following new subparagraph:

14 “(C) kerosene.”.

15 (b) RATE OF TAX.—Clause (iii) of section
16 4081(a)(2)(A) is amended by inserting “or kerosene”
17 after “diesel fuel”.

18 (c) EXEMPTIONS FROM TAX; REFUNDS TO VEN-
19 DORS.—

20 (1) IN GENERAL.—Section 4082 (relating to ex-
21 emptions for diesel fuel) is amended by striking
22 “diesel fuel” each place it appears in subsections (a)
23 and (c) and inserting “diesel fuel and kerosene”.

24 (2) CERTAIN KEROSENE EXEMPT FROM DYEING
25 REQUIREMENT.—Section 4082 is amended by redesc-

1 ignating subsections (c) and (d) as subsections (d)
2 and (e), respectively, and by inserting after sub-
3 section (b) the following new subsection:

4 “(c) EXCEPTIONS TO DYEING REQUIREMENTS.—

5 “(1) AVIATION-GRADE KEROSENE.—Subsection
6 (a)(2) shall not apply to a removal, entry, or sale of
7 aviation-grade kerosene (as determined under regu-
8 lations prescribed by the Secretary) if the person re-
9 ceiving the kerosene is registered under section 4101
10 with respect to the tax imposed by section 4091.

11 “(2) USE FOR NON-FUEL FEEDSTOCK PUR-
12 POSES.—Subsection (a)(2) shall not apply to ker-
13 osene—

14 “(A) received by pipeline or barge for use
15 by the person receiving the kerosene in the
16 manufacture or production of any substance
17 (other than gasoline, diesel fuel, or special fuels
18 referred to in section 4041), or

19 “(B) to the extent provided in regulations,
20 removed or entered—

21 “(i) for such a use by the person re-
22 moving or entering the kerosene, or

23 “(ii) for resale by such person for
24 such a use by the purchaser,

1 but only if the person receiving, removing, or enter-
2 ing the kerosene and such purchaser (if any) are
3 registered under section 4101 with respect to the tax
4 imposed by section 4081.”.

5 (3) REFUNDS.—

6 (A) Subsection (l) of section 6427 is
7 amended by inserting “or kerosene” after “die-
8 sel fuel” each place it appears in paragraphs
9 (1), (2), and (5) (including the heading for
10 paragraph (5)).

11 (B) Paragraph (5) of section 6427(l) is
12 amended by redesignating subparagraph (B) as
13 subparagraph (C) and by inserting after sub-
14 paragraph (A) the following new subparagraph:

15 “(B) SALES OF KEROSENE NOT FOR USE
16 IN MOTOR FUEL.—Paragraph (1)(A) shall not
17 apply to kerosene sold by a vendor—

18 “(i) for any use if such sale is from
19 a pump which (as determined under regu-
20 lations prescribed by the Secretary) is not
21 suitable for use in fueling any diesel-pow-
22 ered highway vehicle or train, or

23 “(ii) to the extent provided by the
24 Secretary, for blending with heating oil to

1 be used during periods of extreme or un-
2 seasonable cold.”.

3 (C) Subparagraph (C) of section
4 6427(l)(5), as redesignated by subparagraph
5 (B) of this paragraph, is amended by striking
6 “subparagraph (A)” and inserting “subpara-
7 graph (A) or (B)”.

8 (D) The heading for subsection (l) of sec-
9 tion 6427 is amended by inserting “, KER-
10 ROSENE,” after “DIESEL FUEL”.

11 (d) CONFORMING AMENDMENTS.—

12 (1) Paragraph (2) of section 4041(a) is amend-
13 ed by striking “kerosene, gas oil, or fuel oil” and in-
14 serting “gas oil, fuel oil”.

15 (2) Paragraph (1) of section 4041(c) is amend-
16 ed by striking “any liquid” and inserting “kerosene
17 and any other liquid”.

18 (3)(A) The heading for section 4082 is amend-
19 ed by inserting “**AND KEROSENE**” after “**DIESEL**
20 **FUEL**”.

21 (B) The table of sections for subpart A of part
22 III of subchapter A of chapter 32 is amended by in-
23 serting “and kerosene” after “diesel fuel” in the
24 item relating to section 4082.

1 (4) Subsection (b) of section 4083 is amended
2 by striking “gasoline, diesel fuel,” and inserting
3 “taxable fuels”.

4 (5) Subsection (a) of section 4093 is amended
5 by striking “any liquid” and inserting “kerosene and
6 any other liquid”.

7 (6) The material following subparagraph (F) of
8 section 6416(b)(2) is amended by inserting “or ker-
9 osene” after “diesel fuel”.

10 (7) Paragraphs (1) and (3) of section 6427(f),
11 and the heading for section 6427(f), are each
12 amended by inserting “kerosene,” after “diesel
13 fuel,”.

14 (8) Paragraph (2) of section 6427(f) is amend-
15 ed by striking “or diesel fuel” each place it appears
16 and inserting “, diesel fuel, or kerosene”.

17 (9) Subparagraph (A) of section 6427(i)(3) is
18 amended by striking “or diesel fuel” and inserting
19 “, diesel fuel, or kerosene”.

20 (10) The heading for paragraph (4) of section
21 6427(i) is amended to read as follows:

22 “(4) SPECIAL RULE FOR REFUNDS UNDER SUB-
23 SECTION (I).—”

1 (11) Paragraph (1) of section 6715(c) is
2 amended by inserting “or kerosene” after “diesel
3 fuel”.

4 (12)(A) The text of section 7232 is amended by
5 striking “gasoline, lubricating oil, diesel fuel” and
6 inserting “any taxable fuel (as defined in section
7 4083)”.

8 (B) The section heading for section 7232 is
9 amended to read as follows:

10 **“SEC. 7232. FAILURE TO REGISTER UNDER SECTION 4101,**

11 **FALSE REPRESENTATIONS OF REGISTRATION**

12 **STATUS, ETC.”.**

13 (C) The table of sections for part II of sub-
14 chapter A of chapter 75 is amended by striking the
15 item relating to section 7232 and inserting the fol-
16 lowing:

“Sec. 7232. Failure to register under section 4101, false represen-
tations of registration status, etc.”.

17 (13) Sections 9503(b)(1)(E) and 9508(b)(2)
18 are each amended by striking “and diesel fuel” and
19 inserting “, diesel fuel, and kerosene”.

20 (14) Subparagraph (B) of section 9503(b)(5) is
21 amended by striking “or diesel fuel” and inserting
22 “, diesel fuel, or kerosene”.

1 (15) Paragraphs (1)(B) and (2) of section
2 9503(f) are each amended by inserting “or ker-
3 osene” after “diesel fuel” each place it appears.

4 (e) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect on July 1, 1998.

6 (f) FLOOR STOCK TAXES.—

7 (1) IMPOSITION OF TAX.—In the case of ker-
8 osene which is held on July 1, 1998, by any person,
9 there is hereby imposed a floor stocks tax of 24.3
10 cents per gallon.

11 (2) LIABILITY FOR TAX AND METHOD OF PAY-
12 MENT.—

13 (A) LIABILITY FOR TAX.—A person hold-
14 ing kerosene on July 1, 1998, to which the tax
15 imposed by paragraph (1) applies shall be liable
16 for such tax.

17 (B) METHOD OF PAYMENT.—The tax im-
18 posed by paragraph (1) shall be paid in such
19 manner as the Secretary shall prescribe.

20 (C) TIME FOR PAYMENT.—The tax im-
21 posed by paragraph (1) shall be paid on or be-
22 fore August 31, 1998.

23 (3) DEFINITIONS.—For purposes of this sub-
24 section—

1 (A) HELD BY A PERSON.—Kerosene shall
2 be considered as “held by a person” if title
3 thereto has passed to such person (whether or
4 not delivery to the person has been made).

5 (B) SECRETARY.—The term “Secretary”
6 means the Secretary of the Treasury or his del-
7 egate.

8 (4) EXCEPTION FOR EXEMPT USES.—The tax
9 imposed by paragraph (1) shall not apply to ker-
10 osene held by any person exclusively for any use to
11 the extent a credit or refund of the tax imposed by
12 section 4081 of the Internal Revenue Code of 1986
13 is allowable for such use.

14 (5) EXCEPTION FOR FUEL HELD IN VEHICLE
15 TANK.—No tax shall be imposed by paragraph (1)
16 on kerosene held in the tank of a motor vehicle or
17 motorboat.

18 (6) EXCEPTION FOR CERTAIN AMOUNTS OF
19 FUEL.—

20 (A) IN GENERAL.—No tax shall be im-
21 posed by paragraph (1) on kerosene held on
22 July 1, 1998, by any person if the aggregate
23 amount of kerosene held by such person on
24 such date does not exceed 2,000 gallons. The
25 preceding sentence shall apply only if such per-

1 son submits to the Secretary (at the time and
2 in the manner required by the Secretary) such
3 information as the Secretary shall require for
4 purposes of this paragraph.

5 (B) EXEMPT FUEL.—For purposes of sub-
6 paragraph (A), there shall not be taken into ac-
7 count fuel held by any person which is exempt
8 from the tax imposed by paragraph (1) by rea-
9 son of paragraph (4) or (5).

10 (C) CONTROLLED GROUPS.—For purposes
11 of this paragraph—

12 (i) CORPORATIONS.—

13 (I) IN GENERAL.—All persons
14 treated as a controlled group shall be
15 treated as 1 person.

16 (II) CONTROLLED GROUP.—The
17 term “controlled group” has the
18 meaning given to such term by sub-
19 section (a) of section 1563 of such
20 Code; except that for such purposes
21 the phrase “more than 50 percent”
22 shall be substituted for the phrase “at
23 least 80 percent” each place it ap-
24 pears in such subsection.

1 (ii) NONINCORPORATED PERSONS
2 UNDER COMMON CONTROL.—Under regula-
3 tions prescribed by the Secretary, prin-
4 ciples similar to the principles of clause (i)
5 shall apply to a group of persons under
6 common control where 1 or more of such
7 persons is not a corporation.

8 (7) COORDINATION WITH SECTION 4081.—No
9 tax shall be imposed by paragraph (1) on kerosene
10 to the extent that tax has been (or will be) imposed
11 on such kerosene under section 4081 or 4091 of
12 such Code.

13 (8) OTHER LAWS APPLICABLE.—All provisions
14 of law, including penalties, applicable with respect to
15 the taxes imposed by section 4081 of such Code
16 shall, insofar as applicable and not inconsistent with
17 the provisions of this subsection, apply with respect
18 to the floor stock taxes imposed by paragraph (1) to
19 the same extent as if such taxes were imposed by
20 such section 4081.

21 **SEC. 1043. RESTORATION OF LEAKING UNDERGROUND**
22 **STORAGE TANK TRUST FUND TAXES.**

23 Paragraph (3) of section 4081(d) is amended by
24 striking “shall not apply after December 31, 1995” and
25 inserting “shall apply after the date of the enactment of

1 the Taxpayer Relief Act of 1997 and before October 1,
2 2002”.

3 **SEC. 1044. APPLICATION OF COMMUNICATIONS TAX TO**
4 **LONG-DISTANCE PREPAID TELEPHONE**
5 **CARDS.**

6 (a) IN GENERAL.—Subsection (b) of section 4251 is
7 amended—

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

10 “(3) LONG-DISTANCE PREPAID TELEPHONE
11 CARDS AND SIMILAR ARRANGEMENTS.—Any amount
12 paid (and the value of any other benefit provided) to
13 a provider of communications services (or any relat-
14 ed person) for the right to award, sell, or otherwise
15 make available telephone service (or reductions in
16 the cost of such service) other than local telephone
17 service through prepaid telephone cards or any simi-
18 lar arrangement shall be treated as an amount paid
19 for communications services. The Secretary shall
20 prescribe rules which reallocate items of income, de-
21 duction, credit, exclusion, or other allowance to the
22 extent necessary to prevent the avoidance of tax im-
23 posed by reason of this paragraph.”, and

24 (2) by inserting “AND SPECIAL RULE” after
25 “DEFINITIONS” in the heading.

1 (b) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendments made by
3 this section shall apply to amounts paid on or after
4 the date of the enactment of this Act.

5 (2) PAYMENTS WITHIN CONTROLLED GROUP.—

6 For purposes of paragraph (1), any amount paid
7 after June 11, 1997, and before the date of the en-
8 actment of this Act by 1 member of a controlled
9 group for a right which is described in section
10 4251(b)(3) of the Internal Revenue Code of 1986
11 (as added by this section) and is furnished by an-
12 other member of such group shall be treated as paid
13 on the date of the enactment of this Act. For pur-
14 poses of the preceding sentence, all persons treated
15 as a single employer under subsection (a) or (b) of
16 section 52 of such Code shall be treated as members
17 of a controlled group.

18 **Subtitle F—Provisions Relating to**
19 **Tax-Exempt Entities**

20 **SEC. 1051. EXPANSION OF LOOK-THRU RULE FOR INTER-**
21 **EST, ANNUITIES, ROYALTIES, AND RENTS DE-**
22 **RIVED BY SUBSIDIARIES OF TAX-EXEMPT OR-**
23 **GANIZATIONS.**

24 (a) IN GENERAL.—Paragraph (13) of section 512(b)
25 is amended to read as follows:

1 “(13) SPECIAL RULES FOR CERTAIN AMOUNTS
2 RECEIVED FROM CONTROLLED ENTITIES.—

3 “(A) IN GENERAL.—If an organization (in
4 this paragraph referred to as the ‘controlling
5 organization’) receives (directly or indirectly) a
6 specified payment from another entity which it
7 controls (in this paragraph referred to as the
8 ‘controlled entity’), notwithstanding paragraphs
9 (1), (2), and (3), the controlling organization
10 shall include such payment as an item of gross
11 income derived from an unrelated trade or busi-
12 ness to the extent such payment reduces the net
13 unrelated income of the controlled entity (or in-
14 creases any net unrelated loss of the controlled
15 entity). There shall be allowed all deductions of
16 the controlling organization directly connected
17 with amounts treated as derived from an unre-
18 lated trade or business under the preceding sen-
19 tence.

20 “(B) NET UNRELATED INCOME OR
21 LOSS.—For purposes of this paragraph—

22 “(i) NET UNRELATED INCOME.—The
23 term ‘net unrelated income’ means—

24 “(I) in the case of a controlled
25 entity which is not exempt from tax

1 under section 501(a), the portion of
2 such entity's taxable income which
3 would be unrelated business taxable
4 income if such entity were exempt
5 from tax under section 501(a) and
6 had the same exempt purposes (as de-
7 fined in section 513A(a)(5)(A)) as the
8 controlling organization, or

9 “(II) in the case of a controlled
10 entity which is exempt from tax under
11 section 501(a), the amount of the un-
12 related business taxable income of the
13 controlled entity.

14 “(ii) NET UNRELATED LOSS.—the
15 term ‘net unrelated loss’ means the net op-
16 erating loss adjusted under rules similar to
17 the rules of clause (i).

18 “(C) SPECIFIED PAYMENT.—For purposes
19 of this paragraph, the term ‘specified payment’
20 means any interest, annuity, royalty, or rent.

21 “(D) DEFINITION OF CONTROL.—For pur-
22 poses of this paragraph—

23 “(i) CONTROL.—The term ‘control’
24 means—

1 “(I) in the case of a corporation,
2 ownership (by vote or value) of more
3 than 50 percent of the stock in such
4 corporation,

5 “(II) in the case of a partner-
6 ship, ownership of more than 50 per-
7 cent of the profits interests or capital
8 interests in such partnership, or

9 “(III) in any other case, owner-
10 ship of more than 50 percent of the
11 beneficial interests in the entity.

12 “(ii) CONSTRUCTIVE OWNERSHIP.—
13 Section 318 (relating to constructive own-
14 ership of stock) shall apply for purposes of
15 determining ownership of stock in a cor-
16 poration. Similar principles shall apply for
17 purposes of determining ownership of in-
18 terests in any other entity.

19 “(E) RELATED PERSONS.—The Secretary
20 shall prescribe such rules as may be necessary
21 or appropriate to prevent avoidance of the pur-
22 poses of this paragraph through the use of re-
23 lated persons.”.

24 (b) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), the amendments made by this section
3 shall apply to taxable years beginning after the date
4 of the enactment of this Act.

5 (2) CONTROL TEST.—In the case of taxable
6 years beginning before January 1, 1999, an organi-
7 zation shall be treated as controlling another organi-
8 zation for purposes of section 512(b)(13) of the In-
9 ternal Revenue Code of 1986 (as amended by this
10 section) only if it controls such organization within
11 the meaning of such section, determined by sub-
12 stituting “80 percent” for “50 percent” each place
13 it appears in subparagraph (D) thereof.

14 **SEC. 1052. LIMITATION ON INCREASE IN BASIS OF PROP-**
15 **ERTY RESULTING FROM SALE BY TAX-EX-**
16 **EMPT ENTITY TO A RELATED PERSON.**

17 (a) IN GENERAL.—Part IV of subchapter O of chap-
18 ter 1 (relating to special rules for gain or loss on disposi-
19 tion of property) is amended by redesignating section
20 1061 as section 1062 and by inserting after section 1060
21 the following new section:

1 **“SEC. 1061. BASIS LIMITATION FOR SALE OR EXCHANGE OF**
2 **PROPERTY BY TAX-EXEMPT ENTITY TO RE-**
3 **LATED PERSON.**

4 “(a) GENERAL RULE.—In the case of a sale or ex-
5 change of property directly or indirectly between a tax-
6 exempt entity and a related person, the basis of the related
7 person in the property acquired shall not exceed the ad-
8 justed basis of such property (immediately before the ex-
9 change) in the hands of the tax-exempt entity, increased
10 by the amount of gain recognized to the tax-exempt entity
11 on the transfer which is subject to tax under section 511.

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

13 “(1) TAX-EXEMPT ENTITY.—The term ‘tax-ex-
14 empt entity’ means any entity which is exempt from
15 the tax imposed by this chapter.

16 “(2) RELATED PERSON.—The term ‘related
17 person’ means any person bearing a relationship to
18 the tax-exempt entity which is described in section
19 267(b) or 707(b)(1). For purposes of applying sec-
20 tion 267(b)(2) under the preceding sentence, such
21 an entity shall be treated as if it were an individ-
22 ual.”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 for part IV of subchapter O of chapter 1 is amended by
25 striking the last item and inserting the following:

“Sec. 1061. Basis limitation for sale or exchange of property by tax-exempt entity to related person.

“Sec. 1062. Cross references.”.

1 (c) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendments made by
3 this section shall apply to sales and exchanges after
4 June 8, 1997.

5 (2) BINDING CONTRACTS.—The amendments
6 made by this section shall not apply to any sale or
7 exchange pursuant to a written contract which was
8 binding on June 8, 1997, and at all times thereafter
9 before the sale or exchange.

10 **SEC. 1053. MODIFICATIONS TO EXCEPTION FROM REPORT-**
11 **ING, ETC. OF LOBBYING ACTIVITIES.**

12 (a) IN GENERAL.—Paragraph (3) of section 6033(e)
13 (relating to exception where dues generally nondeductible)
14 is amended to read as follows:

15 “(3) EXCEPTION WHERE DUES GENERALLY
16 NONDEDUCTIBLE.—

17 “(A) IN GENERAL.—Paragraph (1)(A)
18 shall not apply to an organization if more than
19 90 percent of the amount of the aggregate an-
20 nual dues (or similar payments) paid to such
21 organization are paid—

22 “(i) by individuals or families whose
23 annual dues (or similar amounts) are less
24 than \$100, or

1 “(ii) by organizations which are ex-
2 empt from tax.

3 For purposes of the preceding sentence, all or-
4 ganizations sharing a name, charter, historic af-
5 filiation, or similar characteristics and coordi-
6 nating their lobbying activities shall be treated
7 a 1 organization.

8 “(B) INFLATION ADJUSTMENT.—In the
9 case of dues for annual periods beginning in
10 any calendar year after 1998, the dollar amount
11 contained in subparagraph (A)(i) shall be in-
12 creased by an amount equal to—

13 “(i) such dollar amount, multiplied by

14 “(ii) the cost-of-living adjustment de-
15 termined under section 1(f)(3) for such
16 calendar year by substituting ‘calendar
17 year 1997’ for ‘calendar year 1992’ in sub-
18 paragraph (B) thereof.

19 If any increase determined under the preceding
20 sentence is not a multiple of \$5, such increase
21 shall be rounded to the nearest multiple of \$5.

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

1 **SEC. 1054. TERMINATION OF CERTAIN EXCEPTIONS FROM**
2 **RULES RELATING TO EXEMPT ORGANIZA-**
3 **TIONS WHICH PROVIDE COMMERCIAL-TYPE**
4 **INSURANCE.**

5 (a) IN GENERAL.—Subparagraphs (A) and (B) of
6 section 1012(c)(4) of the Tax Reform Act of 1986 shall
7 not apply to any taxable year beginning after December
8 31, 1997.

9 (b) SPECIAL RULES.—In the case of an organization
10 to which section 501(m) of the Internal Revenue Code of
11 1986 applies solely by reason of the amendment made by
12 subsection (a)—

13 (1) no adjustment shall be made under section
14 481 (or any other provision) of such Code on ac-
15 count of a change in its method of accounting for its
16 first taxable year beginning after December 31,
17 1997, and

18 (2) for purposes of determining gain or loss, the
19 adjusted basis of any asset held on the 1st day of
20 such taxable year shall be treated as equal to its fair
21 market value as of such day.

22 (c) RESERVE WEAKENING AFTER JUNE 8, 1997.—
23 Any reserve weakening after June 8, 1997, by an organi-
24 zation described in subsection (b) shall be treated as oc-
25 ccurring in such organizations 1st taxable year beginning
26 after December 31, 1997.

1 (d) REGULATIONS.—The Secretary of the Treasury
2 or his delegate may prescribe rules for providing proper
3 adjustments for organizations described in subsection (b)
4 with respect to short taxable years which begin during
5 1998 by reason of section 843 of the Internal Revenue
6 Code of 1986.

7 **Subtitle G—Other Revenue** 8 **Provisions**

9 **SEC. 1061. TERMINATION OF SUSPENSE ACCOUNTS FOR** 10 **FAMILY CORPORATIONS REQUIRED TO USE** 11 **ACCRUAL METHOD OF ACCOUNTING.**

12 (a) IN GENERAL.—Subsection (i) of section 447 (re-
13 lating to method of accounting for corporations engaged
14 in farming) is amended by adding at the end the following
15 new paragraph:

16 “(7) TERMINATION.—

17 “(A) IN GENERAL.—No suspense account
18 may be established under this subsection by any
19 corporation required by this section to change
20 its method of accounting for any taxable year
21 ending after June 8, 1997.

22 “(B) PHASEOUT OF EXISTING SUSPENSE
23 ACCOUNTS.—

24 “(i) IN GENERAL.—Each suspense ac-
25 count under this subsection shall be re-

1 duced (but not below zero) for each taxable
2 year beginning after June 8, 1997, by an
3 amount equal to the lesser of—

4 “(I) the applicable portion of
5 such account, or

6 “(II) 50 percent of the taxable
7 income of the corporation for the tax-
8 able year, or, if the corporation has no
9 taxable income for such year, the
10 amount of any net operating loss (as
11 defined in section 172(c)) for such
12 taxable year.

13 For purposes of the preceding sentence,
14 the amount of taxable income and net op-
15 erating loss shall be determined without re-
16 gard to this paragraph.

17 “(ii) COORDINATION WITH OTHER RE-
18 DUCTIONS.—The amount of the applicable
19 portion for any taxable year shall be re-
20 duced (but not below zero) by the amount
21 of any reduction required for such taxable
22 year under any other provision of this sub-
23 section.

24 “(iv) INCLUSION IN INCOME.—Any re-
25 duction in a suspense account under this

1 paragraph shall be included in gross in-
2 come for the taxable year of the reduction.

3 “(C) APPLICABLE PORTION.—For pur-
4 poses of subparagraph (B), the term ‘applicable
5 portion’ means, for any taxable year, the
6 amount which would ratably reduce the amount
7 in the account (after taking into account prior
8 reductions) to zero over the period consisting of
9 such taxable year and the remaining taxable
10 years in such first 20 taxable years.

11 “(D) AMOUNTS AFTER 20TH YEAR.—Any
12 amount in the account as of the close of the
13 20th year referred to in subparagraph (C) shall
14 be treated as the applicable portion for each
15 succeeding year thereafter to the extent not re-
16 duced under this paragraph for any prior tax-
17 able year after such 20th year.”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years ending after June
20 8, 1997.

21 **SEC. 1062. MODIFICATION OF TAXABLE YEARS TO WHICH**
22 **NET OPERATING LOSSES MAY BE CARRIED.**

23 (a) IN GENERAL.—Subparagraph (A) of section
24 172(b)(1) (relating to years to which loss may be carried)
25 is amended—

1 (1) by striking “3” in clause (i) and inserting
2 “2”, and

3 (2) by striking “15” in clause (ii) and inserting
4 “20”.

5 (b) RETENTION OF 3-YEAR CARRYBACK FOR CAS-
6 UALTY LOSSES OF INDIVIDUALS.—Paragraph (1) of sec-
7 tion 172(b) is amended by adding at the end the following
8 new subparagraph:

9 “(F) CASUALTY LOSSES OF INDIVID-
10 UALS.—Subparagraph (A)(i) shall be applied by
11 substituting ‘3 years’ for ‘2 years’ with respect
12 to the portion of the net operating loss of an in-
13 dividual for the taxable year which is attrib-
14 utable to losses of property arising from fire,
15 storm, shipwreck, or other casualty, or from
16 theft.”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to net operating losses for taxable
19 years beginning after the date of the enactment of this
20 Act.

21 **SEC. 1063. EXPANSION OF DENIAL OF DEDUCTION FOR**
22 **CERTAIN AMOUNTS PAID IN CONNECTION**
23 **WITH INSURANCE.**

24 (a) DENIAL OF DEDUCTION FOR PREMIUMS.—Para-
25 graph (1) of section 264(a) is amended to read as follows:

1 “(1) Premiums on any life insurance policy, or
2 endowment or annuity contract, if the taxpayer is di-
3 rectly or indirectly a beneficiary under the policy or
4 contract.”.

5 (b) INTEREST ON POLICY LOANS.—Paragraph (4) of
6 section 264(a) is amended by striking “individual, who”
7 and all that follows and inserting “individual.”.

8 (c) PRO RATA ALLOCATION OF INTEREST EXPENSE
9 TO POLICY CASH VALUES.—Section 264 is amended by
10 adding at the end the following new subsection:

11 “(e) PRO RATA ALLOCATION OF INTEREST EXPENSE
12 TO POLICY CASH VALUES.—

13 “(1) IN GENERAL.—No deduction shall be al-
14 lowed for that portion of the taxpayer’s interest ex-
15 pense which is allocable to unborrowed policy cash
16 values.

17 “(2) ALLOCATION.—For purposes of paragraph
18 (1), the portion of the taxpayer’s interest expense
19 which is allocable to unborrowed policy cash values
20 is an amount which bears the same ratio to such in-
21 terest expense as—

22 “(A) the taxpayer’s average unborrowed
23 policy cash values of life insurance policies, and
24 annuity and endowment contracts, issued after
25 June 8, 1997, bears to

1 “(B) the average adjusted bases (within
2 the meaning of section 1016) for all assets of
3 the taxpayer.

4 “(3) UNBORROWED POLICY CASH VALUES.—
5 The term ‘unborrowed policy cash value’ means,
6 with respect to any life insurance policy or annuity
7 or endowment contract, the excess of—

8 “(A) the cash surrender value of such pol-
9 icy or contract determined without regard to
10 any surrender charge, over

11 “(B) the amount of any loan in respect of
12 such policy or contract.

13 “(4) EXCEPTION FOR CERTAIN POLICIES AND
14 CONTRACTS COVERING OFFICERS, DIRECTORS, AND
15 EMPLOYEES.—Paragraph (1) shall not apply to any
16 policy or contract owned by an entity engaged in a
17 trade or business which covers any individual who is
18 an officer, director, or employee of such trade or
19 business at the time first covered by the policy or
20 contract, and such policies and contracts shall not be
21 taken into account under paragraph (2).

22 “(5) EXCEPTION FOR POLICIES AND CON-
23 TRACTS HELD BY NATURAL PERSONS; TREATMENT
24 OF PARTNERSHIPS AND S CORPORATIONS.—

1 “(A) POLICIES AND CONTRACTS HELD BY
2 NATURAL PERSONS.—

3 “(i) IN GENERAL.—This subsection
4 shall not apply to any policy or contract
5 held by a natural person.

6 “(ii) EXCEPTION WHERE BUSINESS IS
7 BENEFICIARY.—If a trade or business is
8 directly or indirectly the beneficiary under
9 any policy or contract, to the extent of the
10 unborrowed cash value of such policy or
11 contract, such policy or contract shall be
12 treated as held by such trade or business
13 and not by a natural person.

14 “(iii) SPECIAL RULES.—

15 “(I) CERTAIN TRADES OR BUSI-
16 NESSES NOT TAKEN INTO ACCOUNT.—
17 Clause (ii) shall not apply to any
18 trade or business carried on as a sole
19 proprietorship and to any trade or
20 business performing services as an
21 employee.

22 “(II) LIMITATION ON
23 UNBORROWED CASH VALUE.—The
24 amount of the unborrowed cash value
25 of any policy or contract which is

1 taken into account by reason of clause
2 (ii) shall not exceed the benefit to
3 which the trade or business is entitled
4 under the policy or contract.

5 “(iv) REPORTING.—The Secretary
6 shall require such reporting from policy-
7 holders and issuers as is necessary to carry
8 out clause (ii). Any report required under
9 the preceding sentence shall be treated as
10 a statement referred to in section
11 6724(d)(1).

12 “(B) TREATMENT OF PARTNERSHIPS AND
13 S CORPORATIONS.—In the case of a partnership
14 or S corporation, this subsection shall be ap-
15 plied at the partnership and corporate levels.

16 “(6) SPECIAL RULES.—

17 “(A) COORDINATION WITH SUBSECTION (a)
18 AND SECTION 265.—If interest on any indebted-
19 ness is disallowed under subsection (a) or sec-
20 tion 265—

21 “(i) such disallowed interest shall not
22 be taken into account for purposes of ap-
23 plying this subsection, and

24 “(ii) for purposes of applying para-
25 graph (2)(B), the adjusted bases otherwise

1 taken into account shall be reduced (but
2 not below zero) by the amount of such in-
3 debtedness.

4 “(B) COORDINATION WITH SECTION
5 263A.—This subsection shall be applied before
6 the application of section 263A (relating to cap-
7 italization of certain expenses where taxpayer
8 produces property).”.

9 “(7) INTEREST EXPENSE.—The term ‘interest
10 expense’ means the aggregate amount allowable to
11 the taxpayer as a deduction for interest (within the
12 meaning of section 265(b)(4)) for the taxable year
13 (determined without regard to this subsection, sec-
14 tion 265(b), and section 291).

15 “(8) AGGREGATION RULES.—

16 “(A) IN GENERAL.—All members of a con-
17 trolled group (within the meaning of subsection
18 (d)(5)(B)) shall be treated as 1 taxpayer for
19 purposes of this subsection.

20 “(B) TREATMENT OF INSURANCE COMPA-
21 NIES.—This subsection shall not apply to an in-
22 surance company, and subparagraph (A) shall
23 be applied without regard to any insurance
24 company.”.

25 (b) TREATMENT OF INSURANCE COMPANIES.—

1 (1) Clause (ii) of section 805(a)(4)(C) is
2 amended by inserting “, or out of the increase for
3 the taxable year in policy cash values (within the
4 meaning of section 264(e)(3)(A)) of life insurance
5 policies and annuity and endowment contracts to
6 which section 264(e) applies” after “tax-exempt in-
7 terest”.

8 (2) Clause (iii) of section 805(a)(4)(D) is
9 amended by striking “and” and inserting “, the in-
10 crease for the taxable year in policy cash values
11 (within the meaning of section 264(e)(3)(A)) of life
12 insurance policies and annuity and endowment con-
13 tracts to which section 264(e) applies, and”.

14 (3) Subparagraph (B) of section 807(a)(2) is
15 amended by striking “interest,” and inserting “in-
16 terest and the amount of the policyholder’s share of
17 the increase for the taxable year in policy cash val-
18 ues (within the meaning of section 264(e)(3)(A)) of
19 life insurance policies and annuity and endowment
20 contracts to which section 264(e) applies,”.

21 (4) Subparagraph (B) of section 807(b)(1) is
22 amended by striking “interest,” and inserting “in-
23 terest and the amount of the policyholder’s share of
24 the increase for the taxable year in policy cash val-
25 ues (within the meaning of section 264(e)(3)(A)) of

1 life insurance policies and annuity and endowment
2 contracts to which section 264(e) applies.”.

3 (5) Paragraph (1) of section 812(d) is amended
4 by striking “and” at the end of subparagraph (B),
5 by striking the period at the end of subparagraph
6 (C) and inserting “, and”, and by adding at the end
7 the following new subparagraph:

8 “(D) the increase for any taxable year in
9 the policy cash values (within the meaning of
10 section 264(e)(3)(A)) of life insurance policies
11 and annuity and endowment contracts to which
12 section 264(e) applies.”.

13 (6) Subparagraph (B) of section 832(b)(5) is
14 amended by striking “and” at the end of clause (i),
15 by striking the period at the end of clause (ii) and
16 inserting “, and”, and by adding at the end the fol-
17 lowing new clause:

18 “(iii) the increase for the taxable year
19 in policy cash values (within the meaning
20 of section 264(e)(3)(A)) of life insurance
21 policies and annuity and endowment con-
22 tracts to which section 264(e) applies.”.

23 (c) CONFORMING AMENDMENT.—Subparagraph (A)
24 of section 265(b)(4) is amended by inserting “, section
25 264,” before “and section 291”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to contracts issued after June 8,
3 1997, in taxable years ending after such date. For pur-
4 poses of the preceding sentence, any material increase in
5 the death benefit or other material change in the contract
6 shall be treated as a new contract but the addition of cov-
7 ered lives shall be treated as a new contract only with re-
8 spect to such additional covered lives. For purposes of this
9 subsection, an increase in the death benefit under a policy
10 or contract issued in connection with a lapse described in
11 section 501(d)(2) of the Health Insurance Portability and
12 Accountability Act of 1996 shall not be treated as a new
13 contract.

14 **SEC. 1064. ALLOCATION OF BASIS AMONG PROPERTIES DIS-**
15 **TRIBUTED BY PARTNERSHIP.**

16 (a) IN GENERAL.—Subsection (c) of section 732 is
17 amended to read as follows:

18 “(c) ALLOCATION OF BASIS.—

19 “(1) IN GENERAL.—The basis of distributed
20 properties to which subsection (a)(2) or (b) is appli-
21 cable shall be allocated—

22 “(A)(i) first to any unrealized receivables
23 (as defined in section 751(c)) and inventory
24 items (as defined in section 751(d)(2)) in an

1 amount equal to the adjusted basis of each such
2 property to the partnership, and

3 “(ii) if the basis to be allocated is less than
4 the sum of the adjusted bases of such prop-
5 erties to the partnership, then, to the extent
6 any decrease is required in order to have the
7 adjusted bases of such properties equal the
8 basis to be allocated, in the manner provided in
9 paragraph (3), and

10 “(B) to the extent of any basis not allo-
11 cated under subparagraph (A), to other distrib-
12 uted properties—

13 “(i) first by assigning to each such
14 other property such other property’s ad-
15 justed basis to the partnership, and

16 “(ii) then, to the extent any increase
17 or decrease in basis is required in order to
18 have the adjusted bases of such other dis-
19 tributed properties equal such remaining
20 basis, in the manner provided in paragraph
21 (2) or (3), whichever is appropriate.

22 “(2) METHOD OF ALLOCATING INCREASE.—
23 Any increase required under paragraph (1)(B) shall
24 be allocated among the properties—

1 “(A) first to properties with unrealized ap-
2 preciation in proportion to their respective
3 amounts of unrealized appreciation before such
4 increase (but only to the extent of each prop-
5 erty’s unrealized appreciation), and

6 “(B) then, to the extent such increase is
7 not allocated under subparagraph (A), in pro-
8 portion to their respective fair market values.

9 “(3) METHOD OF ALLOCATING DECREASE.—
10 Any decrease required under paragraph (1)(A) or
11 (1)(B) shall be allocated—

12 “(A) first to properties with unrealized de-
13 preciation in proportion to their respective
14 amounts of unrealized depreciation before such
15 decrease (but only to the extent of each prop-
16 erty’s unrealized depreciation), and

17 “(B) then, to the extent such decrease is
18 not allocated under subparagraph (A), in pro-
19 portion to their respective adjusted bases (as
20 adjusted under subparagraph (A)).”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall apply to distributions after the date
23 of the enactment of this Act.

1 **SEC. 1065. REPEAL OF REQUIREMENT THAT INVENTORY BE**
2 **SUBSTANTIALLY APPRECIATED.**

3 (a) IN GENERAL.—Paragraph (2) of section 751(a)
4 is amended to read as follows:

5 “(2) inventory items of the partnership,”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Subsection (d) of section 751 is amended to
8 read as follows:

9 “(d) INVENTORY ITEMS.—For purposes of this sub-
10 chapter, the term ‘inventory items’ means—

11 “(1) property of the partnership of the kind de-
12 scribed in section 1221(1),

13 “(2) any other property of the partnership
14 which, on sale or exchange by the partnership, would
15 be considered property other than a capital asset
16 and other than property described in section 1231,

17 “(3) any other property of the partnership
18 which, if sold or exchanged by the partnership,
19 would result in a gain taxable under subsection (a)
20 of section 1246 (relating to gain on foreign invest-
21 ment company stock), and

22 “(4) any other property held by the partnership
23 which, if held by the selling or distributee partner,
24 would be considered property of the type described
25 in paragraph (1), (2), or (3).”.

1 (2) Sections 724(d)(2), 731(a)(2)(B),
2 731(c)(6), 732(c)(1)(A) (as amended by the preced-
3 ing section), 735(a)(2), and 735(c)(1) are each
4 amended by striking “section 751(d)(2)” and insert-
5 ing “section 751(d)”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to sales, exchanges, and distribu-
8 tions after the date of the enactment of this Act.

9 **SEC. 1066. EXTENSION OF TIME FOR TAXING**
10 **PRECONTRIBUTION GAIN.**

11 (a) IN GENERAL.—Sections 704(c)(1)(B) and
12 737(b)(1) are each amended by striking “5 years” and
13 inserting “10 years”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall apply to property contributed to a
16 partnership after June 8, 1997.

17 **SEC. 1067. RESTRICTIONS ON AVAILABILITY OF EARNED IN-**
18 **COME CREDIT FOR TAXPAYERS WHO IM-**
19 **PROPERLY CLAIMED CREDIT IN PRIOR YEAR.**

20 (a) IN GENERAL.—Section 32 is amended by redesi-
21 gnating subsections (k) and (l) as subsections (l) and (m),
22 respectively, and by inserting after subsection (j) the fol-
23 lowing new subsection:

24 “(k) RESTRICTIONS ON TAXPAYERS WHO IMPROP-
25 ERLY CLAIMED CREDIT IN PRIOR YEAR.—

1 “(1) TAXPAYERS MAKING PRIOR FRAUDULENT
2 OR RECKLESS CLAIMS.—

3 “(A) IN GENERAL.—No credit shall be al-
4 lowed under this section for any taxable year in
5 the disallowance period.

6 “(B) DISALLOWANCE PERIOD.—For pur-
7 poses of paragraph (1), the disallowance period
8 is—

9 “(i) the period of 10 taxable years
10 after the most recent taxable year for
11 which there was a final determination that
12 the taxpayer’s claim of credit under this
13 section was due to fraud, and

14 “(ii) the period of 2 taxable years
15 after the most recent taxable year for
16 which there was a final determination that
17 the taxpayer’s claim of credit under this
18 section was due to reckless or intentional
19 disregard of rules and regulations (but not
20 due to fraud).

21 “(2) TAXPAYERS MAKING IMPROPER PRIOR
22 CLAIMS.—In the case of a taxpayer who is denied
23 credit under this section for any taxable year as a
24 result of the deficiency procedures under subchapter
25 B of chapter 63, no credit shall be allowed under

1 this section for any subsequent taxable year unless
2 the taxpayer provides such information as the Sec-
3 retary may require to demonstrate eligibility for
4 such credit.”.

5 (b) DUE DILIGENCE REQUIREMENT ON INCOME TAX
6 RETURN PREPARERS.—Section 6695 is amended by add-
7 ing at the end the following new subsection:

8 “(g) FAILURE TO BE DILIGENT IN DETERMINING
9 ELIGIBILITY FOR EARNED INCOME CREDIT.—Any person
10 who is an income tax preparer with respect to any return
11 or claim for refund who fails to comply with due diligence
12 requirements imposed by the Secretary by regulations with
13 respect to determining eligibility for, or the amount of,
14 the credit allowable by section 32 shall pay a penalty of
15 \$100 for each such failure.”.

16 (c) EXTENSION PROCEDURES APPLICABLE TO
17 MATHEMATICAL OR CLERICAL ERRORS.—Paragraph (2)
18 of section 6213(g) (relating to the definition of mathe-
19 matical or clerical errors) is amended by striking “and”
20 at the end of subparagraph (H), by striking the period
21 at the end of subparagraph (I) and inserting “, and”, and
22 by inserting after subparagraph (I) the following new sub-
23 paragraph:

24 “(J) an omission of information required
25 by section 32(k)(2) (relating to taxpayers mak-

1 ing improper prior claims of earned income
2 credit).”.

3 (d) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 1996.

6 **SEC. 1068. LIMITATION ON PROPERTY FOR WHICH INCOME**
7 **FORECAST METHOD MAY BE USED.**

8 (a) **LIMITATION.**—Subsection (g) of section 167 is
9 amended by adding at the end the following new para-
10 graph:

11 “(6) **LIMITATION ON PROPERTY FOR WHICH IN-**
12 **COME FORECAST METHOD MAY BE USED.**—The de-
13preciation deduction allowable under this section
14may be determined under the income forecast meth-
15od or any similar method only with respect to—

16 “(A) property described in paragraph (3)
17 or (4) of section 168(f),

18 “(B) copyrights,

19 “(C) books,

20 “(D) patents, and

21 “(E) other property specified in regula-
22 tions.

23 Such methods may not be used with respect to any
24 amortizable section 197 intangible (as defined in
25 section 197(c)).”.

1 (b) DEPRECIATION PERIOD FOR RENT-TO-OWN
2 PROPERTY.—

3 (1) IN GENERAL.—Subparagraph (A) of section
4 168(e)(3) (relating to 3-year property) is amended
5 by striking “and” at the end of clause (i), by strik-
6 ing the period at the end of clause (ii) and inserting
7 “, and”, and by adding at the end the following new
8 clause:

9 “(iii) any qualified rent-to-own prop-
10 erty.”.

11 (2) 4-YEAR CLASS LIFE.—The table contained
12 in section 168(g)(3)(B) is amended by inserting be-
13 fore the first item the following new item:

“(A)(iii) 4 ”.

14 (3) DEFINITION OF QUALIFIED RENT-TO-OWN
15 PROPERTY.—Subsection (i) of section 168 is amend-
16 ed by adding at the end the following new para-
17 graph:

18 “(14) QUALIFIED RENT-TO-OWN PROPERTY.—

19 “(A) IN GENERAL.—The term ‘qualified
20 rent-to-own property’ means property held by a
21 rent-to-own dealer for purposes of being subject
22 to a rent-to-own contract.

23 “(B) RENT-TO-OWN DEALER.—The term
24 ‘rent-to-own dealer’ means a person that, in the
25 ordinary course of business, regularly enters

1 into rent-to-own contracts with customers for
2 the use of consumer property, if a substantial
3 portion of those contracts terminate and the
4 property is returned to such person before the
5 receipt of all payments required to transfer
6 ownership of the property from such person to
7 the customer.

8 “(C) CONSUMER PROPERTY.—The term
9 ‘consumer property’ means tangible personal
10 property of a type generally used within the
11 home. Such term shall not include cellular tele-
12 phones and any computer or peripheral equip-
13 ment (as defined in section 168(i)).

14 “(D) RENT-TO-OWN CONTRACT.—The
15 term ‘rent-to-own contract’ means any lease for
16 the use of consumer property between a rent-to-
17 own dealer and a customer who is an individual
18 which—

19 “(i) is titled ‘Rent-to-Own Agreement’
20 or ‘Lease Agreement with Ownership Op-
21 tion,’ or uses other similar language,

22 “(ii) provides for level, regular peri-
23 odic payments (for a payment period which
24 is a week or month),

1 “(iii) provides that legal title to such
2 property remains with the rent-to-own
3 dealer until the customer makes all the
4 payments described in clause (ii) or early
5 purchase payments required under the con-
6 tract to acquire legal title to the item of
7 property,

8 “(iv) provides a beginning date and a
9 maximum period of time for which the con-
10 tract may be in effect that does not exceed
11 156 weeks or 36 months from such begin-
12 ning date (including renewals or options to
13 extend),

14 “(v) provides for level payments with-
15 in the 156-week or 36-month period that,
16 in the aggregate, generally exceed the nor-
17 mal retail price of the consumer property
18 plus interest,

19 “(vi) provides for payments under the
20 contract that, in the aggregate, do not ex-
21 ceed \$10,000 per item of consumer prop-
22 erty,

23 “(vii) provides that the customer does
24 not have any legal obligation to make all
25 the payments referred to in clause (ii) set

1 forth under the contract, and that at the
2 end of each payment period the customer
3 may either continue to use the consumer
4 property by making the payment for the
5 next payment period or return such prop-
6 erty to the rent-to-own dealer in good
7 working order, in which case the customer
8 does not incur any further obligations
9 under the contract and is not entitled to a
10 return of any payments previously made
11 under the contract, and

12 “(viii) provides that the customer has
13 no right to sell, sublease, mortgage, pawn,
14 pledge, encumber, or otherwise dispose of
15 the consumer property until all the pay-
16 ments stated in the contract have been
17 made.”.

18 (c) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to property placed in service after
20 the date of the enactment of this Act.

21 **SEC. 1069. REPEAL OF SPECIAL RULE FOR RENTAL USE OF**
22 **VACATION HOMES, ETC., FOR LESS THAN 15**
23 **DAYS.**

24 (a) IN GENERAL.—Section 280A (relating to dis-
25 allowance of certain expenses in connection with business

1 use of home, rental of vacation homes, etc.) is amended
2 by striking subsection (g).

3 (b) NO BASIS REDUCTION UNLESS DEPRECIATION
4 CLAIMED.—Section 1016 is amended by redesignating
5 subsection (e) as subsection (f) and by inserting after sub-
6 section (d) the following new subsection:

7 “(e) SPECIAL RULE WHERE RENTAL USE OF VACA-
8 TION HOME, ETC., FOR LESS THAN 15 DAYS.—If a dwell-
9 ing unit is used during the taxable year by the taxpayer
10 as a residence and such dwelling unit is actually rented
11 for less than 15 days during the taxable year, the reduc-
12 tion under subsection (a)(2) by reason of such rental use
13 in any taxable year beginning after December 31, 1997,
14 shall not exceed the depreciation deduction allowed for
15 such rental use.”.

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

19 **SEC. 1070. EXPANSION OF REQUIREMENT THAT INVOLUN-**
20 **TARILY CONVERTED PROPERTY BE RE-**
21 **PLACED WITH PROPERTY ACQUIRED FROM**
22 **AN UNRELATED PERSON.**

23 (a) IN GENERAL.—Subsection (i) of section 1033 is
24 amended to read as follows:

1 “(i) REPLACEMENT PROPERTY MUST BE ACQUIRED
2 FROM UNRELATED PERSON IN CERTAIN CASES.—

3 “(1) IN GENERAL.—If the property which is in-
4 voluntarily converted is held by a taxpayer to which
5 this subsection applies, subsection (a) shall not apply
6 if the replacement property or stock is acquired from
7 a related person. The preceding sentence shall not
8 apply to the extent that the related person acquired
9 the replacement property or stock from an unrelated
10 person during the period applicable under subsection
11 (a)(2)(B).

12 “(2) TAXPAYERS TO WHICH SUBSECTION AP-
13 PLIES.—This subsection shall apply to—

14 “(A) a C corporation,

15 “(B) a partnership in which 1 or more C
16 corporations own, directly or indirectly (deter-
17 mined in accordance with section 707(b)(3)),
18 more than 50 percent of the capital interest, or
19 profits interest, in such partnership at the time
20 of the involuntary conversion, and

21 “(C) any other taxpayer if, with respect to
22 property which is involuntarily converted during
23 the taxable year, the aggregate of the amount
24 of realized gain on such property on which
25 there is realized gain exceeds \$100,000.

1 In the case of a partnership, subparagraph (C) shall
2 apply with respect to the partnership and with re-
3 spect to each partner. A similar rule shall apply in
4 the case of an S corporation and its shareholders.

5 “(3) RELATED PERSON.—For purposes of this
6 subsection, a person is related to another person if
7 the person bears a relationship to the other person
8 described in section 267(b) or 707(b)(1).”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to involuntary conversions occur-
11 ring after June 8, 1997.

12 **SEC. 1071. TREATMENT OF EXCEPTION FROM INSTALL-**
13 **MENT SALES RULES FOR SALES OF PROP-**
14 **ERTY BY A MANUFACTURER TO A DEALER.**

15 (a) IN GENERAL.—Paragraph (2) of section 811(c)
16 of the Tax Reform Act of 1986 is hereby repealed.

17 (b) EFFECTIVE DATE.—

18 (1) IN GENERAL.—The amendment made by
19 this section shall apply to taxable years beginning
20 after the date of the enactment of this Act.

21 (2) COORDINATION WITH SECTION 481.—In the
22 case of any taxpayer required by this section to
23 change its method of accounting for any taxable
24 year—

1 (A) such changes shall be treated as initi-
2 ated by the taxpayer,

3 (B) such changes shall be treated as made
4 with the consent of the Secretary, and

5 (C) the net amount of the adjustments re-
6 quired to be taken into account under section
7 481(a) of the Internal Revenue Code of 1986
8 shall be taken into account ratably over the 4
9 taxable year period beginning with the first tax-
10 able year beginning after the date of the enact-
11 ment of this Act.

12 **TITLE XI—SIMPLIFICATION AND**
13 **OTHER FOREIGN-RELATED**
14 **PROVISIONS**

15 **Subtitle A—General Provisions**

16 **SEC. 1101. TREATMENT OF COMPUTER SOFTWARE AS FSC**
17 **EXPORT PROPERTY.**

18 (a) **IN GENERAL.**—Subparagraph (B) of section
19 927(a)(2) (relating to property excluded from eligibility as
20 FSC export property) is amended by inserting “, and
21 other than computer software (whether or not patented)”
22 before “, for commercial or home use”.

23 (b) **EFFECTIVE DATE.**—The amendment made by
24 subsection (a) shall apply to gross receipts attributable to

1 periods after December 31, 1997, in taxable years ending
2 after such date.

3 (c) PHASEIN OF TREATMENT.—For purposes of the
4 Internal Revenue Code of 1986—

5 (1) 1998.—In the case of gross receipts attrib-
6 utable to calendar year 1998, the amendment made
7 by subsection (a) shall apply to only $\frac{1}{3}$ of such gross
8 receipts.

9 (2) 1999.—In the case of gross receipts attrib-
10 utable to calendar year 1999, the amendment made
11 by subsection (a) shall apply to only $\frac{2}{3}$ of such gross
12 receipts.

13 **SEC. 1102. ADJUSTMENT OF DOLLAR LIMITATION ON SEC-**
14 **TION 911 EXCLUSION.**

15 (a) GENERAL RULE.—Paragraph (2) of section
16 911(b) is amended by—

17 (1) by striking “of \$70,000” in subparagraph
18 (A) and inserting “equal to the exclusion amount for
19 the calendar year in which such taxable year be-
20 gins”, and

21 (2) by adding at the end the following new sub-
22 paragraph:

23 “(D) EXCLUSION AMOUNT.—

24 “(i) IN GENERAL.—The exclusion
25 amount for any calendar year is the exclu-

1 sion amount determined in accordance with
 2 the following table (as adjusted by clause
 3 (ii)):

| “For calendar year— | The exclusion amount is— |
|----------------------------|---------------------------------|
| 1998 | \$72,000 |
| 1999 | 74,000 |
| 2000 | 76,000 |
| 2001 | 78,000 |
| 2002 and thereafter | 80,000. |

4 “(ii) INFLATION ADJUSTMENT.—In
 5 the case of any taxable year beginning in
 6 a calendar year after 2007, the \$80,000
 7 amount in clause (i) shall be increased by
 8 an amount equal to the product of—

- 9 “(I) such dollar amount, and
- 10 “(II) the cost-of-living adjust-
 11 ment determined under section 1(f)(3)
 12 for the calendar year in which the tax-
 13 able year begins, determined by sub-
 14 stituting ‘2006’ for ‘1992’ in subpara-
 15 graph (B) thereof.

16 If any increase determined under the pre-
 17 ceding sentence is not a multiple of \$100,
 18 such increase shall be rounded to the next
 19 lowest multiple of \$100.”.

20 (b) EFFECTIVE DATE.—The amendment made by
 21 this section shall apply to taxable years beginning after
 22 December 31, 1997.

1 **SEC. 1103. CERTAIN INDIVIDUALS EXEMPT FROM FOREIGN**
2 **TAX CREDIT LIMITATION.**

3 (a) GENERAL RULE.—Section 904 (relating to limi-
4 tations on foreign tax credit) is amended by redesignating
5 subsection (j) as subsection (k) and by inserting after sub-
6 section (i) the following new subsection:

7 “(j) CERTAIN INDIVIDUALS EXEMPT.—

8 “(1) IN GENERAL.—In the case of an individual
9 to whom this subsection applies for any taxable
10 year—

11 “(A) the limitation of subsection (a) shall
12 not apply,

13 “(B) no taxes paid or accrued by the indi-
14 vidual during such taxable year may be deemed
15 paid or accrued under subsection (c) in any
16 other taxable year, and

17 “(C) no taxes paid or accrued by the indi-
18 vidual during any other taxable year may be
19 deemed paid or accrued under subsection (c) in
20 such taxable year.

21 “(2) INDIVIDUALS TO WHOM SUBSECTION AP-
22 PLIES.—This subsection shall apply to an individual
23 for any taxable year if—

24 “(A) the entire amount of such individual’s
25 gross income for the taxable year from sources

1 without the United States consists of qualified
2 passive income,

3 “(B) the amount of the creditable foreign
4 taxes paid or accrued by the individual during
5 the taxable year does not exceed \$300 (\$600 in
6 the case of a joint return), and

7 “(C) such individual elects to have this
8 subsection apply for the taxable year.

9 “(3) DEFINITIONS.—For purposes of this sub-
10 section—

11 “(A) QUALIFIED PASSIVE INCOME.—The
12 term ‘qualified passive income’ means any item
13 of gross income if—

14 “(i) such item of income is passive in-
15 come (as defined in subsection (d)(2)(A)
16 without regard to clause (iii) thereof), and

17 “(ii) such item of income is shown on
18 a payee statement furnished to the individ-
19 ual.

20 “(B) CREDITABLE FOREIGN TAXES.—The
21 term ‘creditable foreign taxes’ means any taxes
22 for which a credit is allowable under section
23 901; except that such term shall not include
24 any tax unless such tax is shown on a payee
25 statement furnished to such individual.

1 “(C) PAYEE STATEMENT.—The term
2 ‘payee statement’ has the meaning given to
3 such term by section 6724(d)(2).

4 “(D) ESTATES AND TRUSTS NOT ELIGI-
5 BLE.—This subsection shall not apply to any
6 estate or trust.”.

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

10 **SEC. 1104. EXCHANGE RATE USED IN TRANSLATING FOR-**
11 **EIGN TAXES.**

12 (a) ACCRUED TAXES TRANSLATED BY USING AVER-
13 AGE RATE FOR YEAR TO WHICH TAXES RELATE.—

14 (1) IN GENERAL.—Subsection (a) of section
15 986 (relating to translation of foreign taxes) is
16 amended to read as follows:

17 “(a) FOREIGN INCOME TAXES.—

18 “(1) TRANSLATION OF ACCRUED TAXES.—

19 “(A) IN GENERAL.—For purposes of deter-
20 mining the amount of the foreign tax credit, in
21 the case of a taxpayer who takes foreign income
22 taxes into account when accrued, the amount of
23 any foreign income taxes (and any adjustment
24 thereto) shall be translated into dollars by using

1 the average exchange rate for the taxable year
2 to which such taxes relate.

3 “(B) EXCEPTION FOR CERTAIN TAXES.—
4 Subparagraph (A) shall not apply to any for-
5 eign income taxes—

6 “(i) paid after the date 2 years after
7 the close of the taxable year to which such
8 taxes relate, or

9 “(ii) paid before the beginning of the
10 taxable year to which such taxes relate.

11 “(C) EXCEPTION FOR INFLATIONARY CUR-
12 RENCIES.—Subparagraph (A) shall not apply to
13 any foreign income taxes the liability for which
14 is denominated in any inflationary currency (as
15 determined under regulations).

16 “(D) CROSS REFERENCE.—

**“For adjustments where tax is not paid within 2
years, see section 905(c).**

17 “(2) TRANSLATION OF TAXES TO WHICH PARA-
18 GRAPH (1) DOES NOT APPLY.—For purposes of de-
19 termining the amount of the foreign tax credit, in
20 the case of any foreign income taxes to which sub-
21 paragraph (A) of paragraph (1) does not apply—

22 “(A) such taxes shall be translated into
23 dollars using the exchange rates as of the time

1 such taxes were paid to the foreign country or
2 possession of the United States, and

3 “(B) any adjustment to the amount of
4 such taxes shall be translated into dollars
5 using—

6 “(i) except as provided in clause (ii),
7 the exchange rate as of the time when such
8 adjustment is paid to the foreign country
9 or possession, or

10 “(ii) in the case of any refund or cred-
11 it of foreign income taxes, using the ex-
12 change rate as of the time of the original
13 payment of such foreign income taxes.

14 “(3) FOREIGN INCOME TAXES.—For purposes
15 of this subsection, the term ‘foreign income taxes’
16 means any income, war profits, or excess profits
17 taxes paid or accrued to any foreign country or to
18 any possession of the United States.”.

19 (2) ADJUSTMENT WHEN NOT PAID WITHIN 2
20 YEARS AFTER YEAR TO WHICH TAXES RELATE.—
21 Subsection (c) of section 905 is amended to read as
22 follows:

23 “(c) ADJUSTMENTS TO ACCRUED TAXES.—

24 “(1) IN GENERAL.—If—

1 “(A) accrued taxes when paid differ from
2 the amounts claimed as credits by the taxpayer,

3 “(B) accrued taxes are not paid before the
4 date 2 years after the close of the taxable year
5 to which such taxes relate, or

6 “(C) any tax paid is refunded in whole or
7 in part,

8 the taxpayer shall notify the Secretary, who shall re-
9 determine the amount of the tax for the year or
10 years affected. The Secretary may prescribe adjust-
11 ments to tax pools under sections 902 and 960 in
12 lieu of the redetermination under the preceding sen-
13 tence.

14 “(2) SPECIAL RULE FOR TAXES NOT PAID
15 WITHIN 2 YEARS.—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B), in making the redetermina-
18 tion under paragraph (1), no credit shall be al-
19 lowed for accrued taxes not paid before the date
20 referred to in subparagraph (B) of paragraph
21 (1).

22 “(B) TAXES SUBSEQUENTLY PAID.—Any
23 such taxes if subsequently paid shall be taken
24 into account for the taxable year to which such

1 taxes relate (and translated as provided in sec-
2 tion 986(a)(2)(A)).

3 “(3) ADJUSTMENTS.—The amount of tax (if
4 any) due on any redetermination under paragraph
5 (1) shall be paid by the taxpayer on notice and de-
6 mand by the Secretary, and the amount of tax over-
7 paid (if any) shall be credited or refunded to the
8 taxpayer in accordance with subchapter B of chapter
9 66 (section 6511 et seq.).

10 “(4) BOND REQUIREMENTS.—In the case of
11 any tax accrued but not paid, the Secretary, as a
12 condition precedent to the allowance of the credit
13 provided in this subpart, may require the taxpayer
14 to give a bond, with sureties satisfactory to and ap-
15 proved by the Secretary, in such sum as the Sec-
16 retary may require, conditioned on the payment by
17 the taxpayer of any amount of tax found due on any
18 such redetermination. Any such bond shall contain
19 such further conditions as the Secretary may re-
20 quire.

21 “(5) OTHER SPECIAL RULES.—In any redeter-
22 mination under paragraph (1) by the Secretary of
23 the amount of tax due from the taxpayer for the
24 year or years affected by a refund, the amount of
25 the taxes refunded for which credit has been allowed

1 under this section shall be reduced by the amount of
2 any tax described in section 901 imposed by the for-
3 eign country or possession of the United States with
4 respect to such refund; but no credit under this sub-
5 part, or deduction under section 164, shall be al-
6 lowed for any taxable year with respect to any such
7 tax imposed on the refund. No interest shall be as-
8 sessed or collected on any amount of tax due on any
9 redetermination by the Secretary, resulting from a
10 refund to the taxpayer, for any period before the re-
11 ceipt of such refund, except to the extent interest
12 was paid by the foreign country or possession of the
13 United States on such refund for such period.”.

14 (b) AUTHORITY TO USE AVERAGE RATES.—

15 (1) IN GENERAL.—Subsection (a) of section
16 986 (as amended by subsection (a)) is amended by
17 redesignating paragraph (3) as paragraph (4) and
18 inserting after paragraph (2) the following new
19 paragraph:

20 “(3) AUTHORITY TO PERMIT USE OF AVERAGE
21 RATES.—To the extent prescribed in regulations, the
22 average exchange rate for the period (specified in
23 such regulations) during which the taxes or adjust-
24 ment is paid may be used instead of the exchange
25 rate as of the time of such payment.”.

1 (2) DETERMINATION OF AVERAGE RATES.—
2 Subsection (c) of section 989 is amended by striking
3 “and” at the end of paragraph (4), by striking the
4 period at the end of paragraph (5) and inserting “,
5 and”, and by adding at the end thereof the following
6 new paragraph:

7 “(6) setting forth procedures for determining
8 the average exchange rate for any period.”.

9 (3) CONFORMING AMENDMENTS.—Subsection
10 (b) of section 989 is amended by striking “weight-
11 ed” each place it appears.

12 (c) EFFECTIVE DATES.—

13 (1) IN GENERAL.—The amendments made by
14 subsections (a)(1) and (b) shall apply to taxes paid
15 or accrued in taxable years beginning after Decem-
16 ber 31, 1997.

17 (2) SUBSECTION (a)(2).—The amendment made
18 by subsection (a)(2) shall apply to taxes which relate
19 to taxable years beginning after December 31, 1997.

20 **SEC. 1105. ELECTION TO USE SIMPLIFIED SECTION 904 LIM-**
21 **ITATION FOR ALTERNATIVE MINIMUM TAX.**

22 (a) GENERAL RULE.—Subsection (a) of section 59
23 (relating to alternative minimum tax foreign tax credit)
24 is amended by adding at the end thereof the following new
25 paragraph:

1 “(3) ELECTION TO USE SIMPLIFIED SECTION
2 904 LIMITATION.—

3 “(A) IN GENERAL.—In determining the al-
4 ternative minimum tax foreign tax credit for
5 any taxable year to which an election under this
6 paragraph applies—

7 “(i) subparagraph (B) of paragraph
8 (1) shall not apply, and

9 “(ii) the limitation of section 904
10 shall be based on the proportion which—

11 “(I) the taxpayer’s taxable in-
12 come (as determined for purposes of
13 the regular tax) from sources without
14 the United States (but not in excess
15 of the taxpayer’s entire alternative
16 minimum taxable income), bears to

17 “(II) the taxpayer’s entire alter-
18 native minimum taxable income for
19 the taxable year.

20 “(B) ELECTION.—

21 “(i) IN GENERAL.—An election under
22 this paragraph may be made only for the
23 taxpayer’s first taxable year which begins
24 after December 31, 1997, and for which

1 the taxpayer claims an alternative mini-
2 mum tax foreign tax credit.

3 “(ii) ELECTION REVOCABLE ONLY
4 WITH CONSENT.—An election under this
5 paragraph, once made, shall apply to the
6 taxable year for which made and all subse-
7 quent taxable years unless revoked with
8 the consent of the Secretary.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to taxable years beginning after
11 December 31, 1997.

12 **SEC. 1106. TREATMENT OF PERSONAL TRANSACTIONS BY**
13 **INDIVIDUALS UNDER FOREIGN CURRENCY**
14 **RULES.**

15 (a) GENERAL RULE.—Subsection (e) of section 988
16 (relating to application to individuals) is amended to read
17 as follows:

18 “(e) APPLICATION TO INDIVIDUALS.—

19 “(1) IN GENERAL.—The preceding provisions of
20 this section shall not apply to any section 988 trans-
21 action entered into by an individual which is a per-
22 sonal transaction.

23 “(2) EXCLUSION FOR CERTAIN PERSONAL
24 TRANSACTIONS.—If—

1 “(A) nonfunctional currency is disposed of
2 by an individual in any transaction, and

3 “(B) such transaction is a personal trans-
4 action,

5 no gain shall be recognized for purposes of this sub-
6 title by reason of changes in exchange rates after
7 such currency was acquired by such individual and
8 before such disposition. The preceding sentence shall
9 not apply if the gain which would otherwise be rec-
10 ognized on the transaction exceeds \$200.

11 “(3) PERSONAL TRANSACTIONS.—For purposes
12 of this subsection, the term ‘personal transaction’
13 means any transaction entered into by an individual,
14 except that such term shall not include any trans-
15 action to the extent that expenses properly allocable
16 to such transaction meet the requirements of section
17 162 or 212 (other than that part of section 212
18 dealing with expenses incurred in connection with
19 taxes).”.

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

1 **SEC. 1107. ALL NONCONTROLLED SECTION 902 CORPORA-**
2 **TIONS WHICH ARE NOT PASSIVE FOREIGN IN-**
3 **VESTMENT COMPANIES IN ONE FOREIGN TAX**
4 **LIMITATION BASKET.**

5 (a) **IN GENERAL.**—Subparagraph (E) of section
6 904(d)(2) (relating to noncontrolled section 902 corpora-
7 tions) is amended by adding at the end the following new
8 clause:

9 “(iv) **ALL NON-PFIC’S TREATED AS**
10 **ONE.**—All noncontrolled section 902 cor-
11 porations which are not passive foreign in-
12 vestment companies (as defined in section
13 1297) shall be treated as one noncontrolled
14 section 902 corporation for purposes of
15 paragraph (1). The Secretary may pre-
16 scribe regulations regarding the treatment
17 of distributions out of earnings and profits
18 for periods prior to the taxpayer’s acqui-
19 sition of such stock.”.

20 (b) **EFFECTIVE DATE.**—The amendment made by
21 subsection (a) shall apply to taxable years beginning after
22 December 31, 2001.

1 **Subtitle B—Treatment of**
2 **Controlled Foreign Corporations**

3 **SEC. 1111. GAIN ON CERTAIN STOCK SALES BY CON-**
4 **TROLLED FOREIGN CORPORATIONS TREAT-**
5 **ED AS DIVIDENDS.**

6 (a) **GENERAL RULE.**—Section 964 (relating to mis-
7 cellaneous provisions) is amended by adding at the end
8 thereof the following new subsection:

9 “(e) **GAIN ON CERTAIN STOCK SALES BY CON-**
10 **TROLLED FOREIGN CORPORATIONS TREATED AS DIVI-**
11 **DENDS.**—

12 “(1) **IN GENERAL.**—If a controlled foreign cor-
13 poration sells or exchanges stock in any other for-
14 eign corporation, gain recognized on such sale or ex-
15 change shall be included in the gross income of such
16 controlled foreign corporation as a dividend to the
17 same extent that it would have been so included
18 under section 1248(a) if such controlled foreign cor-
19 poration were a United States person. For purposes
20 of determining the amount which would have been so
21 includible, the determination of whether such other
22 foreign corporation was a controlled foreign corpora-
23 tion shall be made without regard to the preceding
24 sentence.

1 “(2) SAME COUNTRY EXCEPTION NOT APPLICA-
2 BLE.—Clause (i) of section 954(c)(3)(A) shall not
3 apply to any amount treated as a dividend by reason
4 of paragraph (1).

5 “(3) CLARIFICATION OF DEEMED SALES.—For
6 purposes of this subsection, a controlled foreign cor-
7 poration shall be treated as having sold or ex-
8 changed any stock if, under any provision of this
9 subtitle, such controlled foreign corporation is treat-
10 ed as having gain from the sale or exchange of such
11 stock.”.

12 (b) AMENDMENT OF SECTION 904(d).—Clause (i) of
13 section 904(d)(2)(E) is amended by striking “and except
14 as provided in regulations, the taxpayer was a United
15 States shareholder in such corporation”.

16 (c) EFFECTIVE DATES.—

17 (1) The amendment made by subsection (a)
18 shall apply to gain recognized on transactions occur-
19 ring after the date of the enactment of this Act.

20 (2) The amendment made by subsection (b)
21 shall apply to distributions after the date of the en-
22 actment of this Act.

1 **SEC. 1112. MISCELLANEOUS MODIFICATIONS TO SUBPART**

2 **F.**

3 (a) **SECTION 1248 GAIN TAKEN INTO ACCOUNT IN**
4 **DETERMINING PRO RATA SHARE.—**

5 (1) **IN GENERAL.**—Paragraph (2) of section
6 951(a) (defining pro rata share of subpart F in-
7 come) is amended by adding at the end thereof the
8 following new sentence: “For purposes of subpara-
9 graph (B), any gain included in the gross income of
10 any person as a dividend under section 1248 shall
11 be treated as a distribution received by such person
12 with respect to the stock involved.”.

13 (2) **EFFECTIVE DATE.**—The amendment made
14 by paragraph (1) shall apply to dispositions after the
15 date of the enactment of this Act.

16 (b) **BASIS ADJUSTMENTS IN STOCK HELD BY FOR-**
17 **EIGN CORPORATION.—**

18 (1) **IN GENERAL.**—Section 961 (relating to ad-
19 justments to basis of stock in controlled foreign cor-
20 porations and of other property) is amended by add-
21 ing at the end thereof the following new subsection:

22 “(c) **BASIS ADJUSTMENTS IN STOCK HELD BY FOR-**
23 **EIGN CORPORATION.**—Under regulations prescribed by
24 the Secretary, if a United States shareholder is treated
25 under section 958(a)(2) as owning any stock in a con-
26 trolled foreign corporation which is actually owned by an-

1 other controlled foreign corporation, adjustments similar
2 to the adjustments provided by subsections (a) and (b)
3 shall be made to the basis of such stock in the hands of
4 such other controlled foreign corporation, but only for the
5 purposes of determining the amount included under sec-
6 tion 951 in the gross income of such United States share-
7 holder (or any other United States shareholder who ac-
8 quires from any person any portion of the interest of such
9 United States shareholder by reason of which such share-
10 holder was treated as owning such stock, but only to the
11 extent of such portion, and subject to such proof of iden-
12 tity of such interest as the Secretary may prescribe by reg-
13 ulations).”.

14 (2) **EFFECTIVE DATE.**—The amendment made
15 by paragraph (1) shall apply for purposes of deter-
16 mining inclusions for taxable years of United States
17 shareholders beginning after December 31, 1997.

18 (c) **CLARIFICATION OF TREATMENT OF BRANCH TAX**
19 **EXEMPTIONS OR REDUCTIONS.**—

20 (1) **IN GENERAL.**—Subsection (b) of section
21 952 is amended by adding at the end thereof the fol-
22 lowing new sentence: “For purposes of this sub-
23 section, any exemption (or reduction) with respect to
24 the tax imposed by section 884 shall not be taken
25 into account.”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall apply to taxable years begin-
3 ning after December 31, 1986.

4 **SEC. 1113. INDIRECT FOREIGN TAX CREDIT ALLOWED FOR**
5 **CERTAIN LOWER TIER COMPANIES.**

6 (a) SECTION 902 CREDIT.—

7 (1) IN GENERAL.—Subsection (b) of section
8 902 (relating to deemed taxes increased in case of
9 certain 2nd and 3rd tier foreign corporations) is
10 amended to read as follows:

11 “(b) DEEMED TAXES INCREASED IN CASE OF CER-
12 TAIN LOWER TIER CORPORATIONS.—

13 “(1) IN GENERAL.—If—

14 “(A) any foreign corporation is a member
15 of a qualified group, and

16 “(B) such foreign corporation owns 10 per-
17 cent or more of the voting stock of another
18 member of such group from which it receives
19 dividends in any taxable year,

20 such foreign corporation shall be deemed to have
21 paid the same proportion of such other member’s
22 post-1986 foreign income taxes as would be deter-
23 mined under subsection (a) if such foreign corpora-
24 tion were a domestic corporation.

1 “(2) QUALIFIED GROUP.—For purposes of
2 paragraph (1), the term ‘qualified group’ means—

3 “(A) the foreign corporation described in
4 subsection (a), and

5 “(B) any other foreign corporation if—

6 “(i) the domestic corporation owns at
7 least 5 percent of the voting stock of such
8 other foreign corporation indirectly
9 through a chain of foreign corporations
10 connected through stock ownership of at
11 least 10 percent of their voting stock,

12 “(ii) the foreign corporation described
13 in subsection (a) is the first tier corpora-
14 tion in such chain, and

15 “(iii) such other corporation is not
16 below the sixth tier in such chain.

17 The term ‘qualified group’ shall not include any for-
18 eign corporation below the third tier in the chain re-
19 ferred to in clause (i) unless such foreign corpora-
20 tion is a controlled foreign corporation (as defined in
21 section 957) and the domestic corporation is a Unit-
22 ed States shareholder (as defined in section 951(b))
23 in such foreign corporation. Paragraph (1) shall
24 apply to those taxes paid by a member of the quali-
25 fied group below the third tier only with respect to

1 periods during which it was a controlled foreign cor-
2 poration.”.

3 (2) CONFORMING AMENDMENTS.—

4 (A) Subparagraph (B) of section 902(e)(3)
5 is amended by adding “or” at the end of clause
6 (i) and by striking clauses (ii) and (iii) and in-
7 serting the following new clause:

8 “(ii) the requirements of subsection
9 (b)(2) are met with respect to such foreign
10 corporation.”.

11 (B) Subparagraph (B) of section 902(e)(4)
12 is amended by striking “3rd foreign corpora-
13 tion” and inserting “sixth tier foreign corpora-
14 tion”.

15 (C) The heading for paragraph (3) of sec-
16 tion 902(e) is amended by striking “WHERE DO-
17 MESTIC CORPORATION ACQUIRES 10 PERCENT
18 OF FOREIGN CORPORATION” and inserting
19 “WHERE FOREIGN CORPORATION FIRST QUALI-
20 FIES”.

21 (D) Paragraph (3) of section 902(e) is
22 amended by striking “ownership” each place it
23 appears.

1 (b) SECTION 960 CREDIT.—Paragraph (1) of section
2 960(a) (relating to special rules for foreign tax credits)
3 is amended to read as follows:

4 “(1) DEEMED PAID CREDIT.—For purposes of
5 subpart A of this part, if there is included under
6 section 951(a) in the gross income of a domestic cor-
7 poration any amount attributable to earnings and
8 profits of a foreign corporation which is a member
9 of a qualified group (as defined in section 902(b))
10 with respect to the domestic corporation, then, ex-
11 cept to the extent provided in regulations, section
12 902 shall be applied as if the amount so included
13 were a dividend paid by such foreign corporation
14 (determined by applying section 902(c) in accord-
15 ance with section 904(d)(3)(B)).”.

16 (c) EFFECTIVE DATE.—

17 (1) IN GENERAL.—The amendments made by
18 this section shall apply to taxes of foreign corpora-
19 tions for taxable years of such corporations begin-
20 ning after the date of enactment of this Act.

21 (2) SPECIAL RULE.—In the case of any chain
22 of foreign corporations described in clauses (i) and
23 (ii) of section 902(b)(2)(B) of the Internal Revenue
24 Code of 1986 (as amended by this section), no liq-
25 uidation, reorganization, or similar transaction in a

1 taxable year beginning after the date of the enact-
2 ment of this Act shall have the effect of permitting
3 taxes to be taken into account under section 902 of
4 the Internal Revenue Code of 1986 which could not
5 have been taken into account under such section but
6 for such transaction.

7 **Subtitle C—Treatment of Passive**
8 **Foreign Investment Companies**

9 **SEC. 1121. UNITED STATES SHAREHOLDERS OF CON-**
10 **TROLLED FOREIGN CORPORATIONS NOT**
11 **SUBJECT TO PFIC INCLUSION.**

12 Section 1296 is amended by adding at the end the
13 following new subsection:

14 “(e) EXCEPTION FOR UNITED STATES SHAREHOLD-
15 ERS OF CONTROLLED FOREIGN CORPORATIONS.—

16 “(1) IN GENERAL.—For purposes of this part,
17 a corporation shall not be treated with respect to a
18 shareholder as a passive foreign investment company
19 during the qualified portion of such shareholder’s
20 holding period with respect to stock in such corpora-
21 tion.

22 “(2) QUALIFIED PORTION.—For purposes of
23 this subsection, the term ‘qualified portion’ means
24 the portion of the shareholder’s holding period—

1 “(A) which is after December 31, 1997,
2 and

3 “(B) during which the shareholder is a
4 United States shareholder (as defined in section
5 951(b)) of the corporation and the corporation
6 is a controlled foreign corporation.

7 “(3) NEW HOLDING PERIOD IF QUALIFIED POR-
8 TION ENDS.—

9 “(A) IN GENERAL.—Except as provided in
10 subparagraph (B), if the qualified portion of a
11 shareholder’s holding period with respect to any
12 stock ends after December 31, 1997, solely for
13 purposes of this part, the shareholder’s holding
14 period with respect to such stock shall be treat-
15 ed as beginning as of the first day following
16 such period.

17 “(B) EXCEPTION.—Subparagraph (A)
18 shall not apply if such stock was, with respect
19 to such shareholder, stock in a passive foreign
20 investment company at any time before the
21 qualified portion of the shareholder’s holding
22 period with respect to such stock and no elec-
23 tion under section 1298(b)(1) is made.”.

1 **SEC. 1122. ELECTION OF MARK TO MARKET FOR MARKET-**
2 **ABLE STOCK IN PASSIVE FOREIGN INVEST-**
3 **MENT COMPANY.**

4 (a) IN GENERAL.—Part VI of subchapter P of chap-
5 ter 1 is amended by redesignating subpart C as subpart
6 D, by redesignating sections 1296 and 1297 as sections
7 1297 and 1298, respectively, and by inserting after sub-
8 part B the following new subpart:

9 **“Subpart C—Election of Mark to Market For**
10 **Marketable Stock**

“Sec. 1296. Election of mark to market for marketable stock.

11 **“SEC. 1296. ELECTION OF MARK TO MARKET FOR MARKET-**
12 **ABLE STOCK.**

13 “(a) GENERAL RULE.—In the case of marketable
14 stock in a passive foreign investment company which is
15 owned (or treated under subsection (g) as owned) by a
16 United States person at the close of any taxable year of
17 such person, at the election of such person—

18 “(1) If the fair market value of such stock as
19 of the close of such taxable year exceeds its adjusted
20 basis, such United States person shall include in
21 gross income for such taxable year an amount equal
22 to the amount of such excess.

23 “(2) If the adjusted basis of such stock exceeds
24 the fair market value of such stock as of the close
25 of such taxable year, such United States person

1 shall be allowed a deduction for such taxable year
2 equal to the lesser of—

3 “(A) the amount of such excess, or

4 “(B) the unreversed inclusions with respect
5 to such stock.

6 “(b) BASIS ADJUSTMENTS.—

7 “(1) IN GENERAL.—The adjusted basis of stock
8 in a passive foreign investment company—

9 “(A) shall be increased by the amount in-
10 cluded in the gross income of the United States
11 person under subsection (a)(1) with respect to
12 such stock, and

13 “(B) shall be decreased by the amount al-
14 lowed as a deduction to the United States per-
15 son under subsection (a)(2) with respect to
16 such stock.

17 “(2) SPECIAL RULE FOR STOCK CONSTRUC-
18 TIVELY OWNED.—In the case of stock in a passive
19 foreign investment company which the United States
20 person is treated as owning under subsection (g)—

21 “(A) the adjustments under paragraph (1)
22 shall apply to such stock in the hands of the
23 person actually holding such stock but only for
24 purposes of determining the subsequent treat-

1 ment under this chapter of the United States
2 person with respect to such stock, and

3 “(B) similar adjustments shall be made to
4 the adjusted basis of the property by reason of
5 which the United States person is treated as
6 owning such stock.

7 “(c) CHARACTER AND SOURCE RULES.—

8 “(1) ORDINARY TREATMENT.—

9 “(A) GAIN.—Any amount included in gross
10 income under subsection (a)(1), and any gain
11 on the sale or other disposition of marketable
12 stock in a passive foreign investment company
13 (with respect to which an election under this
14 section is in effect), shall be treated as ordinary
15 income.

16 “(B) LOSS.—Any—

17 “(i) amount allowed as a deduction
18 under subsection (a)(2), and

19 “(ii) loss on the sale or other disposi-
20 tion of marketable stock in a passive for-
21 eign investment company (with respect to
22 which an election under this section is in
23 effect) to the extent that the amount of
24 such loss does not exceed the unreversed
25 inclusions with respect to such stock,

1 shall be treated as an ordinary loss. The
2 amount so treated shall be treated as a deduc-
3 tion allowable in computing adjusted gross in-
4 come.

5 “(2) SOURCE.—The source of any amount in-
6 cluded in gross income under subsection (a)(1) (or
7 allowed as a deduction under subsection (a)(2)) shall
8 be determined in the same manner as if such
9 amount were gain or loss (as the case may be) from
10 the sale of stock in the passive foreign investment
11 company.

12 “(d) UNREVERSED INCLUSIONS.—For purposes of
13 this section, the term ‘unreversed inclusions’ means, with
14 respect to any stock in a passive foreign investment com-
15 pany, the excess (if any) of—

16 “(1) the amount included in gross income of
17 the taxpayer under subsection (a)(1) with respect to
18 such stock for prior taxable years, over

19 “(2) the amount allowed as a deduction under
20 subsection (a)(2) with respect to such stock for prior
21 taxable years.

22 The amount referred to in paragraph (1) shall include any
23 amount which would have been included in gross income
24 under subsection (a)(1) with respect to such stock for any
25 prior taxable year but for section 1291.

1 “(e) MARKETABLE STOCK.—For purposes of this
2 section—

3 “(1) IN GENERAL.—The term ‘marketable
4 stock’ means—

5 “(A) any stock which is regularly traded
6 on—

7 “(i) a national securities exchange
8 which is registered with the Securities and
9 Exchange Commission or the national mar-
10 ket system established pursuant to section
11 11A of the Securities and Exchange Act of
12 1934, or

13 “(ii) any exchange or other market
14 which the Secretary determines has rules
15 adequate to carry out the purposes of this
16 part,

17 “(B) to the extent provided in regulations,
18 stock in any foreign corporation which is com-
19 parable to a regulated investment company and
20 which offers for sale or has outstanding any
21 stock of which it is the issuer and which is re-
22 deemable at its net asset value, and

23 “(C) to the extent provided in regulations,
24 any option on stock described in subparagraph
25 (A) or (B).

1 “(2) SPECIAL RULE FOR REGULATED INVEST-
2 MENT COMPANIES.—In the case of any regulated in-
3 vestment company which is offering for sale or has
4 outstanding any stock of which it is the issuer and
5 which is redeemable at its net asset value, all stock
6 in a passive foreign investment company which it
7 owns directly or indirectly shall be treated as mar-
8 ketable stock for purposes of this section. Except as
9 provided in regulations, similar treatment as mar-
10 ketable stock shall apply in the case of any other
11 regulated investment company which publishes net
12 asset valuations at least annually.

13 “(f) TREATMENT OF CONTROLLED FOREIGN COR-
14 PORATIONS WHICH ARE SHAREHOLDERS IN PASSIVE
15 FOREIGN INVESTMENT COMPANIES.—In the case of a for-
16 eign corporation which is a controlled foreign corporation
17 and which owns (or is treated under subsection (g) as own-
18 ing) stock in a passive foreign investment company—

19 “(1) this section (other than subsection (c)(2))
20 shall apply to such foreign corporation in the same
21 manner as if such corporation were a United States
22 person, and

23 “(2) for purposes of subpart F of part III of
24 subchapter N—

1 “(A) any amount included in gross income
2 under subsection (a)(1) shall be treated as for-
3 foreign personal holding company income de-
4 scribed in section 954(c)(1)(A), and

5 “(B) any amount allowed as a deduction
6 under subsection (a)(2) shall be treated as a de-
7 duction allocable to foreign personal holding
8 company income so described.

9 “(g) STOCK OWNED THROUGH CERTAIN FOREIGN
10 ENTITIES.—Except as provided in regulations—

11 “(1) IN GENERAL.—For purposes of this sec-
12 tion, stock owned, directly or indirectly, by or for a
13 foreign partnership or foreign trust or foreign estate
14 shall be considered as being owned proportionately
15 by its partners or beneficiaries. Stock considered to
16 be owned by a person by reason of the application
17 of the preceding sentence shall, for purposes of ap-
18 plying such sentence, be treated as actually owned
19 by such person.

20 “(2) TREATMENT OF CERTAIN DISPOSITIONS.—
21 In any case in which a United States person is
22 treated as owning stock in a passive foreign invest-
23 ment company by reason of paragraph (1)—

24 “(A) any disposition by the United States
25 person or by any other person which results in

1 the United States person being treated as no
2 longer owning such stock, and

3 “(B) any disposition by the person owning
4 such stock,

5 shall be treated as a disposition by the United
6 States person of the stock in the passive foreign in-
7 vestment company.

8 “(h) COORDINATION WITH SECTION 851(b).—For
9 purposes of paragraphs (2) and (3) of section 851(b), any
10 amount included in gross income under subsection (a)
11 shall be treated as a dividend.

12 “(i) STOCK ACQUIRED FROM A DECEDENT.—In the
13 case of stock of a passive foreign investment company
14 which is acquired by bequest, devise, or inheritance (or
15 by the decedent’s estate) and with respect to which an
16 election under this section was in effect as of the date of
17 the decedent’s death, notwithstanding section 1014, the
18 basis of such stock in the hands of the person so acquiring
19 it shall be the adjusted basis of such stock in the hands
20 of the decedent immediately before his death (or, if lesser,
21 the basis which would have been determined under section
22 1014 without regard to this subsection).

23 “(j) COORDINATION WITH SECTION 1291 FOR FIRST
24 YEAR OF ELECTION.—

1 “(1) TAXPAYERS OTHER THAN REGULATED IN-
2 VESTMENT COMPANIES.—

3 “(A) IN GENERAL.—If the taxpayer elects
4 the application of this section with respect to
5 any marketable stock in a corporation after the
6 beginning of the taxpayer’s holding period in
7 such stock, and if the requirements of subpara-
8 graph (B) are not satisfied, section 1291 shall
9 apply to—

10 “(i) any distributions with respect to,
11 or disposition of, such stock in the first
12 taxable year of the taxpayer for which such
13 election is made, and

14 “(ii) any amount which, but for sec-
15 tion 1291, would have been included in
16 gross income under subsection (a) with re-
17 spect to such stock for such taxable year in
18 the same manner as if such amount were
19 gain on the disposition of such stock.

20 “(B) REQUIREMENTS.—The requirements
21 of this subparagraph are met if, with respect to
22 each of such corporation’s taxable years for
23 which such corporation was a passive foreign
24 investment company and which begin after De-
25 cember 31, 1986, and included any portion of

1 the taxpayer's holding period in such stock,
2 such corporation was treated as a qualified
3 electing fund under this part with respect to the
4 taxpayer.

5 “(2) SPECIAL RULES FOR REGULATED INVEST-
6 MENT COMPANIES.—

7 “(A) IN GENERAL.—If a regulated invest-
8 ment company elects the application of this sec-
9 tion with respect to any marketable stock in a
10 corporation after the beginning of the tax-
11 payer's holding period in such stock, then, with
12 respect to such company's first taxable year for
13 which such company elects the application of
14 this section with respect to such stock—

15 “(i) section 1291 shall not apply to
16 such stock with respect to any distribution
17 or disposition during, or amount included
18 in gross income under this section for,
19 such first taxable year, but

20 “(ii) such regulated investment com-
21 pany's tax under this chapter for such first
22 taxable year shall be increased by the ag-
23 gregate amount of interest which would
24 have been determined under section

1 1291(c)(3) if section 1291 were applied
2 without regard to this subparagraph.

3 Clause (ii) shall not apply if for the preceding
4 taxable year the company elected to mark to
5 market the stock held by such company as of
6 the last day of such preceding taxable year.

7 “(B) DISALLOWANCE OF DEDUCTION.—No
8 deduction shall be allowed to any regulated in-
9 vestment company for the increase in tax under
10 subparagraph (A)(ii).

11 “(k) ELECTION.—This section shall apply to market-
12 able stock in a passive foreign investment company which
13 is held by a United States person only if such person elects
14 to apply this section with respect to such stock. Such an
15 election shall apply to the taxable year for which made
16 and all subsequent taxable years unless—

17 “(1) such stock ceases to be marketable stock,
18 or

19 “(2) the Secretary consents to the revocation of
20 such election.

21 “(l) TRANSITION RULE FOR INDIVIDUALS BECOMING
22 SUBJECT TO UNITED STATES TAX.—If any individual be-
23 comes a United States person in a taxable year beginning
24 after December 31, 1997, solely for purposes of this sec-
25 tion, the adjusted basis (before adjustments under sub-

1 section (b)) of any marketable stock in a passive foreign
2 investment company owned by such individual on the first
3 day of such taxable year shall be treated as being the
4 greater of its fair market value on such first day or its
5 adjusted basis on such first day.”.

6 (b) COORDINATION WITH INTEREST CHARGE,
7 ETC.—

8 (1) Paragraph (1) of section 1291(d) is amend-
9 ed by adding at the end the following new flush sen-
10 tence:

11 “Except as provided in section 1296(j), this section
12 also shall not apply if an election under section
13 1296(k) is in effect for the taxpayer’s taxable year.”.

14 (2) The subsection heading for subsection (d) of
15 section 1291 is amended by striking “SUBPART B”
16 and inserting “SUBPARTS B AND C”.

17 (3) Subparagraph (A) of section 1291(a)(3) is
18 amended to read as follows:

19 “(A) HOLDING PERIOD.—The taxpayer’s
20 holding period shall be determined under sec-
21 tion 1223; except that—

22 “(i) for purposes of applying this sec-
23 tion to an excess distribution, such holding
24 period shall be treated as ending on the
25 date of such distribution, and

1 “(ii) if section 1296 applied to such
2 stock with respect to the taxpayer for any
3 prior taxable year, such holding period
4 shall be treated as beginning on the first
5 day of the first taxable year beginning
6 after the last taxable year for which sec-
7 tion 1296 so applied.”.

8 (c) TREATMENT OF MARK-TO-MARKET GAIN UNDER
9 SECTION 4982.—

10 (1) Subsection (e) of section 4982 is amended
11 by adding at the end thereof the following new para-
12 graph:

13 “(6) TREATMENT OF GAIN RECOGNIZED UNDER
14 SECTION 1296.—For purposes of determining a regu-
15 lated investment company’s ordinary income—

16 “(A) notwithstanding paragraph (1)(C),
17 section 1296 shall be applied as if such compa-
18 ny’s taxable year ended on October 31, and

19 “(B) any ordinary gain or loss from an ac-
20 tual disposition of stock in a passive foreign in-
21 vestment company during the portion of the
22 calendar year after October 31 shall be taken
23 into account in determining such regulated in-
24 vestment company’s ordinary income for the
25 following calendar year.

1 In the case of a company making an election under
2 paragraph (4), the preceding sentence shall be ap-
3 plied by substituting the last day of the company's
4 taxable year for October 31.”.

5 (2) Subsection (b) of section 852 is amended by
6 adding at the end thereof the following new para-
7 graph:

8 “(10) SPECIAL RULE FOR CERTAIN LOSSES ON
9 STOCK IN PASSIVE FOREIGN INVESTMENT COM-
10 PANY.—To the extent provided in regulations, the
11 taxable income of a regulated investment company
12 (other than a company to which an election under
13 section 4982(e)(4) applies) shall be computed with-
14 out regard to any net reduction in the value of any
15 stock of a passive foreign investment company with
16 respect to which an election under section 1296(k)
17 is in effect occurring after October 31 of the taxable
18 year, and any such reduction shall be treated as oc-
19 ccurring on the first day of the following taxable
20 year.”.

21 (3) Subsection (c) of section 852 is amended by
22 inserting after “October 31 of such year” the follow-
23 ing: “, without regard to any net reduction in the
24 value of any stock of a passive foreign investment
25 company with respect to which an election under

1 section 1296(k) is in effect occurring after October
2 31 of such year.”.

3 (d) CONFORMING AMENDMENTS.—

4 (1) Sections 532(b)(4) and 542(c)(10) are each
5 amended by striking “section 1296” and inserting
6 “section 1297”.

7 (2) Subsection (f) of section 551 is amended by
8 striking “section 1297(b)(5)” and inserting “section
9 1298(b)(5)”.

10 (3) Subsections (a)(1) and (d) of section 1293
11 are each amended by striking “section 1297(a)” and
12 inserting “section 1298(a)”.

13 (4) Paragraph (3) of section 1297(b), as redese-
14 signated by subsection (a), is hereby repealed.

15 (5) The table of sections for subpart D of part
16 VI of subchapter P of chapter 1, as redesignated by
17 subsection (a), is amended to read as follows:

“Sec. 1297. Passive foreign investment company.

“Sec. 1298. Special rules.”.

18 (6) The table of subparts for part VI of sub-
19 chapter P of chapter 1 is amended by striking the
20 last item and inserting the following new items:

“Subpart C. Election of mark to market for marketable stock.

“Subpart D. General provisions.”.

21 (e) CLARIFICATION OF GAIN RECOGNITION ELEC-
22 TION.—The last sentence of section 1298(b)(1), as so re-
23 designated, is amended by inserting “(determined without

1 regard to the preceding sentence)” after “investment com-
2 pany”.

3 **SEC. 1123. EFFECTIVE DATE.**

4 The amendments made by this subtitle shall apply
5 to—

6 (1) taxable years of United States persons be-
7 ginning after December 31, 1997, and

8 (2) taxable years of foreign corporations ending
9 with or within such taxable years of United States
10 persons.

11 **Subtitle D—Repeal of Excise Tax**
12 **on Transfers to Foreign Entities**

13 **SEC. 1131. REPEAL OF EXCISE TAX ON TRANSFERS TO FOR-**
14 **EIGN ENTITIES; RECOGNITION OF GAIN ON**
15 **CERTAIN TRANSFERS TO FOREIGN TRUSTS**
16 **AND ESTATES.**

17 (a) REPEAL OF EXCISE TAX.—Chapter 5 (relating
18 to transfers to avoid income tax) is hereby repealed.

19 (b) RECOGNITION OF GAIN ON CERTAIN TRANSFERS
20 TO FOREIGN TRUSTS AND ESTATES.—Subpart F of part
21 I of subchapter J of chapter 1 is amended by adding at
22 the end the following new section:

1 **“SEC. 684. RECOGNITION OF GAIN ON CERTAIN TRANSFERS**
2 **TO CERTAIN FOREIGN TRUSTS AND ESTATES.**

3 “(a) IN GENERAL.—In the case of any transfer of
4 property by a United States person to a foreign estate or
5 trust, for purposes of this subtitle, such transfer shall be
6 treated as a sale or exchange for an amount equal to the
7 fair market value of the property transferred, and the
8 transferor shall recognize as gain the excess of—

9 “(1) the fair market value of the property so
10 transferred, over

11 “(2) the adjusted basis (for purposes of deter-
12 mining gain) of such property in the hands of the
13 transferor.

14 “(b) EXCEPTION.—Subsection (a) shall not apply to
15 a transfer to a trust by a United States person if such
16 person is treated as the owner of such trust under section
17 671.”.

18 (b) OTHER ANTI-AVOIDANCE PROVISIONS REPLAC-
19 ING REPEALED EXCISE TAX.—

20 (1) GAIN RECOGNITION ON EXCHANGES IN-
21 VOLVING FOREIGN PERSONS.—Section 1035 is
22 amended by redesignating subsection (c) as sub-
23 section (d) and by inserting after subsection (b) the
24 following new subsection:

25 “(c) EXCHANGES INVOLVING FOREIGN PERSONS.—
26 To the extent provided in regulations, subsection (a) shall

1 not apply to any exchange having the effect of transferring
2 property to any person other than a United States per-
3 son.”.

4 (2) TRANSFERS TO FOREIGN CORPORATIONS.—

5 Section 367 is amended by adding at the end the
6 following new subsection:

7 “(f) OTHER TRANSFERS.—To the extent provided in
8 regulations, if a United States person transfers property
9 to a foreign corporation as paid-in surplus or as a con-
10 tribution to capital (in a transaction not otherwise de-
11 scribed in this section), such foreign corporation shall not,
12 for purposes of determining the extent to which gain shall
13 be recognized on such transfer, be considered to be a cor-
14 poration.”.

15 (3) CERTAIN TRANSFERS TO PARTNERSHIPS.—

16 Section 721 is amended by adding at the end the
17 following new subsection:

18 “(c) REGULATIONS RELATING TO TRANSFERS TO
19 FOREIGN PERSONS.—The Secretary may provide by regu-
20 lations that subsection (a) shall not apply to gain realized
21 on the transfer of property to a partnership if such gain,
22 when recognized, will be includible in the gross income of
23 a person other than a United States person.”.

1 (4) REPEAL OF U.S. SOURCE TREATMENT OF
2 DEEMED ROYALTIES.—Subparagraph (C) of section
3 367(d)(2) is amended to read as follows:

4 “(C) AMOUNTS RECEIVED TREATED AS OR-
5 DINARY INCOME.—For purposes of this chapter,
6 any amount included in gross income by reason
7 of this subsection shall be treated as ordinary
8 income.”.

9 (5) TRANSFERS OF INTANGIBLES TO PARTNER-
10 SHIPS.—

11 (A) Subsection (d) of section 367 is
12 amended by adding at the end the following
13 new paragraph:

14 “(3) REGULATIONS RELATING TO TRANSFERS
15 OF INTANGIBLES TO PARTNERSHIPS.—The Sec-
16 retary may provide by regulations that the rules of
17 paragraph (2) also apply to the transfer of intangi-
18 ble property by a United States person to a partner-
19 ship in circumstances consistent with the purposes
20 of this subsection.”.

21 (B) Section 721 is amended by adding at
22 the end the following new subsection:

23 “(d) TRANSFERS OF INTANGIBLES.—

**“For regulatory authority to treat intangibles
 transferred to a partnership as sold, see section
 367(d)(3).”.**

24 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

1 (1) Subsection (h) of section 814 is amended by
2 striking “or 1491”.

3 (2) Section 1057 (relating to election to treat
4 transfer to foreign trust, etc., as taxable exchange)
5 is hereby repealed.

6 (3) Section 6422 is amended by striking para-
7 graph (5) and by redesignating paragraphs (6)
8 through (13) as paragraphs (5) through (12), re-
9 spectively.

10 (4) The table of chapters for subtitle A is
11 amended by striking the item relating to chapter 5.

12 (5) The table of sections for part IV of sub-
13 chapter O of chapter 1 is amended by striking the
14 item relating to section 1057.

15 (6) The table of sections for subpart F of part
16 I of subchapter J of chapter 1 is amended by adding
17 at the end the following new item:

“Sec. 684. Recognition of gain on certain transfers to certain for-
eign trusts and estates.”.

18 (d) **EFFECTIVE DATE.**—The amendments made by
19 this section shall take effect on the date of the enactment
20 of this Act.

1 **Subtitle E—Information Reporting**

2 **SEC. 1141. CLARIFICATION OF APPLICATION OF RETURN** 3 **REQUIREMENT TO FOREIGN PARTNERSHIPS.**

4 (a) IN GENERAL.—Section 6031 (relating to return
5 of partnership income) is amended by adding at the end
6 the following new subsection:

7 “(e) FOREIGN PARTNERSHIPS.—

8 “(1) EXCEPTION FOR FOREIGN PARTNER-
9 SHIP.—Except as provided in paragraph (2), the
10 preceding provisions of this section shall not apply
11 to a foreign partnership.

12 “(2) CERTAIN FOREIGN PARTNERSHIPS RE-
13 QUIRED TO FILE RETURN.—Except as provided in
14 regulations prescribed by the Secretary, this section
15 shall apply to a foreign partnership for any taxable
16 year if for such year, such partnership has—

17 “(A) gross income derived from sources
18 within the United States, or

19 “(B) gross income which is effectively con-
20 nected with the conduct of a trade or business
21 within the United States.

22 The Secretary may provide simplified filing proce-
23 dures for foreign partnerships to which this section
24 applies.”.

1 (b) SANCTION FOR FAILURE BY FOREIGN PARTNER-
2 SHIP TO COMPLY WITH SECTION 6031 TO INCLUDE DE-
3 NIAL OF DEDUCTIONS.—Subsection (f) of section 6231 is
4 amended—

5 (1) by striking “LOSSES AND” in the heading
6 and inserting “DEDUCTIONS, LOSSES, AND”, and

7 (2) by striking “loss or” each place it appears
8 and inserting “deduction, loss, or”.

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

12 **SEC. 1142. CONTROLLED FOREIGN PARTNERSHIPS SUB-**
13 **JECT TO INFORMATION REPORTING COM-**
14 **PARABLE TO INFORMATION REPORTING FOR**
15 **CONTROLLED FOREIGN CORPORATIONS.**

16 (a) IN GENERAL.—So much of section 6038 (relating
17 to information with respect to certain foreign corpora-
18 tions) as precedes paragraph (2) of subsection (a) is
19 amended to read as follows:

20 **“SEC. 6038. INFORMATION REPORTING WITH RESPECT TO**
21 **CERTAIN FOREIGN CORPORATIONS AND**
22 **PARTNERSHIPS.**

23 “(a) REQUIREMENT.—

24 “(1) IN GENERAL.—Every United States person
25 shall furnish, with respect to any foreign business

1 entity which such person controls, such information
2 as the Secretary may prescribe relating to—

3 “(A) the name, the principal place of busi-
4 ness, and the nature of business of such entity,
5 and the country under whose laws such entity
6 is incorporated (or organized in the case of a
7 partnership);

8 “(B) in the case of a foreign corporation,
9 its post-1986 undistributed earnings (as defined
10 in section 902(c));

11 “(C) a balance sheet for such entity listing
12 assets, liabilities, and capital;

13 “(D) transactions between such entity
14 and—

15 “(i) such person,

16 “(ii) any corporation or partnership
17 which such person controls, and

18 “(iii) any United States person own-
19 ing, at the time the transaction takes
20 place—

21 “(I) in the case of a foreign cor-
22 poration, 10 percent or more of the
23 value of any class of stock outstand-
24 ing of such corporation, and

1 “(II) in the case of a foreign
2 partnership, at least a 10-percent in-
3 terest in such partnership; and

4 “(E)(i) in the case of a foreign corpora-
5 tion, a description of the various classes of
6 stock outstanding, and a list showing the name
7 and address of, and number of shares held by,
8 each United States person who is a shareholder
9 of record owning at any time during the annual
10 accounting period 5 percent or more in value of
11 any class of stock outstanding of such foreign
12 corporation, and

13 “(ii) information comparable to the infor-
14 mation described in clause (i) in the case of a
15 foreign partnership.

16 The Secretary may also require the furnishing of
17 any other information which is similar or related in
18 nature to that specified in the preceding sentence or
19 which the Secretary determines to be appropriate to
20 carry out the provisions of this title.”.

21 (b) DEFINITIONS.—

22 (1) IN GENERAL.—Subsection (e) of section
23 6038 (relating to definitions) is amended—

24 (A) by redesignating paragraphs (1) and
25 (2) as paragraphs (2) and (4), respectively,

1 (B) by inserting before paragraph (2) (as
2 so redesignated) the following new paragraph:

3 “(1) FOREIGN BUSINESS ENTITY.—The term
4 ‘foreign business entity’ means a foreign corporation
5 and a foreign partnership.”, and

6 (C) by inserting after paragraph (2) (as so
7 redesignated) the following new paragraph:

8 “(3) PARTNERSHIP-RELATED DEFINITIONS.—

9 “(A) CONTROL.—A person is in control of
10 a partnership if such person owns directly or in-
11 directly more than a 50 percent interest in such
12 partnership.

13 “(B) 50-PERCENT INTEREST.—For pur-
14 poses of subparagraph (A), a 50-percent inter-
15 est in a partnership is—

16 “(i) an interest equal to 50 percent of
17 the capital interest, or 50 percent of the
18 profits interest, in such partnership, or

19 “(ii) to the extent provided in regula-
20 tions, an interest to which 50 percent of
21 the deductions or losses of such partner-
22 ship are allocated.

23 For purposes of the preceding sentence, rules
24 similar to the rules of section 267(c) (other
25 than paragraph (3)) shall apply, except so as to

1 consider a United States person as owning such
2 an interest which is owned by a person which
3 is not a United States person.

4 “(C) 10-PERCENT INTEREST.—A 10-per-
5 cent interest in a partnership is an interest
6 which would be described in subparagraph (B)
7 if ‘10 percent’ were substituted for ‘50 percent’
8 each place it appears.”.

9 (2) CLERICAL AMENDMENT.—The paragraph
10 heading for paragraph (2) of section 6038(e) (as so
11 redesignated) is amended by inserting “OF COR-
12 PORATION” after “CONTROL”.

13 (c) MODIFICATION OF SANCTIONS ON PARTNERSHIPS
14 AND CORPORATIONS FOR FAILURE TO FURNISH INFOR-
15 MATION.—

16 (1) IN GENERAL.—Subsection (b) of section
17 6038 is amended—

18 (A) by striking “\$1,000” each place it ap-
19 pears and inserting “\$10,000”, and

20 (B) by striking “\$24,000” in paragraph
21 (2) and inserting “\$50,000”.

22 (d) REPORTING BY 10-PERCENT PARTNERS.—Sub-
23 section (a) of section 6038 is amended by adding at the
24 end the following new paragraph:

1 “(5) INFORMATION REQUIRED FROM 10-PER-
2 CENT PARTNER OF CONTROLLED FOREIGN PART-
3 NERSHIP.—In the case of a foreign partnership
4 which is controlled by United States persons holding
5 at least 10-percent interests (but not by any one
6 United States person), the Secretary may require
7 each United States person who holds a 10-percent
8 interest in such partnership to furnish information
9 relating to such partnership, including information
10 relating to such partner’s ownership interests in the
11 partnership and allocations to such partner of part-
12 nership items.”.

13 (e) TECHNICAL AMENDMENTS.—

14 (1) The following provisions of section 6038 are
15 each amended by striking “foreign corporation” each
16 place it appears and inserting “foreign business en-
17 tity”:

18 (A) Paragraphs (2) and (3) of subsection

19 (a).

20 (B) Subsection (b).

21 (C) Subsection (c) other than paragraph

22 (1)(B) thereof.

23 (D) Subsection (d).

24 (E) Subsection (e)(4) (as redesignated by

25 subsection (b)).

1 (2) Subparagraph (B) of section 6038(c)(1) is
2 amended by inserting “in the case of a foreign busi-
3 ness entity which is a foreign corporation,” after
4 “(B)”.

5 (3) Paragraph (8) of section 318(b) is amended
6 by striking “6038(d)(1)” and inserting
7 “6038(d)(2)”.

8 (4) Paragraph (4) of section 901(k) is amended
9 by striking “foreign corporation” and inserting “for-
10 eign corporation or partnership”.

11 (5) The table of sections for subpart A of part
12 III of subchapter A of chapter 61 is amended by
13 striking the item relating to section 6038 and insert-
14 ing the following new item:

 “Sec. 6038. Information reporting with respect to certain foreign
 corporations and partnerships.”.

15 (f) **EFFECTIVE DATE.**—The amendments made by
16 this section shall apply to annual accounting periods of
17 foreign partnerships beginning after the date of the enact-
18 ment of this Act.

19 **SEC. 1143. MODIFICATIONS RELATING TO RETURNS RE-**
20 **QUIRED TO BE FILED BY REASON OF**
21 **CHANGES IN OWNERSHIP INTERESTS IN FOR-**
22 **EIGN PARTNERSHIP.**

23 (a) **NO RETURN REQUIRED UNLESS CHANGES IN-**
24 **VOLVE 10-PERCENT INTEREST IN PARTNERSHIP.**—

1 (1) IN GENERAL.—Subsection (a) of section
2 6046A (relating to returns as to interests in foreign
3 partnerships) is amended by adding at the end the
4 following new sentence: “Paragraphs (1) and (2)
5 shall apply to any acquisition or disposition only if
6 the United States person directly or indirectly holds
7 at least a 10-percent interest in such partnership ei-
8 ther before or after such acquisition or disposition,
9 and paragraph (3) shall apply to any change only if
10 the change is equivalent to at least a 10-interest in
11 such partnership.”.

12 (2) 10-PERCENT INTEREST.—Section 6046A is
13 amended by redesignating subsection (d) as sub-
14 section (e) and by inserting after subsection (c) the
15 following new subsection:

16 “(d) 10-PERCENT INTEREST.—For purposes of sub-
17 section (a), a 10-percent interest in a partnership is an
18 interest described in section 6038(e)(3)(C).”.

19 (b) MODIFICATION OF PENALTY ON FAILURE TO RE-
20 PORT CHANGES IN OWNERSHIP INTERESTS IN FOREIGN
21 CORPORATIONS AND PARTNERSHIPS.—Subsection (a) of
22 section 6679 (relating to failure to file returns, etc., with
23 respect to foreign corporations or foreign partnerships) is
24 amended to read as follows:

25 “(a) CIVIL PENALTY.—

1 “(1) IN GENERAL.—In addition to any criminal
2 penalty provided by law, any person required to file
3 a return under section 6035, 6046, or 6046A who
4 fails to file such return at the time provided in such
5 section, or who files a return which does not show
6 the information required pursuant to such section,
7 shall pay a penalty of \$10,000, unless it is shown
8 that such failure is due to reasonable cause.

9 “(2) INCREASE IN PENALTY WHERE FAILURE
10 CONTINUES AFTER NOTIFICATION.—If any failure
11 described in paragraph (1) continues for more than
12 90 days after the day on which the Secretary mails
13 notice of such failure to the United States person,
14 such person shall pay a penalty (in addition to the
15 amount required under paragraph (1)) of \$10,000
16 for each 30-day period (or fraction thereof) during
17 which such failure continues after the expiration of
18 such 90-day period. The increase in any penalty
19 under this paragraph shall not exceed \$50,000.

20 “(3) REDUCED PENALTY FOR RETURNS RELAT-
21 ING TO FOREIGN PERSONAL HOLDING COMPANIES.—
22 In the case of a return required under section 6035,
23 paragraph (1) shall be applied by substituting
24 ‘\$1,000’ for ‘\$10,000’, and paragraph (2) shall not
25 apply.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to transfers and changes after the
3 date of the enactment of this Act.

4 **SEC. 1144. TRANSFERS OF PROPERTY TO FOREIGN PART-**
5 **NERSHIPS SUBJECT TO INFORMATION RE-**
6 **PORTING COMPARABLE TO INFORMATION**
7 **REPORTING FOR SUCH TRANSFERS TO FOR-**
8 **EIGN CORPORATIONS.**

9 (a) IN GENERAL.—Paragraph (1) of section
10 6038B(a) (relating to notice of certain transfers to foreign
11 corporations) is amended to read as follows:

12 “(1) transfers property to—

13 “(A) a foreign corporation in an exchange
14 described in section 332, 351, 354, 355, 356, or
15 361, or

16 “(B) a foreign partnership in a contribu-
17 tion described in section 721 or in any other
18 contribution described in regulations prescribed
19 by the Secretary.”.

20 (b) EXCEPTIONS.—Section 6038B is amended by re-
21 designating subsection (b) as subsection (c) and by insert-
22 ing after subsection (a) the following new subsection:

23 “(b) EXCEPTIONS FOR CERTAIN TRANSFERS TO
24 FOREIGN PARTNERSHIPS; SPECIAL RULE.—

1 “(1) EXCEPTIONS.—Subsection (a)(1)(B) shall
2 apply to a transfer by a United States person to a
3 foreign partnership only if—

4 “(A) the United States person holds (im-
5 mediately after the transfer) directly or indi-
6 rectly at least a 10-percent interest (as defined
7 in section 6046A(d)) in the partnership, or

8 “(B) the value of the property transferred
9 (when added to the value of the property trans-
10 ferred by such person or any related person to
11 such partnership or a related partnership dur-
12 ing the 12-month period ending on the date of
13 the transfer) exceeds \$100,000.

14 For purposes of the preceding sentence, the value of
15 any transferred property is its fair market value at
16 the time of its transfer.

17 “(2) SPECIAL RULE.—If by reason of an ad-
18 justment under section 482 or otherwise, a contribu-
19 tion described in subsection (a)(1) is deemed to have
20 been made, such contribution shall be treated for
21 purposes of this section as having been made not
22 earlier than the date specified by the Secretary.”.

23 (c) MODIFICATION OF PENALTY APPLICABLE TO
24 FOREIGN CORPORATIONS AND PARTNERSHIPS.—Para-
25 graph (1) of section 6038B(b) is amended by striking

1 “equal to” and all that follows and inserting “equal to
2 10 percent of the fair market value of the property at the
3 time of the exchange (and, in the case of a contribution
4 described in subsection (a)(1)(B), such person shall recog-
5 nize gain as if the contributed property had been sold for
6 such value at the time of such contribution).”.

7 (d) EFFECTIVE DATE.—

8 (1) IN GENERAL.—The amendments made by
9 this section shall apply to transfers made after the
10 date of the enactment of this Act.

11 (2) ELECTION OF RETROACTIVE EFFECT.—Sec-
12 tion 1494(c) of the Internal Revenue Code of 1986
13 shall not apply to any transfer after August 20,
14 1996, if the person otherwise required to file a re-
15 turn with respect to such transfer elects to apply the
16 amendments made by this section to transfers after
17 August 20, 1996. The Secretary of the Treasury or
18 his delegate may prescribe simplified reporting
19 under the preceding sentence.

20 **SEC. 1145. EXTENSION OF STATUTE OF LIMITATION FOR**
21 **FOREIGN TRANSFERS.**

22 (a) IN GENERAL.—Paragraph (8) of section 6501(c)
23 (relating to failure to notify Secretary under section
24 6038B) is amended to read as follows:

1 “(8) FAILURE TO NOTIFY SECRETARY OF CER-
 2 TAIN FOREIGN TRANSFERS.—In the case of any in-
 3 formation which is required to be reported to the
 4 Secretary under section 6038, 6038A, 6038B, 6046,
 5 6046A, or 6048, the time for assessment of any tax
 6 imposed by this title with respect to any event or pe-
 7 riod to which such information relates shall not ex-
 8 pire before the date which is 3 years after the date
 9 on which the Secretary is furnished the information
 10 required to be reported under such section.”.

11 (b) EFFECTIVE DATE.—The amendment made by
 12 subsection (a) shall apply to information the due date for
 13 the reporting of which is after the date of the enactment
 14 of this Act.

15 **SEC. 1146. INCREASE IN FILING THRESHOLDS FOR RE-**
 16 **TURNS AS TO ORGANIZATION OF FOREIGN**
 17 **CORPORATIONS AND ACQUISITIONS OF**
 18 **STOCK IN SUCH CORPORATIONS.**

19 (a) IN GENERAL.—Subsection (a) of section 6046
 20 (relating to returns as to organization or reorganization
 21 of foreign corporations and as to acquisitions of their
 22 stock) is amended to read as follows:

23 “(a) REQUIREMENT OF RETURN.—

1 “(1) IN GENERAL.—A return complying with
2 the requirements of subsection (b) shall be made
3 by—

4 “(A) each United States citizen or resident
5 who becomes an officer or director of a foreign
6 corporation if a United States person (as de-
7 fined in section 7701(a)(30)) meets the stock
8 ownership requirements of paragraph (2) with
9 respect to such corporation,

10 “(B) each United States person—

11 “(i) who acquires stock which, when
12 added to any stock owned on the date of
13 such acquisition, meets the stock owner-
14 ship requirements of paragraph (2) with
15 respect to a foreign corporation, or

16 “(ii) who acquires stock which, with-
17 out regard to stock owned on the date of
18 such acquisition, meets the stock owner-
19 ship requirements of paragraph (2) with
20 respect to a foreign corporation,

21 “(C) each person (not described in sub-
22 paragraph (B)) who is treated as a United
23 States shareholder under section 953(c) with
24 respect to a foreign corporation, and

1 “(D) each person who becomes a United
2 States person while meeting the stock owner-
3 ship requirements of paragraph (2) with respect
4 to stock of a foreign corporation.

5 In the case of a foreign corporation with respect to
6 which any person is treated as a United States
7 shareholder under section 953(c), subparagraph (A)
8 shall be treated as including a reference to each
9 United States person who is an officer or director of
10 such corporation.

11 “(2) STOCK OWNERSHIP REQUIREMENTS.—A
12 person meets the stock ownership requirements of
13 this paragraph with respect to any corporation if
14 such person owns 10 percent or more of—

15 “(A) the total combined voting power of all
16 classes of stock of such corporation entitled to
17 vote, or

18 “(B) the total value of the stock of such
19 corporation.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall take effect on January 1, 1998.

1 **Subtitle F—Determination of For-**
2 **eign or Domestic Status of Part-**
3 **nerships**

4 **SEC. 1151. DETERMINATION OF FOREIGN OR DOMESTIC**
5 **STATUS OF PARTNERSHIPS.**

6 (a) IN GENERAL.—Paragraph (4) of section 7701(a)
7 is amended by inserting before the period “unless, in the
8 case of a partnership, the partnership is more properly
9 treated as a foreign partnership under regulations pre-
10 scribed by the Secretary”.

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

14 **Subtitle G—Other Simplification**
15 **Provisions**

16 **SEC. 1161. TRANSITION RULE FOR CERTAIN TRUSTS.**

17 (a) IN GENERAL.—Paragraph (3) of section 1907(a)
18 of the Small Business Job Protection Act of 1996 is
19 amended by adding at the end the following flush sen-
20 tence:

21 “To the extent prescribed in regulations by the Sec-
22 retary of the Treasury or his delegate, a trust which
23 was in existence on August 20, 1996 (other than a
24 trust treated as owned by the grantor under subpart
25 E of part I of subchapter J of chapter 1 of the In-

1 ternal Revenue Code of 1986), and which was treat-
 2 ed as a United States person on the day before the
 3 date of the enactment of this Act may elect to con-
 4 tinue to be treated as a United States person not-
 5 withstanding section 7701(a)(30)(E) of such Code.”.

6 (b) EFFECTIVE DATE.—The amendment made by
 7 subsection (a) shall take effect as if included in the
 8 amendments made by section 1907(a) of the Small Busi-
 9 ness Job Protection Act of 1996.

10 **SEC. 1162. REPEAL OF STOCK AND SECURITIES SAFE HAR-**

11 **BOR REQUIREMENT THAT PRINCIPAL OFFICE**

12 **BE OUTSIDE THE UNITED STATES.**

13 (a) IN GENERAL.—The last sentence of clause (ii) of
 14 section 864(b)(2)(A) (relating to stock or securities) is
 15 amended by striking “, or in the case of a corporation”
 16 and all that follows and inserting a period.

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

20 **Subtitle H—Other Provisions**

21 **SEC. 1171. DEFINITION OF FOREIGN PERSONAL HOLDING**

22 **COMPANY INCOME.**

23 (a) INCOME FROM NOTIONAL PRINCIPAL CON-
 24 TRACTS AND PAYMENTS IN LIEU OF DIVIDENDS.—

1 (1) IN GENERAL.—Paragraph (1) of section
2 954(c) (defining foreign personal holding company
3 income) is amended by adding at the end the follow-
4 ing new subparagraphs:

5 “(F) INCOME FROM NOTIONAL PRINCIPAL
6 CONTRACTS.—Net income from notional prin-
7 cipal contracts. Any item of income, gain, de-
8 duction, or loss from a notional principal con-
9 tract entered into for purposes of hedging any
10 item described in any preceding subparagraph
11 shall not be taken into account for purposes of
12 this subparagraph but shall be taken into ac-
13 count under such other subparagraph.

14 “(G) PAYMENTS IN LIEU OF DIVIDENDS.—
15 Payments in lieu of dividends which are made
16 pursuant to an agreement to which section
17 1058 applies.”.

18 (2) CONFORMING AMENDMENT.—Subparagraph
19 (B) of section 954(c)(1) is amended—

20 (A) by striking the second sentence, and

21 (B) by striking “also” in the last sentence.

22 (b) EXCEPTION FOR DEALERS.—Paragraph (2) of
23 section 954(c) is amended by adding at the end the follow-
24 ing new subparagraph:

1 “(C) EXCEPTION FOR DEALERS.—Except
 2 as provided in subparagraph (A), (E), or (G) of
 3 paragraph (1) or by regulations, in the case of
 4 a regular dealer in property (within the mean-
 5 ing of paragraph (1)(B)), forward contracts,
 6 option contracts, or similar financial instru-
 7 ments (including notional principal contracts
 8 and all instruments referenced to commodities),
 9 there shall not be taken into account in comput-
 10 ing foreign personal holding income any item of
 11 income, gain, deduction, or loss from any trans-
 12 action (including hedging transactions) entered
 13 into in the ordinary course of such dealer’s
 14 trade or business as such a dealer.”.

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

18 **SEC. 1172. PERSONAL PROPERTY USED PREDOMINANTLY**
 19 **IN THE UNITED STATES TREATED AS NOT**
 20 **PROPERTY OF A LIKE KIND WITH RESPECT**
 21 **TO PROPERTY USED PREDOMINANTLY OUT-**
 22 **SIDE THE UNITED STATES.**

23 (a) IN GENERAL.—Subsection (h) of section 1031
 24 (relating to exchange of property held for productive use
 25 or investment) is amended to read as follows:

1 “(h) SPECIAL RULES FOR FOREIGN REAL AND PER-
2 SONAL PROPERTY.—For purposes of this section—

3 “(1) REAL PROPERTY.—Real property located
4 in the United States and real property located out-
5 side the United States are not property of a like
6 kind.

7 “(2) PERSONAL PROPERTY.—

8 “(A) IN GENERAL.—Personal property
9 used predominantly within the United States
10 and personal property used predominantly out-
11 side the United States are not property of a like
12 kind.

13 “(B) PREDOMINANT USE.—Except as pro-
14 vided in subparagraph (C) and (D), the pre-
15 dominant use of any property shall be deter-
16 mined based on—

17 “(i) in the case of the property relin-
18 quished in the exchange, the 2-year period
19 ending on the date of such relinquishment,
20 and

21 “(ii) in the case of the property ac-
22 quired in the exchange, the 2-year period
23 beginning on the date of such acquisition.

24 “(C) PROPERTY HELD FOR LESS THAN 2
25 YEARS.—Except in the case of an exchange

1 which is part of a transaction (or series of
2 transactions) structured to avoid the purposes
3 of this subsection—

4 “(i) only the periods the property was
5 held by the person relinquishing the prop-
6 erty (or any related person) shall be taken
7 into account under subparagraph (B)(i),
8 and

9 “(ii) only the periods the property was
10 held by the person acquiring the property
11 (or any related person) shall be taken into
12 account under subparagraph (B)(ii).

13 “(D) SPECIAL RULE FOR CERTAIN PROP-
14 PERTY.—Property described in any subpara-
15 graph of section 168(g)(4) shall be treated as
16 used predominantly in the United States.”.

17 (b) EFFECTIVE DATE.—

18 (1) IN GENERAL.—The amendment made by
19 this section shall apply to transfers after June 8,
20 1997, in taxable years ending after such date.

21 (2) BINDING CONTRACTS.—The amendment
22 made by this section shall not apply to any transfer
23 pursuant to a written binding contract in effect on
24 June 8, 1997, and at all times thereafter before the
25 disposition of property. A contract shall not fail to

1 meet the requirements of the preceding sentence
2 solely because—

3 (A) it provides for a sale in lieu of an ex-
4 change, or

5 (B) the property to be acquired as replace-
6 ment property was not identified under such
7 contract before June 9, 1997.

8 **SEC. 1173. HOLDING PERIOD REQUIREMENT FOR CERTAIN**
9 **FOREIGN TAXES.**

10 (a) IN GENERAL.—Section 901 is amended by redес-
11 ignating subsection (k) as subsection (l) and by inserting
12 after subsection (j) the following new subsection:

13 “(k) MINIMUM HOLDING PERIOD FOR CERTAIN
14 TAXES.—

15 “(1) WITHHOLDING TAXES.—

16 “(A) IN GENERAL.—In no event shall a
17 credit be allowed under subsection (a) for any
18 withholding tax on a dividend with respect to
19 stock in a corporation if—

20 “(i) such stock is held by the recipient
21 of the dividend for 15 days or less during
22 the 30-day period beginning on the date
23 which is 15 days before the date on which
24 such share becomes ex-dividend with re-
25 spect to such dividend, or

1 “(ii) to the extent that the recipient of
2 the dividend is under an obligation (wheth-
3 er pursuant to a short sale or otherwise) to
4 make related payments with respect to po-
5 sitions in substantially similar or related
6 property.

7 “(B) WITHHOLDING TAX.—For purposes
8 of this paragraph, the term ‘withholding tax’ in-
9 cludes any tax determined on a gross basis; but
10 does not include any tax which is in the nature
11 of a prepayment of a tax imposed on a net
12 basis.

13 “(2) DEEMED PAID TAXES.—In the case of in-
14 come, war profits, or excess profits taxes deemed
15 paid under section 853, 902, or 960 through a chain
16 of ownership of stock in 1 or more corporations, no
17 credit shall be allowed under subsection (a) for such
18 taxes if—

19 “(A) any stock of any corporation in such
20 chain (the ownership of which is required to ob-
21 tain credit under subsection (a) for such taxes)
22 is held for less than the period described in
23 paragraph (1)(A)(i), or

1 “(B) the corporation holding the stock is
2 under an obligation referred to in paragraph
3 (1)(A)(ii).

4 “(3) 45-DAY RULE IN THE CASE OF CERTAIN
5 PREFERENCE DIVIDENDS.—In the case of stock hav-
6 ing preference in dividends and dividends with re-
7 spect to such stock which are attributable to a pe-
8 riod or periods aggregating in excess of 366 days,
9 paragraph (1)(A)(i) shall be applied—

10 “(A) by substituting ‘45 days’ for ‘15
11 days’ each place it appears, and

12 “(B) by substituting ‘90-day period’ for
13 ‘30-day period’.

14 “(4) EXCEPTION FOR CERTAIN TAXES PAID BY
15 SECURITIES DEALERS.—

16 “(A) IN GENERAL.—Paragraphs (1) and
17 (2) shall not apply to any qualified tax with re-
18 spect to any security held in the active conduct
19 in a foreign country of a securities business of
20 any person—

21 “(i) who is registered as a securities
22 broker or dealer under section 15(a) of the
23 Securities Exchange Act of 1934,

1 “(ii) who is registered as a Govern-
2 ment securities broker or dealer under sec-
3 tion 15C(a) of such Act, or

4 “(iii) who is licensed or authorized in
5 such foreign country to conduct securities
6 activities in such country and is subject to
7 bona fide regulation by a securities regu-
8 lating authority of such country.

9 “(B) QUALIFIED TAX.—For purposes of
10 subparagraph (A), the term ‘qualified tax’
11 means a tax paid to a foreign country (other
12 than the foreign country referred to in subpara-
13 graph (A)) if—

14 “(i) the dividend to which such tax is
15 attributable is subject to taxation on a net
16 basis by the country referred to in sub-
17 paragraph (A), and

18 “(ii) such country allows a credit
19 against its net basis tax for the full
20 amount of the tax paid to such other for-
21 eign country.

22 “(C) REGULATIONS.—The Secretary may
23 prescribe such regulations as may be appro-
24 priate to prevent the abuse of the exception
25 provided by this paragraph.

1 “(5) CERTAIN RULES TO APPLY.—For purposes
2 of this subsection, the rules of paragraphs (3) and
3 (4) of section 246(c) shall apply.

4 “(6) TREATMENT OF BONA FIDE SALES.—If a
5 person’s holding period is reduced by reason of the
6 application of the rules of section 246(c)(4) to any
7 contract for the bona fide sale of stock, the deter-
8 mination of whether such person’s holding period
9 meets the requirements of paragraph (2) shall be
10 made as of the date such contract is entered into.

11 “(7) TAXES ALLOWED AS DEDUCTION, ETC.—
12 Sections 275 and 78 shall not apply to any tax
13 which is not allowable as a credit under subsection
14 (a) by reason of this subsection.”.

15 (b) NOTICE OF WITHHOLDING TAXES PAID BY REG-
16 ULATED INVESTMENT COMPANY.—Subsection (c) of sec-
17 tion 853 (relating to foreign tax credit allowed to share-
18 holders) is amended by adding at the end the following
19 new sentence: “Such notice shall also include the amount
20 of such taxes which (without regard to the election under
21 this section) would not be allowable as a credit under sec-
22 tion 901(a) to the regulated investment company by rea-
23 son of section 901(k).”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to dividends paid or accrued more
3 than 30 days after the date of the enactment of this Act.

4 **SEC. 1174. PENALTIES FOR FAILURE TO DISCLOSE POSI-**
5 **TION THAT CERTAIN INTERNATIONAL TRANS-**
6 **PORTATION INCOME IS NOT INCLUDIBLE IN**
7 **GROSS INCOME.**

8 (a) IN GENERAL.—Section 883 is amended by adding
9 at the end the following new subsection:

10 “(d) PENALTIES FOR FAILURE TO DISCLOSE POSI-
11 TION THAT CERTAIN INTERNATIONAL TRANSPORTATION
12 INCOME IS NOT INCLUDIBLE IN GROSS INCOME.—

13 “(1) IN GENERAL.—A taxpayer who, with re-
14 spect to any tax imposed by this title, takes the posi-
15 tion that any of its gross income derived from the
16 international operation of 1 or more ships or aircraft
17 is not includible in gross income by reason of para-
18 graph (1) or (2) of subsection (a) or paragraph (1)
19 or (2) of section 872(b) (or by reason of any appli-
20 cable treaty) shall be entitled to such treatment only
21 if such position is disclosed (in such manner as the
22 Secretary may prescribe) on the return of tax for
23 such tax (or any statement attached to such return).

24 “(2) ADDITIONAL PENALTIES FOR FAILING TO
25 DISCLOSE POSITION.—If a taxpayer fails to meet the

1 requirement of paragraph (1) for any taxable year
2 with respect to the international operation of 1 or
3 more ships or 1 or more aircraft—

4 “(A) the amount of the income from the
5 international operation to which such failure re-
6 lates—

7 “(i) which is from sources without the
8 United States, and

9 “(ii) which is attributable to a fixed
10 place of business in the United States,

11 shall be treated for purposes of this title as ef-
12 fectively connected with the conduct of a trade
13 or business within the United States, and

14 “(B) no deductions or credits shall be al-
15 lowed which are attributable to income from the
16 international operation to which the failure re-
17 lates.

18 “(3) REASONABLE CAUSE EXCEPTION.—This
19 subsection shall not apply to a failure to disclose a
20 position if it is shown that such failure is due to rea-
21 sonable cause and not due to willful neglect.”.

22 (b) CONFORMING AMENDMENTS.—Paragraphs (1)
23 and (2) of section 872(b), and paragraphs (1) and (2) of
24 section 883(a), are each amended by striking “Gross in-

1 come” each place it appears and inserting “Except as pro-
2 vided in section 883(d), gross income”.

3 (c) EFFECTIVE DATE.—

4 (1) IN GENERAL.—The amendments made by
5 this section shall apply to taxable years beginning
6 after December 31, 1997.

7 (2) COORDINATION WITH TREATIES.—The
8 amendments made by this section shall not apply in
9 any case where their application would be contrary
10 to any treaty obligation of the United States.

11 (d) INFORMATION TO BE PROVIDED BY CUSTOMS
12 SERVICE.—The United States Custom Service shall pro-
13 vide the Secretary of the Treasury or his delegate with
14 such information as may be specified by such Secretary
15 in order to enable such Secretary to determine whether
16 ships which are not registered in the United States are
17 engaged in transportation to or from the United States.

18 **SEC. 1175. DENIAL OF TREATY BENEFITS FOR CERTAIN**
19 **PAYMENTS THROUGH HYBRID ENTITIES.**

20 A foreign person shall be entitled under any income
21 tax treaty of the United States with a foreign country to
22 any reduced rate of any withholding tax imposed by the
23 Internal Revenue Code of 1986 on an item of income de-
24 rived through any partnership or other pass-thru entity
25 only to the extent that such item is treated for purposes

1 of the taxation laws of such foreign country as an item
2 of income of such person. The preceding sentence shall
3 not apply if—

4 (1) the treaty contains a provision addressing
5 the applicability of the treaty in the case of an item
6 of income derived through a partnership, or

7 (2) the foreign country imposes tax on a dis-
8 tribution of such item of income from such partner-
9 ship to such person.

10 **SEC. 1176. INTEREST ON UNDERPAYMENTS NOT REDUCED**
11 **BY FOREIGN TAX CREDIT CARRYBACKS.**

12 (a) IN GENERAL.—Subsection (d) of section 6601 is
13 amended by redesignating paragraphs (2) and (3) as para-
14 graphs (3) and (4), respectively, and by inserting after
15 paragraph (1) the following new paragraph:

16 “(2) FOREIGN TAX CREDIT CARRYBACKS.—If
17 any credit allowed for any taxable year is increased
18 by reason of a carryback of tax paid or accrued to
19 foreign countries or possessions of the United
20 States, such increase shall not affect the computa-
21 tion of interest under this section for the period end-
22 ing with the filing date for the taxable year in which
23 such taxes were in fact paid or accrued, or, with re-
24 spect to any portion of such credit carryback from
25 a taxable year attributable to a net operating loss

1 carryback or a capital loss carryback from a subse-
2 quent taxable year, such increase shall not affect the
3 computation of interest under this section for the
4 period ending with the filing date for such subse-
5 quent taxable year.”.

6 (b) CONFORMING AMENDMENT TO REFUNDS AT-
7 TRIBUTABLE TO FOREIGN TAX CREDIT CARRYBACKS.—

8 (1) IN GENERAL.—Subsection (f) of section
9 6611 is amended by redesignating paragraphs (2)
10 and (3) as paragraphs (3) and (4), respectively, and
11 by inserting after paragraph (1) the following new
12 paragraph:

13 “(2) FOREIGN TAX CREDIT CARRYBACKS.—For
14 purposes of subsection (a), if any overpayment of
15 tax imposed by subtitle A results from a carryback
16 of tax paid or accrued to foreign countries or posses-
17 sions of the United States, such overpayment shall
18 be deemed not to have been made before the filing
19 date for the taxable year in which such taxes were
20 in fact paid or accrued, or, with respect to any por-
21 tion of such credit carryback from a taxable year at-
22 tributable to a net operating loss carryback or a cap-
23 ital loss carryback from a subsequent taxable year,
24 such overpayment shall be deemed not to have been

1 made before the filing date for such subsequent tax-
2 able year.”.

3 (2) CONFORMING AMENDMENTS.—

4 (A) Paragraph (4) of section 6611(f) (as
5 so redesignated) is amended—

6 (i) by striking “PARAGRAPHS (1) AND
7 (2)” and inserting “PARAGRAPHS (1), (2),
8 AND (3)”, and

9 (ii) by striking “paragraph (1) or (2)”
10 each place it appears and inserting “para-
11 graph (1), (2), or (3)”.

12 (B) Clause (ii) of section 6611(f)(4)(B) (as
13 so redesignated) is amended by striking “and”
14 at the end of subclause (I), by redesignating
15 subclause (II) as subclause (III), and by insert-
16 ing after subclause (I) the following new sub-
17 clause:

18 “(II) in the case of a carryback
19 of taxes paid or accrued to foreign
20 countries or possessions of the United
21 States, the taxable year in which such
22 taxes were in fact paid or accrued (or,
23 with respect to any portion of such
24 carryback from a taxable year attrib-
25 utable to a net operating loss

1 carryback or a capital loss carryback
2 from a subsequent taxable year, such
3 subsequent taxable year), and”.

4 (C) Subclause (III) of section
5 6611(f)(4)(B)(ii) (as so redesignated) is amend-
6 ed by inserting “(as defined in paragraph
7 (3)(B))” after “credit carryback” the first place
8 it appears.

9 (D) Section 6611 is amended by striking
10 subsection (g) and by redesignating subsections
11 (h) and (i) as subsections (g) and (h), respec-
12 tively.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to carrybacks arising in taxable
15 years beginning after the date of the enactment of this
16 Act.

17 **SEC. 1177. CLARIFICATION OF PERIOD OF LIMITATIONS ON**
18 **CLAIM FOR CREDIT OR REFUND ATTRIB-**
19 **UTABLE TO FOREIGN TAX CREDIT**
20 **CARRYFORWARD.**

21 (a) IN GENERAL.—Subparagraph (A) of section
22 6511(d)(3) is amended by striking “for the year with re-
23 spect to which the claim is made” and inserting “for the
24 year in which such taxes were actually paid or accrued”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to taxes paid or accrued in tax-
3 able years beginning after the date of the enactment of
4 this Act.

5 **SEC. 1178. MISCELLANEOUS CLARIFICATIONS.**

6 (a) ATTRIBUTION OF DEEMED PAID FOREIGN TAXES
7 TO PRIOR DISTRIBUTIONS.—Subparagraph (B) of section
8 902(c)(2) is amended by striking “deemed paid with re-
9 spect to” and inserting “attributable to”.

10 (b) FINANCIAL SERVICES INCOME DETERMINED
11 WITHOUT REGARD TO HIGH-TAXED INCOME.—Subclause
12 (II) of section 904(d)(2)(C)(i) is amended by striking
13 “subclause (I)” and inserting “subclauses (I) and (III)”.

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

17 **TITLE XII—SIMPLIFICATION**
18 **PROVISIONS RELATING TO IN-**
19 **DIVIDUALS AND BUSINESSES**
20 **Subtitle A—Provisions Relating to**
21 **Individuals**

22 **SEC. 1201. BASIC STANDARD DEDUCTION AND MINIMUM**
23 **TAX EXEMPTION AMOUNT FOR CERTAIN DE-**
24 **PENDENTS.**

25 (a) BASIC STANDARD DEDUCTION.—

1 (1) IN GENERAL.—Paragraph (5) of section
2 63(c) (relating to limitation on basic standard de-
3 duction in the case of certain dependents) is amend-
4 ed by striking “shall not exceed” and all that follows
5 and inserting “shall not exceed the greater of—

6 “(A) \$500, or

7 “(B) the sum of \$250 and such individ-
8 ual’s earned income.”.

9 (2) CONFORMING AMENDMENT.—Paragraph (4)
10 of section 63(c) is amended—

11 (A) by striking “(5)(A)” in the material
12 preceding subparagraph (A) and inserting
13 “(5)”, and

14 (B) by striking “by substituting” and all
15 that follows in subparagraph (B) and inserting
16 “by substituting for ‘calendar year 1992’ in
17 subparagraph (B) thereof—

18 “(i) ‘calendar year 1987’ in the case
19 of the dollar amounts contained in para-
20 graph (2) or (5)(A) or subsection (f), and

21 “(ii) ‘calendar year 1997’ in the case
22 of the dollar amount contained in para-
23 graph (5)(B).”.

24 (b) MINIMUM TAX EXEMPTION AMOUNT.—Sub-
25 section (j) of section 59 is amended to read as follows:

1 “(j) TREATMENT OF UNEARNED INCOME OF MINOR
2 CHILDREN.—

3 “(1) IN GENERAL.—In the case of a child to
4 whom section 1(g) applies, the exemption amount
5 for purposes of section 55 shall not exceed the sum
6 of—

7 “(A) such child’s earned income (as de-
8 fined in section 911(d)(2)) for the taxable year,
9 plus

10 “(B) \$5,000.

11 “(2) INFLATION ADJUSTMENT.—In the case of
12 any taxable year beginning in a calendar year after
13 1998, the dollar amount in paragraph (1)(B) shall
14 be increased by an amount equal to the product of—

15 “(A) such dollar amount, and

16 “(B) the cost-of-living adjustment deter-
17 mined under section 1(f)(3) for the calendar
18 year in which the taxable year begins, deter-
19 mined by substituting ‘1997’ for ‘1992’ in sub-
20 paragraph (B) thereof.

21 If any increase determined under the preceding sen-
22 tence is not a multiple of \$50, such increase shall
23 be rounded to the nearest multiple of \$50.”.

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

4 **SEC. 1202. INCREASE IN AMOUNT OF TAX EXEMPT FROM**
5 **ESTIMATED TAX REQUIREMENTS.**

6 (a) IN GENERAL.—Paragraph (1) of section 6654(e)
7 (relating to exception where tax is small amount) is
8 amended by striking “\$500” and inserting “\$1,000”.

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

12 **SEC. 1203. OPTIONAL METHODS FOR COMPUTING SECA TAX**
13 **COMBINED.**

14 (a) INTERNAL REVENUE CODE.—

15 (1) IN GENERAL.—Subsection (h) of section
16 1402 is amended to read as follows:

17 “(h) OPTIONAL METHOD FOR COMPUTING SELF-EM-
18 PLOYMENT INCOME.—

19 “(1) INDIVIDUALS.—In the case of any trade or
20 business which is carried on by an individual—

21 “(A) if the gross income derived by him
22 from such trade or business is not more than
23 the upper limit for the taxable year, the net
24 earnings from self-employment derived by him
25 from such trade or business may, at his option,

1 be deemed to be $66\frac{2}{3}$ percent of such gross in-
2 come, or

3 “(B) if the gross income derived by him
4 from such trade or business is more than the
5 upper limit for the taxable year and the net
6 earnings from self-employment derived by him
7 from such trade or business (computed under
8 subsection (a) without regard to this sentence)
9 are less than the lower limit for the taxable
10 year, the net earnings from self-employment de-
11 rived by him from such trade or business may,
12 at his option, be deemed to be the lower limit
13 for the taxable year.

14 “(2) MEMBER OF A PARTNERSHIP.—In the case
15 of a member of a partnership carrying on any trade
16 or business—

17 “(A) if his distributive share of the gross
18 income of the partnership derived from such
19 trade or business (after such gross income has
20 been reduced by the sum of all payments to
21 which section 707(c) applies) is not more than
22 the upper limit for the taxable year, his dis-
23 tributive share of income described in section
24 702(a)(8) derived from such trade or business
25 may, at his option, be deemed to be an amount

1 equal to $66\frac{2}{3}$ percent of his distributive share
2 of such gross income (after such gross income
3 has been so reduced), or

4 “(B) if his distributive share of the gross
5 income of the partnership derived from such
6 trade or business (after such gross income has
7 been reduced by the sum of all payments to
8 which section 707(c) applies) is more than the
9 upper limit for the taxable year and his dis-
10 tributive share (whether or not distributed) of
11 income described in section 702(a)(8) derived
12 from such trade or business (computed under
13 this subsection without regard to this sentence)
14 is less than the lower limit for the taxable year,
15 his distributive share of income described in
16 section 702(a)(8) derived from such trade or
17 business may, at his option, be deemed to be
18 the lower limit for the taxable year.

19 “(3) UPPER AND LOWER LIMITS.—For pur-
20 poses of this subsection—

21 “(A) LOWER LIMIT.—The lower limit for
22 any taxable year is the sum of the amounts ap-
23 plicable under section 213(d) of the Social Se-
24 curity Act for calendar quarters ending with or
25 within such taxable year.

1 “(B) UPPER LIMIT.—The upper limit for
2 any taxable year is the amount equal to 150
3 percent of the lower limit for such taxable year.

4 “(4) DETERMINATION OF GROSS INCOME.—For
5 purposes of this subsection, the term ‘gross income’
6 means—

7 “(A) in the case of any such trade or busi-
8 ness in which the income is computed under a
9 cash receipts and disbursements method, the
10 gross receipts from such trade or business re-
11 duced by the cost or other basis of property
12 which was purchased and sold in carrying on
13 such trade or business, adjusted (after such re-
14 duction) in accordance with the provisions of
15 paragraphs (1) through (7) and paragraph (9)
16 of subsection (a), and

17 “(B) in the case of any such trade or busi-
18 ness in which the income is computed under an
19 accrual method, the gross income from such
20 trade or business, adjusted in accordance with
21 the provisions of paragraphs (1) through (7)
22 and paragraph (9) of subsection (a).

23 “(5) INCOME DERIVED FROM MORE THAN 1
24 TRADE OR BUSINESS.—For purposes of this sub-
25 section, if an individual (including a member of a

1 partnership) derives gross income from more than 1
2 such trade or business, such gross income (including
3 his distributive share of the gross income of any
4 partnership derived from any such trade or busi-
5 ness) shall be deemed to have been derived from one
6 trade or business.

7 “(6) ELECTION.—The option under
8 this subsection shall be allowed for any
9 taxable year only if elected on the first re-
10 turn filed for such taxable year.”.

11 (2) CONFORMING AMENDMENT.—Subsection (a)
12 of section 1402 is amended by striking all that fol-
13 lows the first sentence following paragraph (15) and
14 inserting “For optional method of determining net
15 earnings from self-employment, see subsection (h).”.

16 (b) SOCIAL SECURITY ACT.—Subsection (g) of sec-
17 tion 211 of the Social Security Act is amended to read
18 as follows:

19 “(g) OPTIONAL METHOD FOR COMPUTING SELF-EM-
20 PLOYMENT INCOME.—

21 “(1) INDIVIDUALS.—In the case of any trade or
22 business which is carried on by an individual—

23 “(A) if the gross income derived by him
24 from such trade or business is not more than
25 the upper limit for the taxable year, the net

1 earnings from self-employment derived by him
2 from such trade or business may, at his option,
3 be deemed to be $66\frac{2}{3}$ percent of such gross in-
4 come, or

5 “(B) if the gross income derived by him
6 from such trade or business is more than the
7 upper limit for the taxable year and the net
8 earnings from self-employment derived by him
9 from such trade or business (computed under
10 subsection (a) without regard to this sentence)
11 are less than the lower limit for the taxable
12 year, the net earnings from self-employment de-
13 rived by him from such trade or business may,
14 at his option, be deemed to be the lower limit
15 for the taxable year.

16 “(2) MEMBER OF A PARTNERSHIP.—In the case
17 of a member of a partnership carrying on any trade
18 or business—

19 “(A) if his distributive share of the gross
20 income of the partnership derived from such
21 trade or business (after such gross income has
22 been reduced by the sum of all payments to
23 which section 707(c) of the Internal Revenue
24 Code of 1986 applies) is not more than the
25 upper limit for the taxable year, his distributive

1 share of income described in section 702(a)(8)
2 of such Code derived from such trade or busi-
3 ness may, at his option, be deemed to be an
4 amount equal to $66\frac{2}{3}$ percent of his distributive
5 share of such gross income (after such gross in-
6 come has been so reduced), or

7 “(B) if his distributive share of the gross
8 income of the partnership derived from such
9 trade or business (after such gross income has
10 been reduced by the sum of all payments to
11 which section 707(c) of such Code applies) is
12 more than the upper limit for the taxable year
13 and his distributive share (whether or not dis-
14 tributed) of income described in section
15 702(a)(8) of such Code derived from such trade
16 or business (computed under this subsection
17 without regard to this sentence) is less than the
18 lower limit for the taxable year, his distributive
19 share of income described in section 702(a)(8)
20 of such Code derived from such trade or busi-
21 ness may, at his option, be deemed to be the
22 lower limit for the taxable year.

23 “(3) UPPER AND LOWER LIMITS.—For pur-
24 poses of this subsection—

1 “(A) LOWER LIMIT.—The lower limit for
2 any taxable year is the sum of the amounts ap-
3 plicable under section 213(d) for calendar quar-
4 ters ending with or within such taxable year.

5 “(B) UPPER LIMIT.—The upper limit for
6 any taxable year is the amount equal to 150
7 percent of the lower limit for such taxable year.

8 “(4) DETERMINATION OF GROSS INCOME.—For
9 purposes of this subsection, the term ‘gross income’
10 means—

11 “(A) in the case of any such trade or busi-
12 ness in which the income is computed under a
13 cash receipts and disbursements method, the
14 gross receipts from such trade or business re-
15 duced by the cost or other basis of property
16 which was purchased and sold in carrying on
17 such trade or business, adjusted (after such re-
18 duction) in accordance with the provisions of
19 paragraphs (1) through (6) and paragraph (8)
20 of subsection (a), and

21 “(B) in the case of any such trade or busi-
22 ness in which the income is computed under an
23 accrual method, the gross income from such
24 trade or business, adjusted in accordance with

1 the provisions of paragraphs (1) through (6)
2 and paragraph (8) of subsection (a).

3 “(5) INCOME DERIVED FROM MORE THAN 1
4 TRADE OR BUSINESS.—For purposes of this sub-
5 section, if an individual (including a member of a
6 partnership) derives gross income from more than 1
7 such trade or business, such gross income (including
8 his distributive share of the gross income of any
9 partnership derived from any such trade or busi-
10 ness) shall be deemed to have been derived from one
11 trade or business.

12 “(6) ELECTION.—The option under this sub-
13 section shall be allowed for any taxable year only if
14 elected on the first return filed for such taxable
15 year.”.

16 (2) CONFORMING AMENDMENT.—Subsection (a)
17 of section 211 of the Social Security Act is amended
18 by striking all that follows the first sentence follow-
19 ing paragraph (15) and inserting “For optional
20 method of determining net earnings from self-em-
21 ployment, see subsection (g).”.

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

1 **SEC. 1204. TREATMENT OF CERTAIN REIMBURSED EX-**
2 **PENSES OF RURAL MAIL CARRIERS.**

3 (a) IN GENERAL.—Section 162 (relating to trade or
4 business expenses) is amended by redesignating subsection
5 (o) as subsection (p) and by inserting after subsection (n)
6 the following new subsection:

7 “(o) TREATMENT OF CERTAIN REIMBURSED EX-
8 PENSES OF RURAL MAIL CARRIERS.—

9 “(1) GENERAL RULE.—In the case of any em-
10 ployee of the United States Postal Service who per-
11 forms services involving the collection and delivery of
12 mail on a rural route and who receives qualified re-
13 imbursements for the expenses incurred by such em-
14 ployee for the use of a vehicle in performing such
15 services—

16 “(A) the amount allowable as a deduction
17 under this chapter for the use of a vehicle in
18 performing such services shall be equal to the
19 amount of such qualified reimbursements; and

20 “(B) such qualified reimbursements shall
21 be treated as paid under a reimbursement or
22 other expense allowance arrangement for pur-
23 poses of section 62(a)(2)(A) (and section 62(c)
24 shall not apply to such qualified reimburse-
25 ments).

1 “(2) DEFINITION OF QUALIFIED REIMBURSE-
2 MENTS.—For purposes of this subsection, the term
3 ‘qualified reimbursements’ means the amounts paid
4 by the United States Postal Service to employees as
5 an equipment maintenance allowance under the
6 1991 collective bargaining agreement between the
7 United States Postal Service and the National Rural
8 Letter Carriers’ Association. Amounts paid as an
9 equipment maintenance allowance by such Postal
10 Service under later collective bargaining agreements
11 that supersede the 1991 agreement shall be consid-
12 ered qualified reimbursements if such amounts do
13 not exceed the amounts that would have been paid
14 under the 1991 agreement, adjusted for changes in
15 the Consumer Price Index (as defined in section
16 1(f)(5)) since 1991.”.

17 (b) TECHNICAL AMENDMENT.—Section 6008 of the
18 Technical and Miscellaneous Revenue Act of 1988 is here-
19 by repealed.

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

1 **SEC. 1205. TREATMENT OF TRAVELING EXPENSES OF CER-**
2 **TAIN FEDERAL EMPLOYEES ENGAGED IN**
3 **CRIMINAL INVESTIGATIONS.**

4 (a) **IN GENERAL.**—Subsection (a) of section 162 is
5 amended by adding at the end the following new sentence:
6 “The preceding sentence shall not apply to any Federal
7 employee during any period for which such employee is
8 certified by the Attorney General (or the designee thereof)
9 as traveling on behalf of the United States in temporary
10 duty status to investigate, or provide support services for
11 the investigation of, a Federal crime.”.

12 (b) **EFFECTIVE DATE.**—The amendment made by
13 subsection (a) shall apply to amounts paid or incurred
14 with respect to taxable years ending after the date of the
15 enactment of this Act.

16 **SEC. 1206. PAYMENT OF TAX BY COMMERCIALY ACCEPT-**
17 **ABLE MEANS.**

18 (a) **GENERAL RULE.**—Section 6311 is amended to
19 read as follows:

20 **“SEC. 6311. PAYMENT OF TAX BY COMMERCIALY ACCEPT-**
21 **ABLE MEANS.**

22 “(a) **AUTHORITY TO RECEIVE.**—It shall be lawful for
23 the Secretary to receive for internal revenue taxes (or in
24 payment for internal revenue stamps) any commercially
25 acceptable means that the Secretary deems appropriate to

1 the extent and under the conditions provided in regula-
2 tions prescribed by the Secretary.

3 “(b) ULTIMATE LIABILITY.—If a check, money
4 order, or other method of payment, including payment by
5 credit card, debit card, or charge card so received is not
6 duly paid, or is paid and subsequently charged back to
7 the Secretary, the person by whom such check, or money
8 order, or other method of payment has been tendered shall
9 remain liable for the payment of the tax or for the stamps,
10 and for all legal penalties and additions, to the same ex-
11 tent as if such check, money order, or other method of
12 payment had not been tendered.

13 “(c) LIABILITY OF BANKS AND OTHERS.—If any cer-
14 tified, treasurer’s, or cashier’s check (or other guaranteed
15 draft), or any money order, or any other means of pay-
16 ment that has been guaranteed by a financial institution
17 (such as a credit card, debit card, or charge card trans-
18 action which has been guaranteed expressly by a financial
19 institution) so received is not duly paid, the United States
20 shall, in addition to its right to exact payment from the
21 party originally indebted therefor, have a lien for—

22 “(1) the amount of such check (or draft) upon
23 all assets of the financial institution on which
24 drawn,

1 “(2) the amount of such money order upon all
2 the assets of the issuer thereof, or

3 “(3) the guaranteed amount of any other trans-
4 action upon all the assets of the institution making
5 such guarantee,

6 and such amount shall be paid out of such assets in pref-
7 erence to any other claims whatsoever against such finan-
8 cial institution, issuer, or guaranteeing institution, except
9 the necessary costs and expenses of administration and
10 the reimbursement of the United States for the amount
11 expended in the redemption of the circulating notes of
12 such financial institution.

13 “(d) PAYMENT BY OTHER MEANS.—

14 “(1) AUTHORITY TO PRESCRIBE REGULA-
15 TIONS.—The Secretary shall prescribe such regula-
16 tions as the Secretary deems necessary to receive
17 payment by commercially acceptable means, includ-
18 ing regulations that—

19 “(A) specify which methods of payment by
20 commercially acceptable means will be accept-
21 able,

22 “(B) specify when payment by such means
23 will be considered received,

24 “(C) identify types of nontax matters re-
25 lated to payment by such means that are to be

1 resolved by persons ultimately liable for pay-
2 ment and financial intermediaries, without the
3 involvement of the Secretary, and

4 “(D) ensure that tax matters will be re-
5 solved by the Secretary, without the involve-
6 ment of financial intermediaries.

7 “(2) AUTHORITY TO ENTER INTO CON-
8 TRACTS.—Notwithstanding section 3718(f) of title
9 31, United States Code, the Secretary is authorized
10 to enter into contracts to obtain services related to
11 receiving payment by other means where cost bene-
12 ficial to the Government.

13 “(3) SPECIAL PROVISIONS FOR USE OF CREDIT
14 CARDS.—If use of credit cards is accepted as a
15 method of payment of taxes pursuant to subsection
16 (a)—

17 “(A) a payment of internal revenue taxes
18 (or a payment for internal revenue stamps) by
19 a person by use of a credit card shall not be
20 subject to section 161 of the Truth-in-Lending
21 Act (15 U.S.C. 1666), or to any similar provi-
22 sions of State law, if the error alleged by the
23 person is an error relating to the underlying tax
24 liability, rather than an error relating to the
25 credit card account such as a computational

1 error or numerical transposition in the credit
2 card transaction or an issue as to whether the
3 person authorized payment by use of the credit
4 card,

5 “(B) a payment of internal revenue taxes
6 (or a payment for internal revenue stamps)
7 shall not be subject to section 170 of the Truth-
8 in-Lending Act (15 U.S.C. 1666i), or to any
9 similar provisions of State law,

10 “(C) a payment of internal revenue taxes
11 (or a payment for internal revenue stamps) by
12 a person by use of a debit card shall not be
13 subject to section 908 of the Electronic Fund
14 Transfer Act (15 U.S.C. 1693f), or to any simi-
15 lar provisions of State law, if the error alleged
16 by the person is an error relating to the under-
17 lying tax liability, rather than an error relating
18 to the debit card account such as a computa-
19 tional error or numerical transposition in the
20 debit card transaction or an issue as to whether
21 the person authorized payment by use of the
22 debit card,

23 “(D) the term ‘creditor’ under section
24 103(f) of the Truth-in-Lending Act (15 U.S.C.
25 1602(f)) shall not include the Secretary with re-

1 spect to credit card transactions in payment of
2 internal revenue taxes (or payment for internal
3 revenue stamps), and

4 “(E) notwithstanding any other provision
5 of law to the contrary, in the case of payment
6 made by credit card or debit card transaction of
7 an amount owed to a person as the result of the
8 correction of an error under section 161 of the
9 Truth-in-Lending Act (15 U.S.C. 1666) or sec-
10 tion 908 of the Electronic Fund Transfer Act
11 (15 U.S.C. 1693f), the Secretary is authorized
12 to provide such amount to such person as a
13 credit to that person’s credit card or debit card
14 account through the applicable credit card or
15 debit card system.

16 “(e) CONFIDENTIALITY OF INFORMATION.—

17 “(1) IN GENERAL.—Except as otherwise au-
18 thorized by this subsection, no person may use or
19 disclose any information relating to credit or debit
20 card transactions obtained pursuant to section
21 6103(k)(8) other than for purposes directly related
22 to the processing of such transactions, or the billing
23 or collection of amounts charged or debited pursuant
24 thereto.

25 “(2) EXCEPTIONS.—

1 “(A) Debit or credit card issuers or others
2 acting on behalf of such issuers may also use
3 and disclose such information for purposes di-
4 rectly related to servicing an issuer’s accounts.

5 “(B) Debit or credit card issuers or others
6 directly involved in the processing of credit or
7 debit card transactions or the billing or collec-
8 tion of amounts charged or debited thereto may
9 also use and disclose such information for pur-
10 poses directly related to—

11 “(i) statistical risk and profitability
12 assessment;

13 “(ii) transferring receivables, ac-
14 counts, or interest therein;

15 “(iii) auditing the account informa-
16 tion;

17 “(iv) complying with Federal, State,
18 or local law; and

19 “(v) properly authorized civil, crimi-
20 nal, or regulatory investigation by Federal,
21 State, or local authorities.

22 “(3) PROCEDURES.—Use and disclosure of in-
23 formation under this paragraph shall be made only
24 to the extent authorized by written procedures pro-
25 mulgated by the Secretary.

1 “(4) CROSS REFERENCE.—

“**For provision providing for civil damages for violation of paragraph (1), see section 7431.**”.

2 (b) SEPARATE APPROPRIATION REQUIRED FOR PAY-
3 MENT OF CREDIT CARD FEES.—No amount may be paid
4 by the United States to a credit card issuer for the right
5 to receive payments of internal revenue taxes by credit
6 card without a separate appropriation therefor.

7 (c) CLERICAL AMENDMENT.—The table of sections
8 for subchapter B of chapter 64 is amended by striking
9 the item relating to section 6311 and inserting the follow-
10 ing:

“Sec. 6311. Payment of tax by commercially acceptable means.”.

11 (d) AMENDMENTS TO SECTIONS 6103 AND 7431
12 WITH RESPECT TO DISCLOSURE AUTHORIZATION.—

13 (1) Subsection (k) of section 6103 (relating to
14 confidentiality and disclosure of returns and return
15 information) is amended by adding at the end the
16 following new paragraph:

17 “(8) DISCLOSURE OF INFORMATION TO ADMIN-
18 ISTER SECTION 6311.—The Secretary may disclose
19 returns or return information to financial institu-
20 tions and others to the extent the Secretary deems
21 necessary for the administration of section 6311.
22 Disclosures of information for purposes other than
23 to accept payments by checks or money orders shall

1 be made only to the extent authorized by written
2 procedures promulgated by the Secretary.”.

3 (2) Section 7431 (relating to civil damages for
4 unauthorized disclosure of returns and return infor-
5 mation) is amended by adding at the end the follow-
6 ing new subsection:

7 “(g) SPECIAL RULE FOR INFORMATION OBTAINED
8 UNDER SECTION 6103(k)(8).—For purposes of this sec-
9 tion, any reference to section 6103 shall be treated as in-
10 cluding a reference to section 6311(e).”.

11 (3) Section 6103(p)(3)(A) is amended by strik-
12 ing “or (6)” and inserting “(6), or (8)”.

13 (e) EFFECTIVE DATE.—The amendments made by
14 this section shall take effect on the day 9 months after
15 the date of the enactment of this Act.

16 **Subtitle B—Provisions Relating to** 17 **Businesses Generally**

18 **SEC. 1211. MODIFICATIONS TO LOOK-BACK METHOD FOR** 19 **LONG-TERM CONTRACTS.**

20 (a) LOOK-BACK METHOD NOT TO APPLY IN CER-
21 TAIN CASES.—Subsection (b) of section 460 (relating to
22 percentage of completion method) is amended by adding
23 at the end the following new paragraph:

24 “(6) ELECTION TO HAVE LOOK-BACK METHOD
25 NOT APPLY IN DE MINIMIS CASES.—

1 “(A) AMOUNTS TAKEN INTO ACCOUNT
2 AFTER COMPLETION OF CONTRACT.—Para-
3 graph (1)(B) shall not apply with respect to
4 any taxable year (beginning after the taxable
5 year in which the contract is completed) if—

6 “(i) the cumulative taxable income (or
7 loss) under the contract as of the close of
8 such taxable year, is within

9 “(ii) 10 percent of the cumulative
10 look-back taxable income (or loss) under
11 the contract as of the close of the most re-
12 cent taxable year to which paragraph
13 (1)(B) applied (or would have applied but
14 for subparagraph (B)).

15 “(B) DE MINIMIS DISCREPANCIES.—Para-
16 graph (1)(B) shall not apply in any case to
17 which it would otherwise apply if—

18 “(i) the cumulative taxable income (or
19 loss) under the contract as of the close of
20 each prior contract year, is within

21 “(ii) 10 percent of the cumulative
22 look-back income (or loss) under the con-
23 tract as of the close of such prior contract
24 year.

1 “(C) DEFINITIONS.—For purposes of this
2 paragraph—

3 “(i) CONTRACT YEAR.—The term
4 ‘contract year’ means any taxable year for
5 which income is taken into account under
6 the contract.

7 “(ii) LOOK-BACK INCOME OR LOSS.—
8 The look-back income (or loss) is the
9 amount which would be the taxable income
10 (or loss) under the contract if the alloca-
11 tion method set forth in paragraph (2)(A)
12 were used in determining taxable income.

13 “(iii) DISCOUNTING NOT APPLICA-
14 BLE.—The amounts taken into account
15 after the completion of the contract shall
16 be determined without regard to any dis-
17 counting under the 2nd sentence of para-
18 graph (2).

19 “(D) CONTRACTS TO WHICH PARAGRAPH
20 APPLIES.—This paragraph shall only apply if
21 the taxpayer makes an election under this sub-
22 paragraph. Unless revoked with the consent of
23 the Secretary, such an election shall apply to all
24 long-term contracts completed during the tax-

1 able year for which election is made or during
2 any subsequent taxable year.”.

3 (b) MODIFICATION OF INTEREST RATE.—

4 (1) IN GENERAL.—Subparagraph (C) of section
5 460(b)(2) is amended by striking “the overpayment
6 rate established by section 6621” and inserting “the
7 adjusted overpayment rate (as defined in paragraph
8 (7))”.

9 (2) ADJUSTED OVERPAYMENT RATE.—Sub-
10 section (b) of section 460 is amended by adding at
11 the end the following new paragraph:

12 “(7) ADJUSTED OVERPAYMENT RATE.—

13 “(A) IN GENERAL.—The adjusted overpay-
14 ment rate for any interest accrual period is the
15 overpayment rate in effect under section 6621
16 for the calendar quarter in which such interest
17 accrual period begins.

18 “(B) INTEREST ACCRUAL PERIOD.—For
19 purposes of subparagraph (A), the term ‘inter-
20 est accrual period’ means the period—

21 “(i) beginning on the day after the re-
22 turn due date for any taxable year of the
23 taxpayer, and

24 “(ii) ending on the return due date
25 for the following taxable year.

1 For purposes of the preceding sentence, the
2 term ‘return due date’ means the date pre-
3 scribed for filing the return of the tax imposed
4 by this chapter (determined without regard to
5 extensions).”.

6 (c) EFFECTIVE DATE.—

7 (1) IN GENERAL.—Except as provided in para-
8 graph (2), the amendments made by this section
9 shall apply to contracts completed in taxable years
10 ending after the date of the enactment of this Act.

11 (2) SUBSECTION (b).—The amendments made
12 by subsection (b) shall apply for purposes of section
13 167(g) of the Internal Revenue Code of 1986 to
14 property placed in service after September 13, 1995.

15 **SEC. 1212. MINIMUM TAX TREATMENT OF CERTAIN PROP-**
16 **ERTY AND CASUALTY INSURANCE COMPA-**
17 **NIES.**

18 (a) IN GENERAL.—Clause (i) of section 56(g)(4)(B)
19 (relating to inclusion of items included for purposes of
20 computing earnings and profits) is amended by adding at
21 the end the following new sentence: “In the case of any
22 insurance company taxable under section 831(b), this
23 clause shall not apply to any amount not described in sec-
24 tion 834(b).”.

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

4 **Subtitle C—Simplification Relating**
 5 **to Electing Large Partnerships**

6 **PART I—GENERAL PROVISIONS**

7 **SEC. 1221. SIMPLIFIED FLOW-THROUGH FOR ELECTING**
 8 **LARGE PARTNERSHIPS.**

9 (a) GENERAL RULE.—Subchapter K (relating to
 10 partners and partnerships) is amended by adding at the
 11 end the following new part:

12 **“PART IV—SPECIAL RULES FOR ELECTING**
 13 **LARGE PARTNERSHIPS**

“Sec. 771. Application of subchapter to electing large partner-
 ships.

“Sec. 772. Simplified flow-through.

“Sec. 773. Computations at partnership level.

“Sec. 774. Other modifications.

“Sec. 775. Electing large partnership defined.

“Sec. 776. Special rules for partnerships holding oil and gas prop-
 erties.

“Sec. 777. Regulations.

14 **“SEC. 771. APPLICATION OF SUBCHAPTER TO ELECTING**
 15 **LARGE PARTNERSHIPS.**

16 “The preceding provisions of this subchapter to the
 17 extent inconsistent with the provisions of this part shall
 18 not apply to an electing large partnership and its partners.

19 **“SEC. 772. SIMPLIFIED FLOW-THROUGH.**

20 “(a) GENERAL RULE.—In determining the income
 21 tax of a partner of an electing large partnership, such

1 partner shall take into account separately such partner's
2 distributive share of the partnership's—

3 “(1) taxable income or loss from passive loss
4 limitation activities,

5 “(2) taxable income or loss from other activi-
6 ties,

7 “(3) net capital gain (or net capital loss)—

8 “(A) to the extent allocable to passive loss
9 limitation activities, and

10 “(B) to the extent allocable to other activi-
11 ties,

12 “(4) tax-exempt interest,

13 “(5) applicable net AMT adjustment separately
14 computed for—

15 “(A) passive loss limitation activities, and

16 “(B) other activities,

17 “(6) general credits,

18 “(7) low-income housing credit determined
19 under section 42,

20 “(8) rehabilitation credit determined under sec-
21 tion 47,

22 “(9) foreign income taxes,

23 “(10) the credit allowable under section 29, and

1 “(11) other items to the extent that the Sec-
2 retary determines that the separate treatment of
3 such items is appropriate.

4 “(b) SEPARATE COMPUTATIONS.—In determining
5 the amounts required under subsection (a) to be sepa-
6 rately taken into account by any partner, this section and
7 section 773 shall be applied separately with respect to
8 such partner by taking into account such partner’s dis-
9 tributive share of the items of income, gain, loss, deduc-
10 tion, or credit of the partnership.

11 “(c) TREATMENT AT PARTNER LEVEL.—

12 “(1) IN GENERAL.—Except as provided in this
13 subsection, rules similar to the rules of section
14 702(b) shall apply to any partner’s distributive share
15 of the amounts referred to in subsection (a).

16 “(2) INCOME OR LOSS FROM PASSIVE LOSS LIM-
17 ITATION ACTIVITIES.—For purposes of this chapter,
18 any partner’s distributive share of any income or
19 loss described in subsection (a)(1) shall be treated as
20 an item of income or loss (as the case may be) from
21 the conduct of a trade or business which is a single
22 passive activity (as defined in section 469). A similar
23 rule shall apply to a partner’s distributive share of
24 amounts referred to in paragraphs (3)(A) and
25 (5)(A) of subsection (a).

1 “(3) INCOME OR LOSS FROM OTHER ACTIVI-
2 TIES.—

3 “(A) IN GENERAL.—For purposes of this
4 chapter, any partner’s distributive share of any
5 income or loss described in subsection (a)(2)
6 shall be treated as an item of income or expense
7 (as the case may be) with respect to property
8 held for investment.

9 “(B) DEDUCTIONS FOR LOSS NOT SUB-
10 JECT TO SECTION 67.—The deduction under
11 section 212 for any loss described in subpara-
12 graph (A) shall not be treated as a miscellane-
13 ous itemized deduction for purposes of section
14 67.

15 “(4) TREATMENT OF NET CAPITAL GAIN OR
16 LOSS.—For purposes of this chapter, any partner’s
17 distributive share of any gain or loss described in
18 subsection (a)(3) shall be treated as a long-term
19 capital gain or loss, as the case may be.

20 “(5) MINIMUM TAX TREATMENT.—In determin-
21 ing the alternative minimum taxable income of any
22 partner, such partner’s distributive share of any ap-
23 plicable net AMT adjustment shall be taken into ac-
24 count in lieu of making the separate adjustments
25 provided in sections 56, 57, and 58 with respect to

1 the items of the partnership. Except as provided in
2 regulations, the applicable net AMT adjustment
3 shall be treated, for purposes of section 53, as an
4 adjustment or item of tax preference not specified in
5 section 53(d)(1)(B)(ii).

6 “(6) GENERAL CREDITS.—A partner’s distribu-
7 tive share of the amount referred to in paragraph
8 (6) of subsection (a) shall be taken into account as
9 a current year business credit.

10 “(d) OPERATING RULES.—For purposes of this sec-
11 tion—

12 “(1) PASSIVE LOSS LIMITATION ACTIVITY.—
13 The term ‘passive loss limitation activity’ means—

14 “(A) any activity which involves the con-
15 duct of a trade or business, and

16 “(B) any rental activity.

17 For purposes of the preceding sentence, the term
18 ‘trade or business’ includes any activity treated as a
19 trade or business under paragraph (5) or (6) of sec-
20 tion 469(c).

21 “(2) TAX-EXEMPT INTEREST.—The term ‘tax-
22 exempt interest’ means interest excludable from
23 gross income under section 103.

24 “(3) APPLICABLE NET AMT ADJUSTMENT.—

1 “(A) IN GENERAL.—The applicable net
2 AMT adjustment is—

3 “(i) with respect to taxpayers other
4 than corporations, the net adjustment de-
5 termined by using the adjustments applica-
6 ble to individuals, and

7 “(ii) with respect to corporations, the
8 net adjustment determined by using the
9 adjustments applicable to corporations.

10 “(B) NET ADJUSTMENT.—The term ‘net
11 adjustment’ means the net adjustment in the
12 items attributable to passive loss activities or
13 other activities (as the case may be) which
14 would result if such items were determined with
15 the adjustments of sections 56, 57, and 58.

16 “(4) TREATMENT OF CERTAIN SEPARATELY
17 STATED ITEMS.—

18 “(A) EXCLUSION FOR CERTAIN PUR-
19 POSES.—In determining the amounts referred
20 to in paragraphs (1) and (2) of subsection (a),
21 any net capital gain or net capital loss (as the
22 case may be), and any item referred to in sub-
23 section (a)(11), shall be excluded.

24 “(B) ALLOCATION RULES.—The net cap-
25 ital gain shall be treated—

1 “(i) as allocable to passive loss limita-
2 tion activities to the extent the net capital
3 gain does not exceed the net capital gain
4 determined by only taking into account
5 gains and losses from sales and exchanges
6 of property used in connection with such
7 activities, and

8 “(ii) as allocable to other activities to
9 the extent such gain exceeds the amount
10 allocated under clause (i).

11 A similar rule shall apply for purposes of allo-
12 cating any net capital loss.

13 “(C) NET CAPITAL LOSS.—The term ‘net
14 capital loss’ means the excess of the losses from
15 sales or exchanges of capital assets over the
16 gains from sales or exchange of capital assets.

17 “(5) GENERAL CREDITS.—The term ‘general
18 credits’ means any credit other than the low-income
19 housing credit, the rehabilitation credit, the foreign
20 tax credit, and the credit allowable under section 29.

21 “(6) FOREIGN INCOME TAXES.—The term ‘for-
22 eign income taxes’ means taxes described in section
23 901 which are paid or accrued to foreign countries
24 and to possessions of the United States.

1 “(e) SPECIAL RULE FOR UNRELATED BUSINESS
2 TAX.—In the case of a partner which is an organization
3 subject to tax under section 511, such partner’s distribu-
4 tive share of any items shall be taken into account sepa-
5 rately to the extent necessary to comply with the provi-
6 sions of section 512(c)(1).

7 “(f) SPECIAL RULES FOR APPLYING PASSIVE LOSS
8 LIMITATIONS.—If any person holds an interest in an elect-
9 ing large partnership other than as a limited partner—

10 “(1) paragraph (2) of subsection (c) shall not
11 apply to such partner, and

12 “(2) such partner’s distributive share of the
13 partnership items allocable to passive loss limitation
14 activities shall be taken into account separately to
15 the extent necessary to comply with the provisions of
16 section 469.

17 The preceding sentence shall not apply to any items alloca-
18 ble to an interest held as a limited partner.

19 **“SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.**

20 “(a) GENERAL RULE.—

21 “(1) TAXABLE INCOME.—The taxable income of
22 an electing large partnership shall be computed in
23 the same manner as in the case of an individual ex-
24 cept that—

1 “(A) the items described in section 772(a)
2 shall be separately stated, and

3 “(B) the modifications of subsection (b)
4 shall apply.

5 “(2) ELECTIONS.—All elections affecting the
6 computation of the taxable income of an electing
7 large partnership or the computation of any credit
8 of an electing large partnership shall be made by the
9 partnership; except that the election under section
10 901, and any election under section 108, shall be
11 made by each partner separately.

12 “(3) LIMITATIONS, ETC.—

13 “(A) IN GENERAL.—Except as provided in
14 subparagraph (B), all limitations and other pro-
15 visions affecting the computation of the taxable
16 income of an electing large partnership or the
17 computation of any credit of an electing large
18 partnership shall be applied at the partnership
19 level (and not at the partner level).

20 “(B) CERTAIN LIMITATIONS APPLIED AT
21 PARTNER LEVEL.—The following provisions
22 shall be applied at the partner level (and not at
23 the partnership level):

24 “(i) Section 68 (relating to overall
25 limitation on itemized deductions).

1 “(ii) Sections 49 and 465 (relating to
2 at risk limitations).

3 “(iii) Section 469 (relating to limita-
4 tion on passive activity losses and credits).

5 “(iv) Any other provision specified in
6 regulations.

7 “(4) COORDINATION WITH OTHER PROVI-
8 SIONS.—Paragraphs (2) and (3) shall apply notwith-
9 standing any other provision of this chapter other
10 than this part.

11 “(b) MODIFICATIONS TO DETERMINATION OF TAX-
12 ABLE INCOME.—In determining the taxable income of an
13 electing large partnership—

14 “(1) CERTAIN DEDUCTIONS NOT ALLOWED.—
15 The following deductions shall not be allowed:

16 “(A) The deduction for personal exemp-
17 tions provided in section 151.

18 “(B) The net operating loss deduction pro-
19 vided in section 172.

20 “(C) The additional itemized deductions
21 for individuals provided in part VII of sub-
22 chapter B (other than section 212 thereof).

23 “(2) CHARITABLE DEDUCTIONS.—In determin-
24 ing the amount allowable under section 170, the lim-
25 itation of section 170(b)(2) shall apply.

1 “(3) COORDINATION WITH SECTION 67.—In lieu
2 of applying section 67, 70 percent of the amount of
3 the miscellaneous itemized deductions shall be dis-
4 allowed.

5 “(c) SPECIAL RULES FOR INCOME FROM DISCHARGE
6 OF INDEBTEDNESS.—If an electing large partnership has
7 income from the discharge of any indebtedness—

8 “(1) such income shall be excluded in determin-
9 ing the amounts referred to in section 772(a), and

10 “(2) in determining the income tax of any part-
11 ner of such partnership—

12 “(A) such income shall be treated as an
13 item required to be separately taken into ac-
14 count under section 772(a), and

15 “(B) the provisions of section 108 shall be
16 applied without regard to this part.

17 **“SEC. 774. OTHER MODIFICATIONS.**

18 “(a) TREATMENT OF CERTAIN OPTIONAL ADJUST-
19 MENTS, ETC.—In the case of an electing large partner-
20 ship—

21 “(1) computations under section 773 shall be
22 made without regard to any adjustment under sec-
23 tion 743(b) or 108(b), but

24 “(2) a partner’s distributive share of any
25 amount referred to in section 772(a) shall be appro-

1 appropriately adjusted to take into account any adjust-
2 ment under section 743(b) or 108(b) with respect to
3 such partner.

4 “(b) CREDIT RECAPTURE DETERMINED AT PART-
5 NERSHIP LEVEL.—

6 “(1) IN GENERAL.—In the case of an electing
7 large partnership—

8 “(A) any credit recapture shall be taken
9 into account by the partnership, and

10 “(B) the amount of such recapture shall be
11 determined as if the credit with respect to
12 which the recapture is made had been fully uti-
13 lized to reduce tax.

14 “(2) METHOD OF TAKING RECAPTURE INTO AC-
15 COUNT.—An electing large partnership shall take
16 into account a credit recapture by reducing the
17 amount of the appropriate current year credit to the
18 extent thereof, and if such recapture exceeds the
19 amount of such current year credit, the partnership
20 shall be liable to pay such excess.

21 “(3) DISPOSITIONS NOT TO TRIGGER RECAP-
22 TURE.—No credit recapture shall be required by rea-
23 son of any transfer of an interest in an electing
24 large partnership.

1 “(4) CREDIT RECAPTURE.—For purposes of
2 this subsection, the term ‘credit recapture’ means
3 any increase in tax under section 42(j) or 50(a).

4 “(c) PARTNERSHIP NOT TERMINATED BY REASON
5 OF CHANGE IN OWNERSHIP.—Subparagraph (B) of sec-
6 tion 708(b)(1) shall not apply to an electing large partner-
7 ship.

8 “(d) PARTNERSHIP ENTITLED TO CERTAIN CRED-
9 ITS.—The following shall be allowed to an electing large
10 partnership and shall not be taken into account by the
11 partners of such partnership:

12 “(1) The credit provided by section 34.

13 “(2) Any credit or refund under section
14 852(b)(3)(D).

15 “(e) TREATMENT OF REMIC RESIDUALS.—For pur-
16 poses of applying section 860E(e)(6) to any electing large
17 partnership—

18 “(1) all interests in such partnership shall be
19 treated as held by disqualified organizations,

20 “(2) in lieu of applying subparagraph (C) of
21 section 860E(e)(6), the amount subject to tax under
22 section 860E(e)(6) shall be excluded from the gross
23 income of such partnership, and

24 “(3) subparagraph (D) of section 860E(e)(6)
25 shall not apply.

1 “(f) SPECIAL RULES FOR APPLYING CERTAIN IN-
2 STALLMENT SALE RULES.—In the case of an electing
3 large partnership—

4 “(1) the provisions of sections 453(l)(3) and
5 453A shall be applied at the partnership level, and

6 “(2) in determining the amount of interest pay-
7 able under such sections, such partnership shall be
8 treated as subject to tax under this chapter at the
9 highest rate of tax in effect under section 1 or 11.

10 **“SEC. 775. ELECTING LARGE PARTNERSHIP DEFINED.**

11 “(a) GENERAL RULE.—For purposes of this part—

12 “(1) IN GENERAL.—The term ‘electing large
13 partnership’ means, with respect to any partnership
14 taxable year, any partnership if—

15 “(A) the number of persons who were part-
16 ners in such partnership in the preceding part-
17 nership taxable year equaled or exceeded 100,
18 and

19 “(B) such partnership elects the applica-
20 tion of this part.

21 To the extent provided in regulations, a partnership
22 shall cease to be treated as an electing large part-
23 nership for any partnership taxable year if in such
24 taxable year fewer than 100 persons were partners
25 in such partnership.

1 “(2) ELECTION.—The election under this sub-
2 section shall apply to the taxable year for which
3 made and all subsequent taxable years unless re-
4 voked with the consent of the Secretary.

5 “(b) SPECIAL RULES FOR CERTAIN SERVICE PART-
6 NERSHIPS.—

7 “(1) CERTAIN PARTNERS NOT COUNTED.—For
8 purposes of this section, the term ‘partner’ does not
9 include any individual performing substantial serv-
10 ices in connection with the activities of the partner-
11 ship and holding an interest in such partnership, or
12 an individual who formerly performed substantial
13 services in connection with such activities and who
14 held an interest in such partnership at the time the
15 individual performed such services.

16 “(2) EXCLUSION.—For purposes of this part,
17 an election under subsection (a) shall not be effec-
18 tive with respect to any partnership if substantially
19 all the partners of such partnership—

20 “(A) are individuals performing substantial
21 services in connection with the activities of such
22 partnership or are personal service corporations
23 (as defined in section 269A(b)) the owner-em-
24 ployees (as defined in section 269A(b)) of which
25 perform such substantial services,

1 “(B) are retired partners who had per-
2 formed such substantial services, or

3 “(C) are spouses of partners who are per-
4 forming (or had previously performed) such
5 substantial services.

6 “(3) SPECIAL RULE FOR LOWER TIER PART-
7 NERSHIPS.—For purposes of this subsection, the ac-
8 tivities of a partnership shall include the activities of
9 any other partnership in which the partnership owns
10 directly an interest in the capital and profits of at
11 least 80 percent.

12 “(c) EXCLUSION OF COMMODITY POOLS.—For pur-
13 poses of this part, an election under subsection (a) shall
14 not be effective with respect to any partnership the prin-
15 cipal activity of which is the buying and selling of com-
16 modities (not described in section 1221(1)), or options, fu-
17 tures, or forwards with respect to such commodities.

18 “(d) SECRETARY MAY RELY ON TREATMENT ON RE-
19 TURN.—If, on the partnership return of any partnership,
20 such partnership is treated as an electing large partner-
21 ship, such treatment shall be binding on such partnership
22 and all partners of such partnership but not on the Sec-
23 retary.

1 **“SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING**
2 **OIL AND GAS PROPERTIES.**

3 “(a) COMPUTATION OF PERCENTAGE DEPLETION.—
4 In the case of an electing large partnership, except as pro-
5 vided in subsection (b)—

6 “(1) the allowance for depletion under section
7 611 with respect to any partnership oil or gas prop-
8 erty shall be computed at the partnership level with-
9 out regard to any provision of section 613A requir-
10 ing such allowance to be computed separately by
11 each partner,

12 “(2) such allowance shall be determined without
13 regard to the provisions of section 613A(c) limiting
14 the amount of production for which percentage de-
15 pletion is allowable and without regard to paragraph
16 (1) of section 613A(d), and

17 “(3) paragraph (3) of section 705(a) shall not
18 apply.

19 “(b) TREATMENT OF CERTAIN PARTNERS.—

20 “(1) IN GENERAL.—In the case of a disquali-
21 fied person, the treatment under this chapter of
22 such person’s distributive share of any item of in-
23 come, gain, loss, deduction, or credit attributable to
24 any partnership oil or gas property shall be deter-
25 mined without regard to this part. Such person’s
26 distributive share of any such items shall be ex-

1 cluded for purposes of making determinations under
2 sections 772 and 773.

3 “(2) DISQUALIFIED PERSON.—For purposes of
4 paragraph (1), the term ‘disqualified person’ means,
5 with respect to any partnership taxable year—

6 “(A) any person referred to in paragraph
7 (2) or (4) of section 613A(d) for such person’s
8 taxable year in which such partnership taxable
9 year ends, and

10 “(B) any other person if such person’s av-
11 erage daily production of domestic crude oil and
12 natural gas for such person’s taxable year in
13 which such partnership taxable year ends ex-
14 ceeds 500 barrels.

15 “(3) AVERAGE DAILY PRODUCTION.—For pur-
16 poses of paragraph (2), a person’s average daily pro-
17 duction of domestic crude oil and natural gas for
18 any taxable year shall be computed as provided in
19 section 613A(c)(2)—

20 “(A) by taking into account all production
21 of domestic crude oil and natural gas (including
22 such person’s proportionate share of any pro-
23 duction of a partnership),

24 “(B) by treating 6,000 cubic feet of natu-
25 ral gas as a barrel of crude oil, and

1 “(C) by treating as 1 person all persons
2 treated as 1 taxpayer under section 613A(e)(8)
3 or among whom allocations are required under
4 such section.

5 **“SEC. 777. REGULATIONS.**

6 “The Secretary shall prescribe such regulations as
7 may be appropriate to carry out the purposes of this
8 part.”.

9 (b) **CLERICAL AMENDMENT.**—The table of parts for
10 subchapter K of chapter 1 is amended by adding at the
11 end the following new item:

 “Part IV. Special rules for electing large partnerships.”.

12 (c) **EFFECTIVE DATE.**—The amendments made by
13 this section shall apply to partnership taxable years begin-
14 ning after December 31, 1997.

15 **SEC. 1222. SIMPLIFIED AUDIT PROCEDURES FOR ELECTING**
16 **LARGE PARTNERSHIPS.**

17 (a) **GENERAL RULE.**—Chapter 63 is amended by
18 adding at the end thereof the following new subchapter:

19 **“Subchapter D—Treatment of electing large**
20 **partnerships**

 “Part I. Treatment of partnership items and adjustments.

 “Part II. Partnership level adjustments.

 “Part III. Definitions and special rules.

21 **“PART I—TREATMENT OF PARTNERSHIP ITEMS**
22 **AND ADJUSTMENTS**

 “Sec. 6240. Application of subchapter.

“Sec. 6241. Partner’s return must be consistent with partnership return.

“Sec. 6242. Procedures for taking partnership adjustments into account.

1 **“SEC. 6240. APPLICATION OF SUBCHAPTER.**

2 “(a) GENERAL RULE.—This subchapter shall only
3 apply to electing large partnerships and partners in such
4 partnerships.

5 “(b) COORDINATION WITH OTHER PARTNERSHIP
6 AUDIT PROCEDURES.—

7 “(1) IN GENERAL.—Subchapter C of this chap-
8 ter shall not apply to any electing large partnership
9 other than in its capacity as a partner in another
10 partnership which is not an electing large partner-
11 ship.

12 “(2) TREATMENT WHERE PARTNER IN OTHER
13 PARTNERSHIP.—If an electing large partnership is a
14 partner in another partnership which is not an elect-
15 ing large partnership—

16 “(A) subchapter C of this chapter shall
17 apply to items of such electing large partner-
18 ship which are partnership items with respect
19 to such other partnership, but

20 “(B) any adjustment under such sub-
21 chapter C shall be taken into account in the
22 manner provided by section 6242.

1 **“SEC. 6241. PARTNER’S RETURN MUST BE CONSISTENT**
2 **WITH PARTNERSHIP RETURN.**

3 “(a) GENERAL RULE.—A partner of any electing
4 large partnership shall, on the partner’s return, treat each
5 partnership item attributable to such partnership in a
6 manner which is consistent with the treatment of such
7 partnership item on the partnership return.

8 “(b) UNDERPAYMENT DUE TO INCONSISTENT
9 TREATMENT ASSESSED AS MATH ERROR.—Any under-
10 payment of tax by a partner by reason of failing to comply
11 with the requirements of subsection (a) shall be assessed
12 and collected in the same manner as if such underpayment
13 were on account of a mathematical or clerical error ap-
14 pearing on the partner’s return. Paragraph (2) of section
15 6213(b) shall not apply to any assessment of an underpay-
16 ment referred to in the preceding sentence.

17 “(c) ADJUSTMENTS NOT TO AFFECT PRIOR YEAR
18 OF PARTNERS.—

19 “(1) IN GENERAL.—Except as provided in para-
20 graph (2), subsections (a) and (b) shall apply with-
21 out regard to any adjustment to the partnership
22 item under part II.

23 “(2) CERTAIN CHANGES IN DISTRIBUTIVE
24 SHARE TAKEN INTO ACCOUNT BY PARTNER.—

25 “(A) IN GENERAL.—To the extent that
26 any adjustment under part II involves a change

1 under section 704 in a partner's distributive
2 share of the amount of any partnership item
3 shown on the partnership return, such adjust-
4 ment shall be taken into account in applying
5 this title to such partner for the partner's tax-
6 able year for which such item was required to
7 be taken into account.

8 “(B) COORDINATION WITH DEFICIENCY
9 PROCEDURES.—

10 “(i) IN GENERAL.—Subchapter B
11 shall not apply to the assessment or collec-
12 tion of any underpayment of tax attrib-
13 utable to an adjustment referred to in sub-
14 paragraph (A).

15 “(ii) ADJUSTMENT NOT PRE-
16 CLUDED.—Notwithstanding any other law
17 or rule of law, nothing in subchapter B (or
18 in any proceeding under subchapter B)
19 shall preclude the assessment or collection
20 of any underpayment of tax (or the allow-
21 ance of any credit or refund of any over-
22 payment of tax) attributable to an adjust-
23 ment referred to in subparagraph (A) and
24 such assessment or collection or allowance
25 (or any notice thereof) shall not preclude

1 any notice, proceeding, or determination
2 under subchapter B.

3 “(C) PERIOD OF LIMITATIONS.—The pe-
4 riod for—

5 “(i) assessing any underpayment of
6 tax, or

7 “(ii) filing a claim for credit or refund
8 of any overpayment of tax,
9 attributable to an adjustment referred to in
10 subparagraph (A) shall not expire before the
11 close of the period prescribed by section 6248
12 for making adjustments with respect to the
13 partnership taxable year involved.

14 “(D) TIERED STRUCTURES.—If the part-
15 ner referred to in subparagraph (A) is another
16 partnership or an S corporation, the rules of
17 this paragraph shall also apply to persons hold-
18 ing interests in such partnership or S corpora-
19 tion (as the case may be); except that, if such
20 partner is an electing large partnership, the ad-
21 justment referred to in subparagraph (A) shall
22 be taken into account in the manner provided
23 by section 6242.

1 “(d) ADDITION TO TAX FOR FAILURE TO COMPLY
2 WITH SECTION.—

**“For addition to tax in case of partner’s disregard
of requirements of this section, see part II of sub-
chapter A of chapter 68.**

3 **“SEC. 6242. PROCEDURES FOR TAKING PARTNERSHIP AD-
4 JUSTMENTS INTO ACCOUNT.**

5 “(a) ADJUSTMENTS FLOW THROUGH TO PARTNERS
6 FOR YEAR IN WHICH ADJUSTMENT TAKES EFFECT.—

7 “(1) IN GENERAL.—If any partnership adjust-
8 ment with respect to any partnership item takes ef-
9 fect (within the meaning of subsection (d)(2)) during
10 any partnership taxable year and if an election
11 under paragraph (2) does not apply to such adjust-
12 ment, such adjustment shall be taken into account
13 in determining the amount of such item for the part-
14 nership taxable year in which such adjustment takes
15 effect. In applying this title to any person who is
16 (directly or indirectly) a partner in such partnership
17 during such partnership taxable year, such adjust-
18 ment shall be treated as an item actually arising
19 during such taxable year.

20 “(2) PARTNERSHIP LIABLE IN CERTAIN
21 CASES.—If—

22 “(A) a partnership elects under this para-
23 graph to not take an adjustment into account
24 under paragraph (1),

1 “(B) a partnership does not make such an
2 election but in filing its return for any partner-
3 ship taxable year fails to take fully into account
4 any partnership adjustment as required under
5 paragraph (1), or

6 “(C) any partnership adjustment involves a
7 reduction in a credit which exceeds the amount
8 of such credit determined for the partnership
9 taxable year in which the adjustment takes ef-
10 fect,

11 the partnership shall pay to the Secretary an
12 amount determined by applying the rules of sub-
13 section (b)(4) to the adjustments not so taken into
14 account and any excess referred to in subparagraph
15 (C).

16 “(3) OFFSETTING ADJUSTMENTS TAKEN INTO
17 ACCOUNT.—If a partnership adjustment requires an-
18 other adjustment in a taxable year after the ad-
19 justed year and before the partnership taxable year
20 in which such partnership adjustment takes effect,
21 such other adjustment shall be taken into account
22 under this subsection for the partnership taxable
23 year in which such partnership adjustment takes ef-
24 fect.

1 “(4) COORDINATION WITH PART II.—Amounts
2 taken into account under this subsection for any
3 partnership taxable year shall continue to be treated
4 as adjustments for the adjusted year for purposes of
5 determining whether such amounts may be read-
6 justed under part II.

7 “(b) PARTNERSHIP LIABLE FOR INTEREST AND
8 PENALTIES.—

9 “(1) IN GENERAL.—If a partnership adjust-
10 ment takes effect during any partnership taxable
11 year and such adjustment results in an imputed
12 underpayment for the adjusted year, the partner-
13 ship—

14 “(A) shall pay to the Secretary interest
15 computed under paragraph (2), and

16 “(B) shall be liable for any penalty, addi-
17 tion to tax, or additional amount as provided in
18 paragraph (3).

19 “(2) DETERMINATION OF AMOUNT OF INTER-
20 EST.—The interest computed under this paragraph
21 with respect to any partnership adjustment is the in-
22 terest which would be determined under chapter
23 67—

1 “(A) on the imputed underpayment deter-
2 mined under paragraph (4) with respect to such
3 adjustment,

4 “(B) for the period beginning on the day
5 after the return due date for the adjusted year
6 and ending on the return due date for the part-
7 nership taxable year in which such adjustment
8 takes effect (or, if earlier, in the case of any ad-
9 justment to which subsection (a)(2) applies, the
10 date on which the payment under subsection
11 (a)(2) is made).

12 Proper adjustments in the amount determined under
13 the preceding sentence shall be made for adjust-
14 ments required for partnership taxable years after
15 the adjusted year and before the year in which the
16 partnership adjustment takes effect by reason of
17 such partnership adjustment.

18 “(3) PENALTIES.—A partnership shall be liable
19 for any penalty, addition to tax, or additional
20 amount for which it would have been liable if such
21 partnership had been an individual subject to tax
22 under chapter 1 for the adjusted year and the im-
23 puted underpayment determined under paragraph
24 (4) were an actual underpayment (or understatement)
25 for such year.

1 “(4) IMPUTED UNDERPAYMENT.—For purposes
2 of this subsection, the imputed underpayment deter-
3 mined under this paragraph with respect to any
4 partnership adjustment is the underpayment (if any)
5 which would result—

6 “(A) by netting all adjustments to items of
7 income, gain, loss, or deduction and by treating
8 any net increase in income as an underpayment
9 equal to the amount of such net increase multi-
10 plied by the highest rate of tax in effect under
11 section 1 or 11 for the adjusted year, and

12 “(B) by taking adjustments to credits into
13 account as increases or decreases (whichever is
14 appropriate) in the amount of tax.

15 For purposes of the preceding sentence, any net de-
16 crease in a loss shall be treated as an increase in in-
17 come and a similar rule shall apply to a net increase
18 in a loss.

19 “(c) ADMINISTRATIVE PROVISIONS.—

20 “(1) IN GENERAL.—Any payment required by
21 subsection (a)(2) or (b)(1)(A)—

22 “(A) shall be assessed and collected in the
23 same manner as if it were a tax imposed by
24 subtitle C, and

1 “(B) shall be paid on or before the return
2 due date for the partnership taxable year in
3 which the partnership adjustment takes effect.

4 “(2) INTEREST.—For purposes of determining
5 interest, any payment required by subsection (a)(2)
6 or (b)(1)(A) shall be treated as an underpayment of
7 tax.

8 “(3) PENALTIES.—

9 “(A) IN GENERAL.—In the case of any
10 failure by any partnership to pay on the date
11 prescribed therefor any amount required by
12 subsection (a)(2) or (b)(1)(A), there is hereby
13 imposed on such partnership a penalty of 10
14 percent of the underpayment. For purposes of
15 the preceding sentence, the term ‘underpay-
16 ment’ means the excess of any payment re-
17 quired under this section over the amount (if
18 any) paid on or before the date prescribed
19 therefor.

20 “(B) ACCURACY-RELATED AND FRAUD
21 PENALTIES MADE APPLICABLE.—For purposes
22 of part II of subchapter A of chapter 68, any
23 payment required by subsection (a)(2) shall be
24 treated as an underpayment of tax.

1 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
2 poses of this section—

3 “(1) PARTNERSHIP ADJUSTMENT.—The term
4 ‘partnership adjustment’ means any adjustment in
5 the amount of any partnership item of an electing
6 large partnership.

7 “(2) WHEN ADJUSTMENT TAKES EFFECT.—A
8 partnership adjustment takes effect—

9 “(A) in the case of an adjustment pursu-
10 ant to the decision of a court in a proceeding
11 brought under part II, when such decision be-
12 comes final,

13 “(B) in the case of an adjustment pursu-
14 ant to any administrative adjustment request
15 under section 6251, when such adjustment is
16 allowed by the Secretary, or

17 “(C) in any other case, when such adjust-
18 ment is made.

19 “(3) ADJUSTED YEAR.—The term ‘adjusted
20 year’ means the partnership taxable year to which
21 the item being adjusted relates.

22 “(4) RETURN DUE DATE.—The term ‘return
23 due date’ means, with respect to any taxable year,
24 the date prescribed for filing the partnership return

1 for such taxable year (determined without regard to
2 extensions).

3 “(5) ADJUSTMENTS INVOLVING CHANGES IN
4 CHARACTER.—Under regulations, appropriate ad-
5 justments in the application of this section shall be
6 made for purposes of taking into account partner-
7 ship adjustments which involve a change in the char-
8 acter of any item of income, gain, loss, or deduction.

9 “(e) PAYMENTS NONDEDUCTIBLE.—No deduction
10 shall be allowed under subtitle A for any payment required
11 to be made by an electing large partnership under this
12 section.

13 **“PART II—PARTNERSHIP LEVEL ADJUSTMENTS**

“Subpart A. Adjustments by Secretary.

“Subpart B. Claims for adjustments by partnership.

14 **“Subpart A—Adjustments by Secretary**

“Sec. 6245. Secretarial authority.

“Sec. 6246. Restrictions on partnership adjustments.

“Sec. 6247. Judicial review of partnership adjustment.

“Sec. 6248. Period of limitations for making adjustments.

15 **“SEC. 6245. SECRETARIAL AUTHORITY.**

16 “(a) GENERAL RULE.—The Secretary is authorized
17 and directed to make adjustments at the partnership level
18 in any partnership item to the extent necessary to have
19 such item be treated in the manner required.

20 “(b) NOTICE OF PARTNERSHIP ADJUSTMENT.—

21 “(1) IN GENERAL.—If the Secretary determines
22 that a partnership adjustment is required, the Sec-

1 retary is authorized to send notice of such adjust-
2 ment to the partnership by certified mail or reg-
3 istered mail. Such notice shall be sufficient if mailed
4 to the partnership at its last known address even if
5 the partnership has terminated its existence.

6 “(2) FURTHER NOTICES RESTRICTED.—If the
7 Secretary mails a notice of a partnership adjustment
8 to any partnership for any partnership taxable year
9 and the partnership files a petition under section
10 6247 with respect to such notice, in the absence of
11 a showing of fraud, malfeasance, or misrepresenta-
12 tion of a material fact, the Secretary shall not mail
13 another such notice to such partnership with respect
14 to such taxable year.

15 “(3) AUTHORITY TO RESCIND NOTICE WITH
16 PARTNERSHIP CONSENT.—The Secretary may, with
17 the consent of the partnership, rescind any notice of
18 a partnership adjustment mailed to such partner-
19 ship. Any notice so rescinded shall not be treated as
20 a notice of a partnership adjustment, for purposes of
21 this section, section 6246, and section 6247, and the
22 taxpayer shall have no right to bring a proceeding
23 under section 6247 with respect to such notice.
24 Nothing in this subsection shall affect any suspen-
25 sion of the running of any period of limitations dur-

1 ing any period during which the rescinded notice
2 was outstanding.

3 **“SEC. 6246. RESTRICTIONS ON PARTNERSHIP ADJUST-**
4 **MENTS.**

5 “(a) GENERAL RULE.—Except as otherwise provided
6 in this chapter, no adjustment to any partnership item
7 may be made (and no levy or proceeding in any court for
8 the collection of any amount resulting from such adjust-
9 ment may be made, begun or prosecuted) before—

10 “(1) the close of the 90th day after the day on
11 which a notice of a partnership adjustment was
12 mailed to the partnership, and

13 “(2) if a petition is filed under section 6247
14 with respect to such notice, the decision of the court
15 has become final.

16 “(b) PREMATURE ACTION MAY BE ENJOINED.—
17 Notwithstanding section 7421(a), any action which vio-
18 lates subsection (a) may be enjoined in the proper court,
19 including the Tax Court. The Tax Court shall have no ju-
20 risdiction to enjoin any action under this subsection unless
21 a timely petition has been filed under section 6247 and
22 then only in respect of the adjustments that are the sub-
23 ject of such petition.

24 “(c) EXCEPTIONS TO RESTRICTIONS ON ADJUST-
25 MENTS.—

1 “(1) ADJUSTMENTS ARISING OUT OF MATH OR
2 CLERICAL ERRORS.—

3 “(A) IN GENERAL.—If the partnership is
4 notified that, on account of a mathematical or
5 clerical error appearing on the partnership re-
6 turn, an adjustment to a partnership item is re-
7 quired, rules similar to the rules of paragraphs
8 (1) and (2) of section 6213(b) shall apply to
9 such adjustment.

10 “(B) SPECIAL RULE.—If an electing large
11 partnership is a partner in another electing
12 large partnership, any adjustment on account of
13 such partnership’s failure to comply with the
14 requirements of section 6241(a) with respect to
15 its interest in such other partnership shall be
16 treated as an adjustment referred to in sub-
17 paragraph (A), except that paragraph (2) of
18 section 6213(b) shall not apply to such adjust-
19 ment.

20 “(2) PARTNERSHIP MAY WAIVE RESTRIC-
21 TIONS.—The partnership shall at any time (whether
22 or not a notice of partnership adjustment has been
23 issued) have the right, by a signed notice in writing
24 filed with the Secretary, to waive the restrictions

1 provided in subsection (a) on the making of any
2 partnership adjustment.

3 “(d) LIMIT WHERE NO PROCEEDING BEGUN.—If no
4 proceeding under section 6247 is begun with respect to
5 any notice of a partnership adjustment during the 90-day
6 period described in subsection (a), the amount for which
7 the partnership is liable under section 6242 (and any in-
8 crease in any partner’s liability for tax under chapter 1
9 by reason of any adjustment under section 6242(a)) shall
10 not exceed the amount determined in accordance with such
11 notice.

12 **“SEC. 6247. JUDICIAL REVIEW OF PARTNERSHIP ADJUST-**
13 **MENT.**

14 “(a) GENERAL RULE.—Within 90 days after the date
15 on which a notice of a partnership adjustment is mailed
16 to the partnership with respect to any partnership taxable
17 year, the partnership may file a petition for a readjust-
18 ment of the partnership items for such taxable year with—

19 “(1) the Tax Court,

20 “(2) the district court of the United States for
21 the district in which the partnership’s principal place
22 of business is located, or

23 “(3) the Claims Court.

24 “(b) JURISDICTIONAL REQUIREMENT FOR BRINGING
25 ACTION IN DISTRICT COURT OR CLAIMS COURT.—

1 “(1) IN GENERAL.—A readjustment petition
2 under this section may be filed in a district court of
3 the United States or the Claims Court only if the
4 partnership filing the petition deposits with the Sec-
5 retary, on or before the date the petition is filed, the
6 amount for which the partnership would be liable
7 under section 6242(b) (as of the date of the filing
8 of the petition) if the partnership items were ad-
9 justed as provided by the notice of partnership ad-
10 justment. The court may by order provide that the
11 jurisdictional requirements of this paragraph are
12 satisfied where there has been a good faith attempt
13 to satisfy such requirement and any shortfall of the
14 amount required to be deposited is timely corrected.

15 “(2) INTEREST PAYABLE.—Any amount depos-
16 ited under paragraph (1), while deposited, shall not
17 be treated as a payment of tax for purposes of this
18 title (other than chapter 67).

19 “(c) SCOPE OF JUDICIAL REVIEW.—A court with
20 which a petition is filed in accordance with this section
21 shall have jurisdiction to determine all partnership items
22 of the partnership for the partnership taxable year to
23 which the notice of partnership adjustment relates and the
24 proper allocation of such items among the partners (and
25 the applicability of any penalty, addition to tax, or addi-

1 tional amount for which the partnership may be liable
2 under section 6242(b)).

3 “(d) DETERMINATION OF COURT REVIEWABLE.—
4 Any determination by a court under this section shall have
5 the force and effect of a decision of the Tax Court or a
6 final judgment or decree of the district court or the Claims
7 Court, as the case may be, and shall be reviewable as such.
8 The date of any such determination shall be treated as
9 being the date of the court’s order entering the decision.

10 “(e) EFFECT OF DECISION DISMISSING ACTION.—If
11 an action brought under this section is dismissed other
12 than by reason of a rescission under section 6245(b)(3),
13 the decision of the court dismissing the action shall be con-
14 sidered as its decision that the notice of partnership ad-
15 justment is correct, and an appropriate order shall be en-
16 tered in the records of the court.

17 **“SEC. 6248. PERIOD OF LIMITATIONS FOR MAKING ADJUST-**
18 **MENTS.**

19 “(a) GENERAL RULE.—Except as otherwise provided
20 in this section, no adjustment under this subpart to any
21 partnership item for any partnership taxable year may be
22 made after the date which is 3 years after the later of—

23 “(1) the date on which the partnership return
24 for such taxable year was filed, or

1 “(2) the last day for filing such return for such
2 year (determined without regard to extensions).

3 “(b) EXTENSION BY AGREEMENT.—The period de-
4 scribed in subsection (a) (including an extension period
5 under this subsection) may be extended by an agreement
6 entered into by the Secretary and the partnership before
7 the expiration of such period.

8 “(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

9 “(1) FALSE RETURN.—In the case of a false or
10 fraudulent partnership return with intent to evade
11 tax, the adjustment may be made at any time.

12 “(2) SUBSTANTIAL OMISSION OF INCOME.—If
13 any partnership omits from gross income an amount
14 properly includible therein which is in excess of 25
15 percent of the amount of gross income stated in its
16 return, subsection (a) shall be applied by substitut-
17 ing ‘6 years’ for ‘3 years’.

18 “(3) NO RETURN.—In the case of a failure by
19 a partnership to file a return for any taxable year,
20 the adjustment may be made at any time.

21 “(4) RETURN FILED BY SECRETARY.—For pur-
22 poses of this section, a return executed by the Sec-
23 retary under subsection (b) of section 6020 on be-
24 half of the partnership shall not be treated as a re-
25 turn of the partnership.

1 “(d) **SUSPENSION WHEN SECRETARY MAILS NOTICE**
2 **OF ADJUSTMENT.**—If notice of a partnership adjustment
3 with respect to any taxable year is mailed to the partner-
4 ship, the running of the period specified in subsection (a)
5 (as modified by the other provisions of this section) shall
6 be suspended—

7 “(1) for the period during which an action may
8 be brought under section 6247 (and, if a petition is
9 filed under section 6247 with respect to such notice,
10 until the decision of the court becomes final), and

11 “(2) for 1 year thereafter.

12 **“Subpart B—Claims for Adjustments by Partnership**

 “Sec. 6251. Administrative adjustment requests.

 “Sec. 6252. Judicial review where administrative adjustment re-
 quest is not allowed in full.

13 **“SEC. 6251. ADMINISTRATIVE ADJUSTMENT REQUESTS.**

14 “(a) **GENERAL RULE.**—A partnership may file a re-
15 quest for an administrative adjustment of partnership
16 items for any partnership taxable year at any time which
17 is—

18 “(1) within 3 years after the later of—

19 “(A) the date on which the partnership re-
20 turn for such year is filed, or

21 “(B) the last day for filing the partnership
22 return for such year (determined without re-
23 gard to extensions), and

1 “(2) before the mailing to the partnership of a
2 notice of a partnership adjustment with respect to
3 such taxable year.

4 “(b) SECRETARIAL ACTION.—If a partnership files
5 an administrative adjustment request under subsection
6 (a), the Secretary may allow any part of the requested
7 adjustments.

8 “(c) SPECIAL RULE IN CASE OF EXTENSION UNDER
9 SECTION 6248.—If the period described in section
10 6248(a) is extended pursuant to an agreement under sec-
11 tion 6248(b), the period prescribed by subsection (a)(1)
12 shall not expire before the date 6 months after the expira-
13 tion of the extension under section 6248(b).

14 **“SEC. 6252. JUDICIAL REVIEW WHERE ADMINISTRATIVE AD-**
15 **JUSTMENT REQUEST IS NOT ALLOWED IN**
16 **FULL.**

17 “(a) IN GENERAL.—If any part of an administrative
18 adjustment request filed under section 6251 is not allowed
19 by the Secretary, the partnership may file a petition for
20 an adjustment with respect to the partnership items to
21 which such part of the request relates with—

22 “(1) the Tax Court,

23 “(2) the district court of the United States for
24 the district in which the principal place of business
25 of the partnership is located, or

1 “(3) the Claims Court.

2 “(b) PERIOD FOR FILING PETITION.—A petition may
3 be filed under subsection (a) with respect to partnership
4 items for a partnership taxable year only—

5 “(1) after the expiration of 6 months from the
6 date of filing of the request under section 6251, and

7 “(2) before the date which is 2 years after the
8 date of such request.

9 The 2-year period set forth in paragraph (2) shall be ex-
10 tended for such period as may be agreed upon in writing
11 by the partnership and the Secretary.

12 “(c) COORDINATION WITH SUBPART A.—

13 “(1) NOTICE OF PARTNERSHIP ADJUSTMENT
14 BEFORE FILING OF PETITION.—No petition may be
15 filed under this section after the Secretary mails to
16 the partnership a notice of a partnership adjustment
17 for the partnership taxable year to which the request
18 under section 6251 relates.

19 “(2) NOTICE OF PARTNERSHIP ADJUSTMENT
20 AFTER FILING BUT BEFORE HEARING OF PETI-
21 TION.—If the Secretary mails to the partnership a
22 notice of a partnership adjustment for the partner-
23 ship taxable year to which the request under section
24 6251 relates after the filing of a petition under this
25 subsection but before the hearing of such petition,

1 such petition shall be treated as an action brought
2 under section 6247 with respect to such notice, ex-
3 cept that subsection (b) of section 6247 shall not
4 apply.

5 “(3) NOTICE MUST BE BEFORE EXPIRATION OF
6 STATUTE OF LIMITATIONS.—A notice of a partner-
7 ship adjustment for the partnership taxable year
8 shall be taken into account under paragraphs (1)
9 and (2) only if such notice is mailed before the expi-
10 ration of the period prescribed by section 6248 for
11 making adjustments to partnership items for such
12 taxable year.

13 “(d) SCOPE OF JUDICIAL REVIEW.—Except in the
14 case described in paragraph (2) of subsection (c), a court
15 with which a petition is filed in accordance with this sec-
16 tion shall have jurisdiction to determine only those part-
17 nership items to which the part of the request under sec-
18 tion 6251 not allowed by the Secretary relates and those
19 items with respect to which the Secretary asserts adjust-
20 ments as offsets to the adjustments requested by the part-
21 nership.

22 “(e) DETERMINATION OF COURT REVIEWABLE.—
23 Any determination by a court under this subsection shall
24 have the force and effect of a decision of the Tax Court
25 or a final judgment or decree of the district court or the

1 Claims Court, as the case may be, and shall be reviewable
2 as such. The date of any such determination shall be treat-
3 ed as being the date of the court's order entering the deci-
4 sion.

5 **“PART III—DEFINITIONS AND SPECIAL RULES**

“Sec. 6255. Definitions and special rules.

6 **“SEC. 6255. DEFINITIONS AND SPECIAL RULES.**

7 “(a) DEFINITIONS.—For purposes of this sub-
8 chapter—

9 “(1) ELECTING LARGE PARTNERSHIP.—The
10 term ‘electing large partnership’ has the meaning
11 given to such term by section 775.

12 “(2) PARTNERSHIP ITEM.—The term ‘partner-
13 ship item’ has the meaning given to such term by
14 section 6231(a)(3).

15 “(b) PARTNERS BOUND BY ACTIONS OF PARTNER-
16 SHIP, ETC.—

17 “(1) DESIGNATION OF PARTNER.—Each elect-
18 ing large partnership shall designate (in the manner
19 prescribed by the Secretary) a partner (or other per-
20 son) who shall have the sole authority to act on be-
21 half of such partnership under this subchapter. In
22 any case in which such a designation is not in effect,
23 the Secretary may select any partner as the partner
24 with such authority.

1 “(2) BINDING EFFECT.—An electing large part-
2 nership and all partners of such partnership shall be
3 bound—

4 “(A) by actions taken under this sub-
5 chapter by the partnership, and

6 “(B) by any decision in a proceeding
7 brought under this subchapter.

8 “(c) PARTNERSHIPS HAVING PRINCIPAL PLACE OF
9 BUSINESS OUTSIDE THE UNITED STATES.—For purposes
10 of sections 6247 and 6252, a principal place of business
11 located outside the United States shall be treated as lo-
12 cated in the District of Columbia.

13 “(d) TREATMENT WHERE PARTNERSHIP CEASES TO
14 EXIST.—If a partnership ceases to exist before a partner-
15 ship adjustment under this subchapter takes effect, such
16 adjustment shall be taken into account by the former part-
17 ners of such partnership under regulations prescribed by
18 the Secretary.

19 “(e) DATE DECISION BECOMES FINAL.—For pur-
20 poses of this subchapter, the principles of section 7481(a)
21 shall be applied in determining the date on which a deci-
22 sion of a district court or the Claims Court becomes final.

23 “(f) PARTNERSHIPS IN CASES UNDER TITLE 11 OF
24 THE UNITED STATES CODE.—The running of any period
25 of limitations provided in this subchapter on making a

1 partnership adjustment (or provided by section 6501 or
2 6502 on the assessment or collection of any amount re-
3 quired to be paid under section 6242) shall, in a case
4 under title 11 of the United States Code, be suspended
5 during the period during which the Secretary is prohibited
6 by reason of such case from making the adjustment (or
7 assessment or collection) and—

8 “(1) for adjustment or assessment, 60 days
9 thereafter, and

10 “(2) for collection, 6 months thereafter.

11 “(g) REGULATIONS.—The Secretary shall prescribe
12 such regulations as may be necessary to carry out the pro-
13 visions of this subchapter, including regulations—

14 “(1) to prevent abuse through manipulation of
15 the provisions of this subchapter, and

16 “(2) providing that this subchapter shall not
17 apply to any case described in section 6231(c)(1) (or
18 the regulations prescribed thereunder) where the ap-
19 plication of this subchapter to such a case would
20 interfere with the effective and efficient enforcement
21 of this title.

22 In any case to which this subchapter does not apply by
23 reason of paragraph (2), rules similar to the rules of sec-
24 tions 6229(f) and 6255(f) shall apply.”.

1 (b) CLERICAL AMENDMENT.—The table of sub-
2 chapters for chapter 63 is amended by adding at the end
3 thereof the following new item:

“Subchapter D. Treatment of electing large partnerships.”.

4 **SEC. 1223. DUE DATE FOR FURNISHING INFORMATION TO**
5 **PARTNERS OF ELECTING LARGE PARTNER-**
6 **SHIPS.**

7 (a) GENERAL RULE.—Subsection (b) of section 6031
8 (relating to copies to partners) is amended by adding at
9 the end the following new sentence: “In the case of an
10 electing large partnership (as defined in section 775), such
11 information shall be furnished on or before the first March
12 15 following the close of such taxable year.”.

13 (b) TREATMENT AS INFORMATION RETURN.—Sec-
14 tion 6724 is amended by adding at the end the following
15 new subsection:

16 “(e) SPECIAL RULE FOR CERTAIN PARTNERSHIP RE-
17 TURNS.—If any partnership return under section 6031(a)
18 is required under section 6011(e) to be filed on magnetic
19 media or in other machine-readable form, for purposes of
20 this part, each schedule required to be included with such
21 return with respect to each partner shall be treated as a
22 separate information return.”.

1 **SEC. 1224. RETURNS MAY BE REQUIRED ON MAGNETIC**
2 **MEDIA.**

3 Paragraph (2) of section 6011(e) (relating to returns
4 on magnetic media) is amended by adding at the end
5 thereof the following new sentence:

6 “Notwithstanding the preceding sentence, the Sec-
7 retary shall require partnerships having more than
8 100 partners to file returns on magnetic media.”.

9 **SEC. 1225. TREATMENT OF PARTNERSHIP ITEMS OF INDI-**
10 **VIDUAL RETIREMENT ACCOUNTS.**

11 Subsection (b) of section 6012 is amended by adding
12 at the end thereof the following new paragraph:

13 “(6) IRA SHARE OF PARTNERSHIP INCOME.—
14 In the case of a trust which is exempt from taxation
15 under section 408(e), for purposes of this section,
16 the trust’s distributive share of items of gross in-
17 come and gain of any partnership to which sub-
18 chapter C or D of chapter 63 applies shall be treat-
19 ed as equal to the trust’s distributive share of the
20 taxable income of such partnership.”.

21 **SEC. 1226. EFFECTIVE DATE.**

22 The amendments made by this part shall apply to
23 partnership taxable years ending on or after December 31,
24 1997.

1 **PART II—PROVISIONS RELATED TO TEFRA**

2 **PARTNERSHIP PROCEEDINGS**

3 **SEC. 1231. TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.**

4
5 (a) IN GENERAL.—Subchapter C of chapter 63 is
6 amended by adding at the end the following new section:

7 **“SEC. 6234. DECLARATORY JUDGMENT RELATING TO**
8 **TREATMENT OF ITEMS OTHER THAN PART-**
9 **NERSHIP ITEMS WITH RESPECT TO AN OVER-**
10 **SHELTERED RETURN.**

11 “(a) GENERAL RULE.—If—

12 “(1) a taxpayer files an oversheltered return for
13 a taxable year,

14 “(2) the Secretary makes a determination with
15 respect to the treatment of items (other than part-
16 nership items) of such taxpayer for such taxable
17 year, and

18 “(3) the adjustments resulting from such deter-
19 mination do not give rise to a deficiency (as defined
20 in section 6211) but would give rise to a deficiency
21 if there were no net loss from partnership items,

22 the Secretary is authorized to send a notice of adjustment
23 reflecting such determination to the taxpayer by certified
24 or registered mail.

1 “(b) OVERSHELTERED RETURN.—For purposes of
2 this section, the term ‘oversheltered return’ means an in-
3 come tax return which—

4 “(1) shows no taxable income for the taxable
5 year, and

6 “(2) shows a net loss from partnership items.

7 “(c) JUDICIAL REVIEW IN THE TAX COURT.—Within
8 90 days, or 150 days if the notice is addressed to a person
9 outside the United States, after the day on which the no-
10 tice of adjustment authorized in subsection (a) is mailed
11 to the taxpayer, the taxpayer may file a petition with the
12 Tax Court for redetermination of the adjustments. Upon
13 the filing of such a petition, the Tax Court shall have ju-
14 risdiction to make a declaration with respect to all items
15 (other than partnership items and affected items which
16 require partner level determinations as described in sec-
17 tion 6230(a)(2)(A)(i)) for the taxable year to which the
18 notice of adjustment relates, in accordance with the prin-
19 ciples of section 6214(a). Any such declaration shall have
20 the force and effect of a decision of the Tax Court and
21 shall be reviewable as such.

22 “(d) FAILURE TO FILE PETITION.—

23 “(1) IN GENERAL.—Except as provided in para-
24 graph (2), if the taxpayer does not file a petition
25 with the Tax Court within the time prescribed in

1 subsection (c), the determination of the Secretary
2 set forth in the notice of adjustment that was mailed
3 to the taxpayer shall be deemed to be correct.

4 “(2) EXCEPTION.—Paragraph (1) shall not
5 apply after the date that the taxpayer—

6 “(A) files a petition with the Tax Court
7 within the time prescribed in subsection (c)
8 with respect to a subsequent notice of adjust-
9 ment relating to the same taxable year, or

10 “(B) files a claim for refund of an overpay-
11 ment of tax under section 6511 for the taxable
12 year involved.

13 If a claim for refund is filed by the taxpayer, then
14 solely for purposes of determining (for the taxable
15 year involved) the amount of any computational ad-
16 justment in connection with a partnership proceed-
17 ing under this subchapter (other than under this
18 section) or the amount of any deficiency attributable
19 to affected items in a proceeding under section
20 6230(a)(2), the items that are the subject of the no-
21 tice of adjustment shall be presumed to have been
22 correctly reported on the taxpayer’s return during
23 the pendency of the refund claim (and, if within the
24 time prescribed by section 6532 the taxpayer com-
25 mences a civil action for refund under section 7422,

1 until the decision in the refund action becomes
2 final).

3 “(e) LIMITATIONS PERIOD.—

4 “(1) IN GENERAL.—Any notice to a taxpayer
5 under subsection (a) shall be mailed before the expi-
6 ration of the period prescribed by section 6501 (re-
7 lating to the period of limitations on assessment).

8 “(2) SUSPENSION WHEN SECRETARY MAILS NO-
9 TICE OF ADJUSTMENT.—If the Secretary mails a no-
10 tice of adjustment to the taxpayer for a taxable year,
11 the period of limitations on the making of assess-
12 ments shall be suspended for the period during
13 which the Secretary is prohibited from making the
14 assessment (and, in any event, if a proceeding in re-
15 spect of the notice of adjustment is placed on the
16 docket of the Tax Court, until the decision of the
17 Tax Court becomes final), and for 60 days there-
18 after.

19 “(3) RESTRICTIONS ON ASSESSMENT.—Except
20 as otherwise provided in section 6851, 6852, or
21 6861, no assessment of a deficiency with respect to
22 any tax imposed by subtitle A attributable to any
23 item (other than a partnership item or any item af-
24 fected by a partnership item) shall be made—

1 “(A) until the expiration of the applicable
2 90-day or 150-day period set forth in sub-
3 section (c) for filing a petition with the Tax
4 Court, or

5 “(B) if a petition has been filed with the
6 Tax Court, until the decision of the Tax Court
7 has become final.

8 “(f) FURTHER NOTICES OF ADJUSTMENT RE-
9 STRICTED.—If the Secretary mails a notice of adjustment
10 to the taxpayer for a taxable year and the taxpayer files
11 a petition with the Tax Court within the time prescribed
12 in subsection (c), the Secretary may not mail another such
13 notice to the taxpayer with respect to the same taxable
14 year in the absence of a showing of fraud, malfeasance,
15 or misrepresentation of a material fact.

16 “(g) COORDINATION WITH OTHER PROCEEDINGS
17 UNDER THIS SUBCHAPTER.—

18 “(1) IN GENERAL.—The treatment of any item
19 that has been determined pursuant to subsection (c)
20 or (d) shall be taken into account in determining the
21 amount of any computational adjustment that is
22 made in connection with a partnership proceeding
23 under this subchapter (other than under this sec-
24 tion), or the amount of any deficiency attributable to
25 affected items in a proceeding under section

1 6230(a)(2), for the taxable year involved. Notwith-
2 standing any other law or rule of law pertaining to
3 the period of limitations on the making of assess-
4 ments, for purposes of the preceding sentence, any
5 adjustment made in accordance with this section
6 shall be taken into account regardless of whether
7 any assessment has been made with respect to such
8 adjustment.

9 “(2) SPECIAL RULE IN CASE OF COMPUTA-
10 TIONAL ADJUSTMENT.—In the case of a computa-
11 tional adjustment that is made in connection with a
12 partnership proceeding under this subchapter (other
13 than under this section), the provisions of paragraph
14 (1) shall apply only if the computational adjustment
15 is made within the period prescribed by section 6229
16 for assessing any tax under subtitle A which is at-
17 tributable to any partnership item or affected item
18 for the taxable year involved.

19 “(3) CONVERSION TO DEFICIENCY PROCEED-
20 ING.—If—

21 “(A) after the notice referred to in sub-
22 section (a) is mailed to a taxpayer for a taxable
23 year but before the expiration of the period for
24 filing a petition with the Tax Court under sub-
25 section (c) (or, if a petition is filed with the Tax

1 Court, before the Tax Court makes a declara-
2 tion for that taxable year), the treatment of any
3 partnership item for the taxable year is finally
4 determined, or any such item ceases to be a
5 partnership item pursuant to section 6231(b),
6 and

7 “(B) as a result of that final determination
8 or cessation, a deficiency can be determined
9 with respect to the items that are the subject
10 of the notice of adjustment,

11 the notice of adjustment shall be treated as a notice
12 of deficiency under section 6212 and any petition
13 filed in respect of the notice shall be treated as an
14 action brought under section 6213.

15 “(4) FINALLY DETERMINED.—For purposes of
16 this subsection, the treatment of partnership items
17 shall be treated as finally determined if—

18 “(A) the Secretary enters into a settlement
19 agreement (within the meaning of section 6224)
20 with the taxpayer regarding such items,

21 “(B) a notice of final partnership adminis-
22 trative adjustment has been issued and—

23 “(i) no petition has been filed under
24 section 6226 and the time for doing so has
25 expired, or

1 “(ii) a petition has been filed under
2 section 6226 and the decision of the court
3 has become final, or

4 “(C) the period within which any tax at-
5 tributable to such items may be assessed
6 against the taxpayer has expired.

7 “(h) SPECIAL RULES IF SECRETARY INCORRECTLY
8 DETERMINES APPLICABLE PROCEDURE.—

9 “(1) SPECIAL RULE IF SECRETARY ERRO-
10 NEOUSLY MAILES NOTICE OF ADJUSTMENT.—If the
11 Secretary erroneously determines that subchapter B
12 does not apply to a taxable year of a taxpayer and
13 consistent with that determination timely mails a no-
14 tice of adjustment to the taxpayer pursuant to sub-
15 section (a) of this section, the notice of adjustment
16 shall be treated as a notice of deficiency under sec-
17 tion 6212 and any petition that is filed in respect of
18 the notice shall be treated as an action brought
19 under section 6213.

20 “(2) SPECIAL RULE IF SECRETARY ERRO-
21 NEOUSLY MAILES NOTICE OF DEFICIENCY.—If the
22 Secretary erroneously determines that subchapter B
23 applies to a taxable year of a taxpayer and consist-
24 ent with that determination timely mails a notice of
25 deficiency to the taxpayer pursuant to section 6212,

1 the notice of deficiency shall be treated as a notice
2 of adjustment under subsection (a) and any petition
3 that is filed in respect of the notice shall be treated
4 as an action brought under subsection (c).”.

5 (b) TREATMENT OF PARTNERSHIP ITEMS IN DEFICI-
6 CIENCY PROCEEDINGS.—Section 6211 (defining defi-
7 ciency) is amended by adding at the end the following new
8 subsection:

9 “(c) COORDINATION WITH SUBCHAPTER C.—In de-
10 termining the amount of any deficiency for purposes of
11 this subchapter, adjustments to partnership items shall be
12 made only as provided in subchapter C.”.

13 (c) CLERICAL AMENDMENT.—The table of sections
14 for subchapter C of chapter 63 is amended by adding at
15 the end the following new item:

“Sec. 6234. Declaratory judgment relating to treatment of items
other than partnership items with respect to an
oversheltered return.”.

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

19 **SEC. 1232. PARTNERSHIP RETURN TO BE DETERMINATIVE**
20 **OF AUDIT PROCEDURES TO BE FOLLOWED.**

21 (a) IN GENERAL.—Section 6231 (relating to defini-
22 tions and special rules) is amended by adding at the end
23 the following new subsection:

1 “(g) PARTNERSHIP RETURN TO BE DETERMINATIVE
2 OF WHETHER SUBCHAPTER APPLIES.—

3 “(1) DETERMINATION THAT SUBCHAPTER AP-
4 PLIES.—If, on the basis of a partnership return for
5 a taxable year, the Secretary reasonably determines
6 that this subchapter applies to such partnership for
7 such year but such determination is erroneous, then
8 the provisions of this subchapter are hereby ex-
9 tended to such partnership (and its items) for such
10 taxable year and to partners of such partnership.

11 “(2) DETERMINATION THAT SUBCHAPTER DOES
12 NOT APPLY.—If, on the basis of a partnership re-
13 turn for a taxable year, the Secretary reasonably de-
14 termines that this subchapter does not apply to such
15 partnership for such year but such determination is
16 erroneous, then the provisions of this subchapter
17 shall not apply to such partnership (and its items)
18 for such taxable year or to partners of such partner-
19 ship.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to partnership taxable years ending
22 after the date of the enactment of this Act.

1 **SEC. 1233. PROVISIONS RELATING TO STATUTE OF LIMITA-**
2 **TIONS.**

3 (a) **SUSPENSION OF STATUTE WHERE UNTIMELY**
4 **PETITION FILED.**—Paragraph (1) of section 6229(d) (re-
5 lating to suspension where Secretary makes administrative
6 adjustment) is amended by striking all that follows “sec-
7 tion 6226” and inserting the following: “(and, if a petition
8 is filed under section 6226 with respect to such adminis-
9 trative adjustment, until the decision of the court becomes
10 final), and”.

11 (b) **SUSPENSION OF STATUTE DURING BANKRUPTCY**
12 **PROCEEDING.**—Section 6229 is amended by adding at the
13 end the following new subsection:

14 “(h) **SUSPENSION DURING PENDENCY OF BANK-**
15 **RUPTCY PROCEEDING.**—If a petition is filed naming a
16 partner as a debtor in a bankruptcy proceeding under title
17 11 of the United States Code, the running of the period
18 of limitations provided in this section with respect to such
19 partner shall be suspended—

20 “(1) for the period during which the Secretary
21 is prohibited by reason of such bankruptcy proceed-
22 ing from making an assessment, and

23 “(2) for 60 days thereafter.”.

24 (c) **TAX MATTERS PARTNER IN BANKRUPTCY.**—Sec-
25 tion 6229(b) is amended by redesignating paragraph (2)

1 as paragraph (3) and by inserting after paragraph (1) the
2 following new paragraph:

3 “(2) SPECIAL RULE WITH RESPECT TO DEBT-
4 ORS IN TITLE 11 CASES.—Notwithstanding any other
5 law or rule of law, if an agreement is entered into
6 under paragraph (1)(B) and the agreement is signed
7 by a person who would be the tax matters partner
8 but for the fact that, at the time that the agreement
9 is executed, the person is a debtor in a bankruptcy
10 proceeding under title 11 of the United States Code,
11 such agreement shall be binding on all partners in
12 the partnership unless the Secretary has been noti-
13 fied of the bankruptcy proceeding in accordance with
14 regulations prescribed by the Secretary.”.

15 (d) EFFECTIVE DATES.—

16 (1) SUBSECTIONS (a) AND (b).—The amend-
17 ments made by subsections (a) and (b) shall apply
18 to partnership taxable years with respect to which
19 the period under section 6229 of the Internal Reve-
20 nue Code of 1986 for assessing tax has not expired
21 on or before the date of the enactment of this Act.

22 (2) SUBSECTION (c).—The amendment made
23 by subsection (c) shall apply to agreements entered
24 into after the date of the enactment of this Act.

1 **SEC. 1234. EXPANSION OF SMALL PARTNERSHIP EXCEP-**
2 **TION.**

3 (a) IN GENERAL.—Clause (i) of section
4 6231(a)(1)(B) (relating to exception for small partner-
5 ships) is amended to read as follows:

6 “(i) IN GENERAL.—The term ‘part-
7 nership’ shall not include any partnership
8 having 10 or fewer partners each of whom
9 is an individual (other than a nonresident
10 alien), a C corporation, or an estate of a
11 deceased partner. For purposes of the pre-
12 ceding sentence, a husband and wife (and
13 their estates) shall be treated as 1 part-
14 ner.”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to partnership taxable years ending
17 after the date of the enactment of this Act.

18 **SEC. 1235. EXCLUSION OF PARTIAL SETTLEMENTS FROM 1-**
19 **YEAR LIMITATION ON ASSESSMENT.**

20 (a) IN GENERAL.—Subsection (f) of section 6229 (re-
21 lating to items becoming nonpartnership items) is amend-
22 ed—

23 (1) by striking “(f) ITEMS BECOMING NON-
24 PARTNERSHIP ITEMS.—If” and inserting the follow-
25 ing:

26 “(f) SPECIAL RULES.—

1 “(1) ITEMS BECOMING NONPARTNERSHIP
2 ITEMS.—If”,

3 (2) by moving the text of such subsection 2 ems
4 to the right, and

5 (3) by adding at the end the following new
6 paragraph:

7 “(2) SPECIAL RULE FOR PARTIAL SETTLEMENT
8 AGREEMENTS.—If a partner enters into a settlement
9 agreement with the Secretary with respect to the
10 treatment of some of the partnership items in dis-
11 pute for a partnership taxable year but other part-
12 nership items for such year remain in dispute, the
13 period of limitations for assessing any tax attrib-
14 utable to the settled items shall be determined as if
15 such agreement had not been entered into.”.

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

19 **SEC. 1236. EXTENSION OF TIME FOR FILING A REQUEST**
20 **FOR ADMINISTRATIVE ADJUSTMENT.**

21 (a) IN GENERAL.—Section 6227 (relating to admin-
22 istrative adjustment requests) is amended by redesignat-
23 ing subsections (b) and (c) as subsections (c) and (d), re-
24 spectively, and by inserting after subsection (a) the follow-
25 ing new subsection:

1 “(b) SPECIAL RULE IN CASE OF EXTENSION OF PE-
2 RIOD OF LIMITATIONS UNDER SECTION 6229.—The pe-
3 riod prescribed by subsection (a)(1) for filing of a request
4 for an administrative adjustment shall be extended—

5 “(1) for the period within which an assessment
6 may be made pursuant to an agreement (or any ex-
7 tension thereof) under section 6229(b), and

8 “(2) for 6 months thereafter.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall take effect as if included in the amend-
11 ments made by section 402 of the Tax Equity and Fiscal
12 Responsibility Act of 1982.

13 **SEC. 1237. AVAILABILITY OF INNOCENT SPOUSE RELIEF IN**
14 **CONTEXT OF PARTNERSHIP PROCEEDINGS.**

15 (a) IN GENERAL.—Subsection (a) of section 6230 is
16 amended by adding at the end the following new para-
17 graph:

18 “(3) SPECIAL RULE IN CASE OF ASSERTION BY
19 PARTNER’S SPOUSE OF INNOCENT SPOUSE RE-
20 LIEF.—

21 “(A) Notwithstanding section 6404(b), if
22 the spouse of a partner asserts that section
23 6013(e) applies with respect to a liability that
24 is attributable to any adjustment to a partner-
25 ship item, then such spouse may file with the

1 Secretary within 60 days after the notice of
2 computational adjustment is mailed to the
3 spouse a request for abatement of the assess-
4 ment specified in such notice. Upon receipt of
5 such request, the Secretary shall abate the as-
6 sessment. Any reassessment of the tax with re-
7 spect to which an abatement is made under this
8 subparagraph shall be subject to the deficiency
9 procedures prescribed by subchapter B. The pe-
10 riod for making any such reassessment shall
11 not expire before the expiration of 60 days after
12 the date of such abatement.

13 “(B) If the spouse files a petition with the
14 Tax Court pursuant to section 6213 with re-
15 spect to the request for abatement described in
16 subparagraph (A), the Tax Court shall only
17 have jurisdiction pursuant to this section to de-
18 termine whether the requirements of section
19 6013(e) have been satisfied. For purposes of
20 such determination, the treatment of partner-
21 ship items under the settlement, the final part-
22 nership administrative adjustment, or the deci-
23 sion of the court (whichever is appropriate) that
24 gave rise to the liability in question shall be
25 conclusive.

1 “(C) Rules similar to the rules contained
2 in subparagraphs (B) and (C) of paragraph (2)
3 shall apply for purposes of this paragraph.”.

4 (b) CLAIMS FOR REFUND.—Subsection (c) of section
5 6230 is amended by adding at the end the following new
6 paragraph:

7 “(5) RULES FOR SEEKING INNOCENT SPOUSE
8 RELIEF.—

9 “(A) IN GENERAL.—The spouse of a part-
10 ner may file a claim for refund on the ground
11 that the Secretary failed to relieve the spouse
12 under section 6013(e) from a liability that is at-
13 tributable to an adjustment to a partnership
14 item.

15 “(B) TIME FOR FILING CLAIM.—Any claim
16 under subparagraph (A) shall be filed within 6
17 months after the day on which the Secretary
18 mails to the spouse the notice of computational
19 adjustment referred to in subsection (a)(3)(A).

20 “(C) SUIT IF CLAIM NOT ALLOWED.—If
21 the claim under subparagraph (B) is not al-
22 lowed, the spouse may bring suit with respect
23 to the claim within the period specified in para-
24 graph (3).

1 “(D) PRIOR DETERMINATIONS ARE BIND-
2 ING.—For purposes of any claim or suit under
3 this paragraph, the treatment of partnership
4 items under the settlement, the final partner-
5 ship administrative adjustment, or the decision
6 of the court (whichever is appropriate) that
7 gave rise to the liability in question shall be
8 conclusive.”.

9 (c) TECHNICAL AMENDMENTS.—

10 (1) Paragraph (1) of section 6230(a) is amend-
11 ed by striking “paragraph (2)” and inserting “para-
12 graph (2) or (3)”.

13 (2) Subsection (a) of section 6503 is amended
14 by striking “section 6230(a)(2)(A)” and inserting
15 “paragraph (2)(A) or (3) of section 6230(a)”.

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall take effect as if included in the amend-
18 ments made by section 402 of the Tax Equity and Fiscal
19 Responsibility Act of 1982.

20 **SEC. 1238. DETERMINATION OF PENALTIES AT PARTNER-**
21 **SHIP LEVEL.**

22 (a) IN GENERAL.—Section 6221 (relating to tax
23 treatment determined at partnership level) is amended by
24 striking “item” and inserting “item (and the applicability

1 of any penalty, addition to tax, or additional amount which
2 relates to an adjustment to a partnership item)”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Subsection (f) of section 6226 is amended—

5 (A) by striking “relates and” and inserting
6 “relates,” and

7 (B) by inserting before the period “, and
8 the applicability of any penalty, addition to tax,
9 or additional amount which relates to an ad-
10 justment to a partnership item”.

11 (2) Clause (i) of section 6230(a)(2)(A) is
12 amended to read as follows:

13 “(i) affected items which require part-
14 ner level determinations (other than pen-
15 alties, additions to tax, and additional
16 amounts that relate to adjustments to
17 partnership items), or”.

18 (3)(A) Subparagraph (A) of section 6230(a)(3),
19 as added by section 14317, is amended by inserting
20 “(including any liability for any penalty, addition to
21 tax, or additional amount relating to such adjust-
22 ment)” after “partnership item”.

23 (B) Subparagraph (B) of such section is
24 amended by inserting “(and the applicability of any

1 penalties, additions to tax, or additional amounts)”
2 after “partnership items”.

3 (C) Subparagraph (A) of section 6230(c)(5), as
4 added by section 14317, is amended by inserting be-
5 fore the period “(including any liability for any pen-
6 alties, additions to tax, or additional amounts relat-
7 ing to such adjustment)”.

8 (D) Subparagraph (D) of section 6230(c)(5), as
9 added by section 14317, is amended by inserting
10 “(and the applicability of any penalties, additions to
11 tax, or additional amounts)” after “partnership
12 items”.

13 (4) Paragraph (1) of section 6230(c) is amend-
14 ed by striking “or” at the end of subparagraph (A),
15 by striking the period at the end of subparagraph
16 (B) and inserting “, or”, and by adding at the end
17 the following new subparagraph:

18 “(C) the Secretary erroneously imposed
19 any penalty, addition to tax, or additional
20 amount which relates to an adjustment to a
21 partnership item.”.

22 (5) So much of subparagraph (A) of section
23 6230(c)(2) as precedes “shall be filed” is amended
24 to read as follows:

1 “(A) UNDER PARAGRAPH (1) (A) OR (C).—
2 Any claim under subparagraph (A) or (C) of
3 paragraph (1)”.

4 (6) Paragraph (4) of section 6230(c) is amend-
5 ed by adding at the end the following: “In addition,
6 the determination under the final partnership ad-
7 ministrative adjustment or under the decision of the
8 court (whichever is appropriate) concerning the ap-
9 plicability of any penalty, addition to tax, or addi-
10 tional amount which relates to an adjustment to a
11 partnership item shall also be conclusive. Notwith-
12 standing the preceding sentence, the partner shall be
13 allowed to assert any partner level defenses that may
14 apply or to challenge the amount of the computa-
15 tional adjustment.”.

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

19 **SEC. 1239. PROVISIONS RELATING TO COURT JURISDIC-**
20 **TION, ETC.**

21 (a) TAX COURT JURISDICTION TO ENJOIN PRE-
22 MATURE ASSESSMENTS OF DEFICIENCIES ATTRIBUTABLE
23 TO PARTNERSHIP ITEMS.—Subsection (b) of section 6225
24 is amended by striking “the proper court.” and inserting
25 “the proper court, including the Tax Court. The Tax

1 Court shall have no jurisdiction to enjoin any action or
2 proceeding under this subsection unless a timely petition
3 for a readjustment of the partnership items for the taxable
4 year has been filed and then only in respect of the adjust-
5 ments that are the subject of such petition.”.

6 (b) JURISDICTION TO CONSIDER STATUTE OF LIMITATIONS WITH RESPECT TO PARTNERS.—Paragraph (1)
7 of section 6226(d) is amended by adding at the end the
8 following new sentence:
9

10 “Notwithstanding subparagraph (B), any person
11 treated under subsection (c) as a party to an action
12 shall be permitted to participate in such action (or
13 file a readjustment petition under subsection (b) or
14 paragraph (2) of this subsection) solely for the pur-
15 pose of asserting that the period of limitations for
16 assessing any tax attributable to partnership items
17 has expired with respect to such person, and the
18 court having jurisdiction of such action shall have
19 jurisdiction to consider such assertion.”.

20 (c) TAX COURT JURISDICTION TO DETERMINE
21 OVERPAYMENTS ATTRIBUTABLE TO AFFECTED ITEMS.—

22 (1) Paragraph (6) of section 6230(d) is amend-
23 ed by striking “(or an affected item)”.

24 (2) Paragraph (3) of section 6512(b) is amend-
25 ed by adding at the end the following new sentence:

1 “In the case of a credit or refund relating to an af-
2 fected item (within the meaning of section
3 6231(a)(5)), the preceding sentence shall be applied
4 by substituting the periods under sections 6229 and
5 6230(d) for the periods under section 6511(b)(2),
6 (c), and (d).”.

7 (d) VENUE ON APPEAL.—

8 (1) Paragraph (1) of section 7482(b) is amend-
9 ed by striking “or” at the end of subparagraph (D),
10 by striking the period at the end of subparagraph
11 (E) and inserting “, or”, and by inserting after sub-
12 paragraph (E) the following new subparagraph:

13 “(F) in the case of a petition under section
14 6234(c)—

15 “(i) the legal residence of the peti-
16 tioner if the petitioner is not a corporation,
17 and

18 “(ii) the place or office applicable
19 under subparagraph (B) if the petitioner is
20 a corporation.”.

21 (2) The last sentence of section 7482(b)(1) is
22 amended by striking “or 6228(a)” and inserting “,
23 6228(a), or 6234(c)”.

24 (e) OTHER PROVISIONS.—

1 (1) Subsection (c) of section 7459 is amended
2 by striking “or section 6228(a)” and inserting “,
3 6228(a), or 6234(c)”.

4 (2) Subsection (o) of section 6501 is amended
5 by adding at the end the following new paragraph:

6 “(3) For declaratory judgment relating to treat-
7 ment of items other than partnership items with re-
8 spect to an oversheltered return, see section 6234.”.

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

12 **SEC. 1240. TREATMENT OF PREMATURE PETITIONS FILED**
13 **BY NOTICE PARTNERS OR 5-PERCENT**
14 **GROUPS.**

15 (a) IN GENERAL.—Subsection (b) of section 6226
16 (relating to judicial review of final partnership administra-
17 tive adjustments) is amended by redesignating paragraph
18 (5) as paragraph (6) and by inserting after paragraph (4)
19 the following new paragraph:

20 “(5) TREATMENT OF PREMATURE PETI-
21 TIONS.—If—

22 “(A) a petition for a readjustment of part-
23 nership items for the taxable year involved is
24 filed by a notice partner (or a 5-percent group)

1 during the 90-day period described in sub-
2 section (a), and

3 “(B) no action is brought under paragraph
4 (1) during the 60-day period described therein
5 with respect to such taxable year which is not
6 dismissed,

7 such petition shall be treated for purposes of para-
8 graph (1) as filed on the last day of such 60-day pe-
9 riod.”.

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

13 **SEC. 1241. BONDS IN CASE OF APPEALS FROM CERTAIN**
14 **PROCEEDING.**

15 (a) IN GENERAL.—Subsection (b) of section 7485
16 (relating to bonds to stay assessment of collection) is
17 amended—

18 (1) by inserting “penalties,” after “any inter-
19 est,”, and

20 (2) by striking “aggregate of such deficiencies”
21 and inserting “aggregate liability of the parties to
22 the action”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall take effect as if included in the amend-

1 ments made by section 402 of the Tax Equity and Fiscal
2 Responsibility Act of 1982.

3 **SEC. 1242. SUSPENSION OF INTEREST WHERE DELAY IN**
4 **COMPUTATIONAL ADJUSTMENT RESULTING**
5 **FROM CERTAIN SETTLEMENTS.**

6 (a) **IN GENERAL.**—Subsection (c) of section 6601
7 (relating to interest on underpayment, nonpayment, or ex-
8 tension of time for payment, of tax) is amended by adding
9 at the end the following new sentence: “In the case of a
10 settlement under section 6224(c) which results in the con-
11 version of partnership items to nonpartnership items pur-
12 suant to section 6231(b)(1)(C), the preceding sentence
13 shall apply to a computational adjustment resulting from
14 such settlement in the same manner as if such adjustment
15 were a deficiency and such settlement were a waiver re-
16 ferred to in the preceding sentence.”.

17 (b) **EFFECTIVE DATE.**—The amendment made by
18 this section shall apply to adjustments with respect to
19 partnership taxable years beginning after the date of the
20 enactment of this Act.

1 **SEC. 1243. SPECIAL RULES FOR ADMINISTRATIVE ADJUST-**
2 **MENT REQUESTS WITH RESPECT TO BAD**
3 **DEBTS OR WORTHLESS SECURITIES.**

4 (a) **GENERAL RULE.**—Section 6227 (relating to ad-
5 ministrative adjustment requests) is amended by adding
6 at the end the following new subsection:

7 “(e) **REQUESTS WITH RESPECT TO BAD DEBTS OR**
8 **WORTHLESS SECURITIES.**—In the case of that portion of
9 any request for an administrative adjustment which re-
10 lates to the deductibility by the partnership under section
11 166 of a debt as a debt which became worthless, or under
12 section 165(g) of a loss from worthlessness of a security,
13 the period prescribed in subsection (a)(1) shall be 7 years
14 from the last day for filing the partnership return for the
15 year with respect to which such request is made (deter-
16 mined without regard to extensions).”.

17 (b) **EFFECTIVE DATE.**—

18 (1) **IN GENERAL.**—The amendment made by
19 subsection (a) shall take effect as if included in the
20 amendments made by section 402 of the Tax Equity
21 and Fiscal Responsibility Act of 1982.

22 (2) **TREATMENT OF REQUESTS FILED BEFORE**
23 **DATE OF ENACTMENT.**—In the case of that portion
24 of any request (filed before the date of the enact-
25 ment of this Act) for an administrative adjustment
26 which relates to the deductibility of a debt as a debt

1 which became worthless or the deductibility of a loss
2 from the worthlessness of a security—

3 (A) paragraph (2) of section 6227(a) of
4 the Internal Revenue Code of 1986 shall not
5 apply,

6 (B) the period for filing a petition under
7 section 6228 of the Internal Revenue Code of
8 1986 with respect to such request shall not ex-
9 pire before the date 6 months after the date of
10 the enactment of this Act, and

11 (C) such a petition may be filed without
12 regard to whether there was a notice of the be-
13 ginning of an administrative proceeding or a
14 final partnership administrative adjustment.

15 **PART III—PROVISION RELATING TO CLOSING OF**
16 **PARTNERSHIP TAXABLE YEAR WITH RE-**
17 **SPECT TO DECEASED PARTNER, ETC.**

18 **SEC. 1246. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH**
19 **RESPECT TO DECEASED PARTNER, ETC.**

20 (a) GENERAL RULE.—Subparagraph (A) of section
21 706(e)(2) (relating to disposition of entire interest) is
22 amended to read as follows:

23 “(A) DISPOSITION OF ENTIRE INTER-
24 EST.—The taxable year of a partnership shall
25 close with respect to a partner whose entire in-

1 interest in the partnership terminates (whether
2 by reason of death, liquidation, or otherwise).”.

3 (b) CLERICAL AMENDMENT.—The paragraph head-
4 ing for paragraph (2) of section 706(c) is amended to read
5 as follows:

6 “(2) TREATMENT OF DISPOSITIONS.—”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to partnership taxable years begin-
9 ning after December 31, 1997.

10 **Subtitle D—Provisions Relating to** 11 **Real Estate Investment Trusts**

12 **SEC. 1251. CLARIFICATION OF LIMITATION ON MAXIMUM** 13 **NUMBER OF SHAREHOLDERS.**

14 (a) RULES RELATING TO DETERMINATION OF OWN-
15 ERSHIP.—

16 (1) FAILURE TO ISSUE SHAREHOLDER DEMAND
17 LETTER NOT TO DISQUALIFY REIT.—Section 857(a)
18 (relating to requirements applicable to real estate in-
19 vestment trusts) is amended by striking paragraph
20 (2) and by redesignating paragraph (3) as para-
21 graph (2).

22 (2) SHAREHOLDER DEMAND LETTER REQUIRE-
23 MENT; PENALTY.—Section 857 (relating to taxation
24 of real estate investment trusts and their bene-
25 ficiaries) is amended by redesignating subsection (f)

1 as subsection (g) and by inserting after subsection
2 (e) the following new subsection:

3 “(f) REAL ESTATE INVESTMENT TRUSTS TO ASCER-
4 TAIN OWNERSHIP.—

5 “(1) IN GENERAL.—Each real estate invest-
6 ment trust shall each taxable year comply with regu-
7 lations prescribed by the Secretary for the purposes
8 of ascertaining the actual ownership of the outstand-
9 ing shares, or certificates of beneficial interest, of
10 such trust.

11 “(2) FAILURE TO COMPLY.—

12 “(A) IN GENERAL.—If a real estate invest-
13 ment trust fails to comply with the require-
14 ments of paragraph (1) for a taxable year, such
15 trust shall pay (on notice and demand by the
16 Secretary and in the same manner as tax) a
17 penalty of \$25,000.

18 “(B) INTENTIONAL DISREGARD.—If any
19 failure under paragraph (1) is due to inten-
20 tional disregard of the requirement under para-
21 graph (1), the penalty under subparagraph (A)
22 shall be \$50,000.

23 “(C) FAILURE TO COMPLY AFTER NO-
24 TICE.—The Secretary may require a real estate
25 investment trust to take such actions as the

1 Secretary determines appropriate to ascertain
2 actual ownership if the trust fails to meet the
3 requirements of paragraph (1). If the trust fails
4 to take such actions, the trust shall pay (on no-
5 tice and demand by the Secretary and in the
6 same manner as tax) an additional penalty
7 equal to the penalty determined under subpara-
8 graph (A) or (B), whichever is applicable.

9 “(D) REASONABLE CAUSE.—No penalty
10 shall be imposed under this paragraph with re-
11 spect to any failure if it is shown that such fail-
12 ure is due to reasonable cause and not to willful
13 neglect.”.

14 (b) COMPLIANCE WITH CLOSELY HELD PROHIBI-
15 TION.—

16 (1) IN GENERAL.—Section 856 (defining real
17 estate investment trust) is amended by adding at the
18 end the following new subsection:

19 “(k) REQUIREMENT THAT ENTITY NOT BE CLOSELY
20 HELD TREATED AS MET IN CERTAIN CASES.—A corpora-
21 tion, trust, or association—

22 “(1) which for a taxable year meets the require-
23 ments of section 857(f)(1), and

24 “(2) which does not know, or exercising reason-
25 able diligence would not have known, whether the

1 entity failed to meet the requirement of subsection
 2 (a)(6),
 3 shall be treated as having met the requirement of sub-
 4 section (a)(6) for the taxable year.”.

5 (2) CONFORMING AMENDMENT.—Paragraph (6)
 6 of section 856(a) is amended by inserting “subject
 7 to the provisions of subsection (k),” before “which
 8 is not”.

9 **SEC. 1252. DE MINIMIS RULE FOR TENANT SERVICES IN-**
 10 **COME.**

11 (a) IN GENERAL.—Paragraph (2) of section 856(d)
 12 (defining rents from real property) is amended by striking
 13 subparagraph (C) and the last sentence and inserting:

14 “(C) any impermissible tenant service in-
 15 come (as defined in paragraph (7)).”.

16 (b) IMPERMISSIBLE TENANT SERVICE INCOME.—
 17 Section 856(d) is amended by adding at the end the fol-
 18 lowing new paragraph:

19 “(7) IMPERMISSIBLE TENANT SERVICE IN-
 20 COME.—For purposes of paragraph (2)(C)—

21 “(A) IN GENERAL.—The term ‘impermis-
 22 sible tenant service income’ means, with respect
 23 to any real or personal property, any amount
 24 received or accrued directly or indirectly by the
 25 real estate investment trust for—

1 “(i) services furnished or rendered by
2 the trust to the tenants of such property,
3 or

4 “(ii) managing or operating such
5 property.

6 “(B) DISQUALIFICATION OF ALL AMOUNTS
7 WHERE MORE THAN DE MINIMIS AMOUNT.—If
8 the amount described in subparagraph (A) with
9 respect to a property for any taxable year ex-
10 ceeds 1 percent of all amounts received or ac-
11 crued during such taxable year directly or indi-
12 rectly by the real estate investment trust with
13 respect to such property, the impermissible ten-
14 ant service income of the trust with respect to
15 the property shall include all such amounts.

16 “(C) EXCEPTIONS.—For purposes of sub-
17 paragraph (A)—

18 “(i) services furnished or rendered, or
19 management or operation provided,
20 through an independent contractor from
21 whom the trust itself does not derive or re-
22 ceive any income shall not be treated as
23 furnished, rendered, or provided by the
24 trust, and

1 “(ii) there shall not be taken into ac-
2 count any amount which would be excluded
3 from unrelated business taxable income
4 under section 512(b)(3) if received by an
5 organization described in section
6 511(a)(2).

7 “(D) AMOUNT ATTRIBUTABLE TO IMPER-
8 MISSIBLE SERVICES.—For purposes of subpara-
9 graph (A), the amount treated as received for
10 any service (or management or operation) shall
11 not be less than 150 percent of the direct cost
12 of the trust in furnishing or rendering the serv-
13 ice (or providing the management or operation).

14 “(E) COORDINATION WITH LIMITA-
15 TIONS.—For purposes of paragraphs (2) and
16 (3) of subsection (c), amounts described in sub-
17 paragraph (A) shall be included in the gross in-
18 come of the corporation, trust, or association.”.

19 **SEC. 1253. ATTRIBUTION RULES APPLICABLE TO TENANT**
20 **OWNERSHIP.**

21 Section 856(d)(5) (relating to constructive ownership
22 of stock) is amended by adding at the end the following:
23 “For purposes of paragraph (2)(B), section 318(a)(3)(A)
24 shall be applied under the preceding sentence in the case
25 of a partnership by taking into account only partners who

1 own (directly or indirectly) 25 percent or more of the cap-
2 ital interest, or the profits interest, in the partnership.”.

3 **SEC. 1254. CREDIT FOR TAX PAID BY REIT ON RETAINED**
4 **CAPITAL GAINS.**

5 (a) GENERAL RULE.—Paragraph (3) of section
6 857(b) (relating to capital gains) is amended by redesi-
7 gnating subparagraph (D) as subparagraph (E) and by in-
8 serting after subparagraph (C) the following new subpara-
9 graph:

10 “(D) TREATMENT BY SHAREHOLDERS OF
11 UNDISTRIBUTED CAPITAL GAINS.—

12 “(i) Every shareholder of a real estate
13 investment trust at the close of the trust’s
14 taxable year shall include, in computing his
15 long-term capital gains in his return for
16 his taxable year in which the last day of
17 the trust’s taxable year falls, such amount
18 as the trust shall designate in respect of
19 such shares in a written notice mailed to
20 its shareholders at any time prior to the
21 expiration of 60 days after the close of its
22 taxable year (or mailed to its shareholders
23 or holders of beneficial interests with its
24 annual report for the taxable year), but the
25 amount so includible by any shareholder

1 shall not exceed that part of the amount
2 subjected to tax in subparagraph (A)(ii)
3 which he would have received if all of such
4 amount had been distributed as capital
5 gain dividends by the trust to the holders
6 of such shares at the close of its taxable
7 year.

8 “(ii) For purposes of this title, every
9 such shareholder shall be deemed to have
10 paid, for his taxable year under clause (i),
11 the tax imposed by subparagraph (A)(ii)
12 on the amounts required by this subpara-
13 graph to be included in respect of such
14 shares in computing his long-term capital
15 gains for that year; and such shareholders
16 shall be allowed credit or refund as the
17 case may be, for the tax so deemed to have
18 been paid by him.

19 “(iii) The adjusted basis of such
20 shares in the hands of the holder shall be
21 increased with respect to the amounts re-
22 quired by this subparagraph to be included
23 in computing his long-term capital gains,
24 by the difference between the amount of
25 such includible gains and the tax deemed

1 paid by such shareholder in respect of such
2 shares under clause (ii).

3 “(iv) In the event of such designation,
4 the tax imposed by subparagraph (A)(ii)
5 shall be paid by the real estate investment
6 trust within 30 days after the close of its
7 taxable year.

8 “(v) The earnings and profits of such
9 real estate investment trust, and the earn-
10 ings and profits of any such shareholder
11 which is a corporation, shall be appro-
12 priately adjusted in accordance with regu-
13 lations prescribed by the Secretary.

14 “(vi) As used in this subparagraph,
15 the terms ‘shares’ and ‘shareholders’ shall
16 include beneficial interests and holders of
17 beneficial interests, respectively.”.

18 (b) CONFORMING AMENDMENTS.—

19 (1) Clause (i) of section 857(b)(7)(A) is amend-
20 ed by striking “subparagraph (B)” and inserting
21 “subparagraph (B) or (D)”.

22 (2) Clause (iii) of section 852(b)(3)(D) is
23 amended by striking “by 65 percent” and all that
24 follows and inserting “by the difference between the
25 amount of such includible gains and the tax deemed

1 paid by such shareholder in respect of such shares
2 under clause (ii).”.

3 **SEC. 1255. REPEAL OF 30-PERCENT GROSS INCOME RE-**
4 **QUIREMENT.**

5 (a) **GENERAL RULE.**—Subsection (c) of section 856
6 (relating to limitations) is amended—

7 (1) by adding “and” at the end of paragraph
8 (3),

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

10 (3) by redesignating paragraphs (5), (6), and
11 (7) as paragraphs (4), (5), and (6), respectively.

12 (b) **CONFORMING AMENDMENTS.**—

13 (1) Subparagraph (G) of section 856(c)(5), as
14 redesignated by subsection (a), is amended by strik-
15 ing “and such agreement shall be treated as a secu-
16 rity for purposes of paragraph (4)(A)”.

17 (2) Paragraph (5) of section 857(b) is amended
18 by striking “section 856(c)(7)” and inserting “sec-
19 tion 856(c)(6)”.

20 (3) Subparagraph (C) of section 857(b)(6) is
21 amended by striking “section 856(c)(6)(B)” and in-
22 serting “section 856(c)(5)(B)”.

1 **SEC. 1256. MODIFICATION OF EARNINGS AND PROFITS**
2 **RULES FOR DETERMINING WHETHER REIT**
3 **HAS EARNINGS AND PROFITS FROM NON-**
4 **REIT YEAR.**

5 Subsection (d) of section 857 is amended by adding
6 at the end the following new paragraph:

7 “(3) DISTRIBUTIONS TO MEET REQUIREMENTS
8 OF SUBSECTION (a)(2)(B).—Any distribution which
9 is made in order to comply with the requirements of
10 subsection (a)(2)(B)—

11 “(A) shall be treated for purposes of this
12 subsection and subsection (a)(2)(B) as made
13 from the earliest accumulated earnings and
14 profits (other than earnings and profits to
15 which subsection (a)(2)(A) applies) rather than
16 the most recently accumulated earnings and
17 profits, and

18 “(B) to the extent treated under subpara-
19 graph (A) as made from accumulated earnings
20 and profits, shall not be treated as a distribu-
21 tion for purposes of subsection (b)(2)(B).”.

22 **SEC. 1257. TREATMENT OF FORECLOSURE PROPERTY.**

23 (a) GRACE PERIODS.—

24 (1) INITIAL PERIOD.—Paragraph (2) of section
25 856(e) (relating to special rules for foreclosure prop-
26 erty) is amended by striking “on the date which is

1 2 years after the date the trust acquired such prop-
2 erty” and inserting “as of the close of the 3d taxable
3 year following the taxable year in which the trust ac-
4 quired such property”.

5 (2) EXTENSION.—Paragraph (3) of section
6 856(e) is amended—

7 (A) by striking “or more extensions” and
8 inserting “extension”, and

9 (B) by striking the last sentence and in-
10 serting: “Any such extension shall not extend
11 the grace period beyond the close of the 3d tax-
12 able year following the last taxable year in the
13 period under paragraph (2).”.

14 (b) REVOCATION OF ELECTION.—Paragraph (5) of
15 section 856(e) is amended by striking the last sentence
16 and inserting: “A real estate investment trust may revoke
17 any such election for a taxable year by filing the revocation
18 (in the manner provided by the Secretary) on or before
19 the due date (including any extension of time) for filing
20 its return of tax under this chapter for the taxable year.
21 If a trust revokes an election for any property, no election
22 may be made by the trust under this paragraph with re-
23 spect to the property for any subsequent taxable year.”.

1 (c) CERTAIN ACTIVITIES NOT TO DISQUALIFY PROP-
2 ERTY.—Paragraph (4) of section 856(e) is amended by
3 adding at the end the following new flush sentence:

4 “For purposes of subparagraph (C), property shall
5 not be treated as used in a trade or business by rea-
6 son of any activities of the real estate investment
7 trust with respect to such property to the extent
8 that such activities would not result in amounts re-
9 ceived or accrued, directly or indirectly, with respect
10 to such property being treated as other than rents
11 from real property.”.

12 **SEC. 1258. PAYMENTS UNDER HEDGING INSTRUMENTS.**

13 Section 856(c)(5)(G) (relating to treatment of certain
14 interest rate agreements), as redesignated by section
15 1255, is amended to read as follows:

16 “(G) TREATMENT OF CERTAIN HEDGING
17 INSTRUMENTS.—Except to the extent provided
18 by regulations, any—

19 “(i) payment to a real estate invest-
20 ment trust under an interest rate swap or
21 cap agreement, option, futures contract,
22 forward rate agreement, or any similar fi-
23 nancial instrument, entered into by the
24 trust in a transaction to reduce the inter-
25 est rate risks with respect to any indebted-

1 ness incurred or to be incurred by the
2 trust to acquire or carry real estate assets,
3 and

4 “(ii) gain from the sale or other dis-
5 position of any such investment,
6 shall be treated as income qualifying under
7 paragraph (2).”.

8 **SEC. 1259. EXCESS NONCASH INCOME.**

9 Section 857(e)(2) (relating to determination of
10 amount of excess noncash income) is amended—

11 (1) by striking subparagraph (B),

12 (2) by striking the period at the end of sub-
13 paragraph (C) and inserting a comma,

14 (3) by redesignating subparagraph (C) (as
15 amended by paragraph (2)) as subparagraph (B),
16 and

17 (4) by adding at the end the following new sub-
18 paragraphs:

19 “(C) the amount (if any) by which—

20 “(i) the amounts includible in gross
21 income with respect to instruments to
22 which section 860E(a) or 1272 applies, ex-
23 ceed

24 “(ii) the amount of money and the
25 fair market value of other property re-

1 ceived during the taxable year under such
2 instruments, and

3 “(D) amounts includible in income by rea-
4 son of cancellation of indebtedness.”.

5 **SEC. 1260. PROHIBITED TRANSACTION SAFE HARBOR.**

6 Clause (iii) of section 857(b)(6)(C) (relating to cer-
7 tain sales not to constitute prohibited transactions) is
8 amended by striking “(other than foreclosure property)”
9 in subclauses (I) and (II) and inserting “(other than sales
10 of foreclosure property or sales to which section 1033 ap-
11 plies)”.

12 **SEC. 1261. SHARED APPRECIATION MORTGAGES.**

13 (a) **BANKRUPTCY SAFE HARBOR.**—Section 856(j)
14 (relating to treatment of shared appreciation mortgages)
15 is amended by redesignating paragraph (4) as paragraph
16 (5) and by inserting after paragraph (3) the following new
17 paragraph:

18 “(4) **COORDINATION WITH 4-YEAR HOLDING PE-**
19 **RIOD.**—

20 “(A) **IN GENERAL.**—For purposes of sec-
21 tion 857(b)(6)(C), if a real estate investment
22 trust is treated as having sold secured property
23 under paragraph (3)(A), the trust shall be
24 treated as having held such property for at
25 least 4 years if—

1 “(i) the secured property is sold or
2 otherwise disposed of pursuant to a case
3 under title 11 of the United States Code,

4 “(ii) the seller is under the jurisdic-
5 tion of the court in such case, and

6 “(iii) the disposition is required by the
7 court or is pursuant to a plan approved by
8 the court.

9 “(B) EXCEPTION.—Subparagraph (A)
10 shall not apply if—

11 “(i) the secured property was acquired
12 by the trust with the intent to evict or
13 foreclose, or

14 “(ii) the trust knew or had reason to
15 know that default on the obligation de-
16 scribed in paragraph (5)(A) would occur.”.

17 (b) CLARIFICATION OF DEFINITION OF SHARED AP-
18 PRECIATION PROVISION.—Clause (ii) of section
19 856(j)(5)(A) is amended by inserting before the period “or
20 appreciation in value as of any specified date”.

21 **SEC. 1262. WHOLLY OWNED SUBSIDIARIES.**

22 Section 856(i)(2) (defining qualified REIT subsidi-
23 ary) is amended by striking “at all times during the period
24 such corporation was in existence”.

1 **SEC. 1263. EFFECTIVE DATE.**

2 The amendments made by this part shall apply to
3 taxable years beginning after the date of the enactment
4 of this Act.

5 **Subtitle E—Provisions Relating to**
6 **Regulated Investment Companies**

7 **SEC. 1271. REPEAL OF 30-PERCENT GROSS INCOME LIMITA-**
8 **TION.**

9 (a) GENERAL RULE.—Subsection (b) of section 851
10 (relating to limitations) is amended by striking paragraph
11 (3), by adding “and” at the end of paragraph (2), and
12 by redesignating paragraph (4) as paragraph (3).

13 (b) TECHNICAL AMENDMENTS.—

14 (1) The material following paragraph (3) of sec-
15 tion 851(b) (as redesignated by subsection (a)) is
16 amended—

17 (A) by striking out “paragraphs (2) and
18 (3)” and inserting “paragraph (2)”, and

19 (B) by striking out the last sentence there-
20 of.

21 (2) Subsection (c) of section 851 is amended by
22 striking “subsection (b)(4)” each place it appears
23 (including the heading) and inserting “subsection
24 (b)(3)”.

1 (3) Subsection (d) of section 851 is amended by
2 striking “subsections (b)(4)” and inserting “sub-
3 sections (b)(3)”.

4 (4) Paragraph (1) of section 851(e) is amended
5 by striking “subsection (b)(4)” and inserting “sub-
6 section (b)(3)”.

7 (5) Paragraph (4) of section 851(e) is amended
8 by striking “subsections (b)(4)” and inserting “sub-
9 sections (b)(3)”.

10 (6) Section 851 is amended by striking sub-
11 section (g) and redesignating subsection (h) as sub-
12 section (g).

13 (7) Subsection (g) of section 851 (as redesign-
14 ated by paragraph (6)) is amended by striking
15 paragraph (3).

16 (8) Section 817(h)(2) is amended—

17 (A) by striking “851(b)(4)” in subpara-
18 graph (A) and inserting “851(b)(3)”, and

19 (B) by striking “851(b)(4)(A)(i)” in sub-
20 paragraph (B) and inserting “851(b)(3)(A)(i)”.

21 (9) Section 1092(f)(2) is amended by striking
22 “Except for purposes of section 851(b)(3), the” and
23 inserting “The”.

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

4 **Subtitle F—Taxpayer Protections**

5 **SEC. 1281. REASONABLE CAUSE EXCEPTION FOR CERTAIN** 6 **PENALTIES.**

7 (a) INFORMATION ON DEDUCTIBLE EMPLOYEE CON-
8 TRIBUTIONS.—Subsection (g) of section 6652 (relating to
9 information required in connection with deductible em-
10 ployee contributions) is amended by adding at the end the
11 following new sentence: “No penalty shall be imposed
12 under this subsection on any failure which is shown to be
13 due to reasonable cause and not willful neglect.”.

14 (b) REPORTS ON STATUS AS QUALIFIED SMALL
15 BUSINESS.—Subsection (k) of section 6652 (relating to
16 failure to make reports required under section 1202) is
17 amended by adding at the end the following new sentence:
18 “No penalty shall be imposed under this subsection on any
19 failure which is shown to be due to reasonable cause and
20 not willful neglect.”.

21 (c) RETURNS OF PERSONAL HOLDING COMPANY TAX
22 BY FOREIGN CORPORATIONS.—Section 6683 (relating to
23 failure of foreign corporation to file return of personal
24 holding company tax) is amended by adding at the end
25 the following new sentence: “No penalty shall be imposed

1 under this section on any failure which is shown to be due
2 to reasonable cause and not willful neglect.”.

3 (d) FAILURE TO MAKE REQUIRED PAYMENTS.—
4 Subparagraph (A) of section 7519(f)(4) is amended by
5 adding at the end the following new sentence: “No penalty
6 shall be imposed under this subparagraph on any failure
7 which is shown to be due to reasonable cause and not will-
8 ful neglect.”.

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

12 **SEC. 1282. CLARIFICATION OF PERIOD FOR FILING CLAIMS**
13 **FOR REFUNDS.**

14 (a) IN GENERAL.—Paragraph (3) of section 6512(b)
15 (relating to overpayment determined by Tax Court) is
16 amended by adding at the end the following flush sen-
17 tence:

18 “In a case described in subparagraph (B) where the
19 date of the mailing of the notice of deficiency is dur-
20 ing the third year after the due date (with exten-
21 sions) for filing the return of tax and no return was
22 filed before such date, the applicable period under
23 subsections (a) and (b)(2) of section 6511 shall be
24 3 years.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to claims for credit or refund
3 for taxable years ending after the date of the enactment
4 of this Act.

5 **SEC. 1283. REPEAL OF AUTHORITY TO DISCLOSE WHETHER**
6 **PROSPECTIVE JUROR HAS BEEN AUDITED.**

7 (a) IN GENERAL.—Subsection (h) of section 6103
8 (relating to disclosure to certain Federal officers and em-
9 ployees for purposes of tax administration, etc.) is amend-
10 ed by striking paragraph (5) and by redesignating para-
11 graph (6) as paragraph (5).

12 (b) CONFORMING AMENDMENT.—Paragraph (4) of
13 section 6103(p) is amended by striking “(h)(6)” each
14 place it appears and inserting “(h)(5)”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to judicial proceedings commenced
17 after the date of the enactment of this Act.

18 **SEC. 1284. CLARIFICATION OF STATUTE OF LIMITATIONS.**

19 (a) IN GENERAL.—Subsection (a) of section 6501
20 (relating to limitations on assessment and collection) is
21 amended by adding at the end thereof the following new
22 sentence: “For purposes of this chapter, the term ‘return’
23 means the return required to be filed by the taxpayer (and
24 does not include a return of any person from whom the

1 taxpayer has received an item of income, gain, loss, deduc-
2 tion, or credit).”.

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

6 **SEC. 1285. AWARDING OF ADMINISTRATIVE COSTS.**

7 (a) RIGHT TO APPEAL TAX COURT DECISION.—Sub-
8 section (f) of section 7430 (relating to right of appeal)
9 is amended by adding at the end the following new para-
10 graph:

11 “(3) APPEAL OF TAX COURT DECISION.—An
12 order of the Tax Court disposing of a petition under
13 paragraph (2) shall be reviewable in the same man-
14 ner as a decision of the Tax Court, but only with re-
15 spect to the matters determined in such order.”.

16 (b) PERIOD FOR APPLYING TO IRS FOR COSTS.—
17 Subsection (b) of section 7430 (relating to limitations) is
18 amended by adding at the end the following new para-
19 graph:

20 “(5) PERIOD FOR APPLYING TO IRS FOR AD-
21 MINISTRATIVE COSTS.—An award may be made
22 under subsection (a) by the Internal Revenue Serv-
23 ice for reasonable administrative costs only if the
24 prevailing party files an application with the Inter-
25 nal Revenue Service for such costs before the 91st

1 day after the date on which the final decision of the
2 Internal Revenue Service as to the determination of
3 the tax, interest, or penalty is mailed to such
4 party.”.

5 (c) PERIOD FOR PETITIONING OF TAX COURT FOR
6 REVIEW OF DENIAL OF COSTS.—Paragraph (2) of section
7 7430(f) (relating to right of appeal) is amended—

8 (1) by striking “appeal to” and inserting “the
9 filing of a petition for review with”, and

10 (2) by adding at the end the following new sen-
11 tence: “If the Secretary sends by certified or reg-
12 istered mail a notice of such decision to the peti-
13 tioner, no proceeding in the Tax Court may be initi-
14 ated under this paragraph unless such petition is
15 filed before the 91st day after the date of such mail-
16 ing.”.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to civil actions or proceedings com-
19 menced after the date of the enactment of this Act.

20 **SEC. 1286. PENALTY FOR UNAUTHORIZED INSPECTION OF**
21 **TAX RETURNS OR TAX RETURN INFORMA-**
22 **TION.**

23 (a) IN GENERAL.—Part I of subchapter A of chapter
24 75 (relating to crimes, other offenses, and forfeitures) is

1 amended by adding after section 7213 the following new
2 section:

3 **“SEC. 7213A. UNAUTHORIZED INSPECTION OF RETURNS OR**
4 **RETURN INFORMATION.**

5 “(a) PROHIBITIONS.—

6 “(1) FEDERAL EMPLOYEES AND OTHER PER-
7 SONS.—It shall be unlawful for—

8 “(A) any officer or employee of the United
9 States, or

10 “(B) any person described in section
11 6103(n) or an officer or employee of any such
12 person,

13 willfully to inspect, except as authorized in this title,
14 any return or return information.

15 “(2) STATE AND OTHER EMPLOYEES.—It shall
16 be unlawful for any person (not described in para-
17 graph (1)) willfully to inspect, except as authorized
18 in this title, any return or return information ac-
19 quired by such person or another person under a
20 provision of section 6103 referred to in section
21 7213(a)(2).

22 “(b) PENALTY.—

23 “(1) IN GENERAL.—Any violation of subsection
24 (a) shall be punishable upon conviction by a fine in
25 any amount not exceeding \$1,000, or imprisonment

1 of not more than 1 year, or both, together with the
2 costs of prosecution.

3 “(2) FEDERAL OFFICERS OR EMPLOYEES.—An
4 officer or employee of the United States who is con-
5 victed of any violation of subsection (a) shall, in ad-
6 dition to any other punishment, be dismissed from
7 office or discharged from employment.

8 “(c) DEFINITIONS.—For purposes of this section, the
9 terms ‘inspect’, ‘return’, and ‘return information’ have the
10 respective meanings given such terms by section
11 6103(b).”.

12 (b) TECHNICAL AMENDMENTS.—

13 (1) Paragraph (2) of section 7213(a) is amend-
14 ed by inserting “(5),” after “(m)(2), (4),”.

15 (2) The table of sections for part I of sub-
16 chapter A of chapter 75 is amended by inserting
17 after the item relating to section 7213 the following
18 new item:

“Sec. 7213A. Unauthorized inspection of returns or return infor-
mation.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to violations occurring on and after
21 the date of the enactment of this Act.

1 **SEC. 1287. CIVIL DAMAGES FOR UNAUTHORIZED INSPEC-**
2 **TION OF RETURNS AND RETURN INFORMA-**
3 **TION; NOTIFICATION OF UNLAWFUL INSPEC-**
4 **TION OR DISCLOSURE.**

5 (a) CIVIL DAMAGES FOR UNAUTHORIZED INSPEC-
6 TION.—Subsection (a) of section 7431 is amended—

7 (1) by striking “DISCLOSURE” in the headings
8 for paragraphs (1) and (2) and inserting “INSPEC-
9 TION OR DISCLOSURE”, and

10 (2) by striking “discloses” in paragraphs (1)
11 and (2) and inserting “inspects or discloses”.

12 (b) NOTIFICATION OF UNLAWFUL INSPECTION OR
13 DISCLOSURE.—Section 7431 is amended by redesignating
14 subsections (e) and (f) as subsections (f) and (g), respec-
15 tively, and by inserting after subsection (d) the following
16 new subsection:

17 “(e) NOTIFICATION OF UNLAWFUL INSPECTION AND
18 DISCLOSURE.—If any person is criminally charged by in-
19 dictment or information with inspection or disclosure of
20 a taxpayer’s return or return information in violation of—

21 “(1) paragraph (1) or (2) of section 7213(a),

22 “(2) section 7213A(a), or

23 “(3) subparagraph (B) of section 1030(a)(2) of
24 title 18, United States Code,

25 the Secretary shall notify such taxpayer as soon as prac-
26 ticable of such inspection or disclosure.”.

1 (c) NO DAMAGES FOR INSPECTION REQUESTED BY
2 TAXPAYER.—Subsection (b) of section 7431 is amended
3 to read as follows:

4 “(b) EXCEPTIONS.—No liability shall arise under this
5 section with respect to any inspection or disclosure—

6 “(1) which results from a good faith, but erro-
7 neous, interpretation of section 6103, or

8 “(2) which is requested by the taxpayer.”.

9 (d) CONFORMING AMENDMENTS.—

10 (1) Subsections (c)(1)(A), (c)(1)(B)(i), and (d)
11 of section 7431 are each amended by inserting “in-
12 spection or” before “disclosure”.

13 (2) Clause (ii) of section 7431(c)(1)(B) is
14 amended by striking “willful disclosure or a disclo-
15 sure” and inserting “willful inspection or disclosure
16 or an inspection or disclosure”.

17 (3) Subsection (f) of section 7431, as redesign-
18 nated by subsection (b), is amended to read as fol-
19 lows:

20 “(f) DEFINITIONS.—For purposes of this section, the
21 terms ‘inspect’, ‘inspection’, ‘return’, and ‘return informa-
22 tion’ have the respective meanings given such terms by
23 section 6103(b).”.

1 (4) The section heading for section 7431 is
2 amended by inserting “**INSPECTION OR**” before
3 “**DISCLOSURE**”.

4 (5) The table of sections for subchapter B of
5 chapter 76 is amended by inserting “inspection or”
6 before “disclosure” in the item relating to section
7 7431.

8 (6) Paragraph (2) of section 7431(g), as reded-
9 igned by subsection (b), is amended by striking
10 “any use” and inserting “any inspection or use”.

11 (e) **EFFECTIVE DATE.**—The amendments made by
12 this section shall apply to inspections and disclosures oc-
13 ccurring on and after the date of the enactment of this
14 Act.

15 **TITLE XIII—SIMPLIFICATION**
16 **PROVISIONS RELATING TO**
17 **ESTATE AND GIFT TAXES**

18 **SEC. 1301. GIFTS TO CHARITIES EXEMPT FROM GIFT TAX**

19 **FILING REQUIREMENTS.**

20 (a) **IN GENERAL.**—Section 6019 is amended by strik-
21 ing “or” at the end of paragraph (1), by adding “or” at
22 the end of paragraph (2), and by inserting after paragraph
23 (2) the following new paragraph:

24 “(3) a transfer with respect to which a deduc-
25 tion is allowed under section 2522, except that this

1 paragraph shall apply with respect to a transfer of
2 property (other than a transfer described in section
3 2522(d)) only if the entire value of such property is
4 allowed as a deduction under section 2522.”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to gifts made after the date of the
7 enactment of this Act.

8 **SEC. 1302. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS**
9 **OF RECOVERY.**

10 (a) AMENDMENT TO SECTION 2207A.—Paragraph
11 (2) of section 2207A(a) (relating to right of recovery in
12 the case of certain marital deduction property) is amended
13 to read as follows:

14 “(2) DECEDENT MAY OTHERWISE DIRECT.—
15 Paragraph (1) shall not apply with respect to any
16 property to the extent that the decedent in his will
17 (or a revocable trust) specifically indicates an intent
18 to waive any right of recovery under this subchapter
19 with respect to such property.”.

20 (b) AMENDMENT TO SECTION 2207B.—Paragraph
21 (2) of section 2207B(a) (relating to right of recovery
22 where decedent retained interest) is amended to read as
23 follows:

24 “(2) DECEDENT MAY OTHERWISE DIRECT.—
25 Paragraph (1) shall not apply with respect to any

1 property to the extent that the decedent in his will
2 (or a revocable trust) specifically indicates an intent
3 to waive any right of recovery under this subchapter
4 with respect to such property.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply with respect to the estates of dece-
7 dents dying after the date of the enactment of this Act.

8 **SEC. 1303. TRANSITIONAL RULE UNDER SECTION 2056A.**

9 (a) GENERAL RULE.—In the case of any trust cre-
10 ated under an instrument executed before the date of the
11 enactment of the Revenue Reconciliation Act of 1990,
12 such trust shall be treated as meeting the requirements
13 of paragraph (1) of section 2056A(a) of the Internal Reve-
14 nue Code of 1986 if the trust instrument requires that
15 all trustees of the trust be individual citizens of the United
16 States or domestic corporations.

17 (b) EFFECTIVE DATE.—The provisions of subsection
18 (a) shall take effect as if included in the provisions of sec-
19 tion 11702(g) of the Revenue Reconciliation Act of 1990.

20 **SEC. 1304. CLARIFICATIONS RELATING TO DISCLAIMERS.**

21 (a) PARTIAL TRANSFER-TYPE DISCLAIMERS PER-
22 MITTED.—Paragraph (3) of section 2518(c) (relating to
23 certain transfers treated as disclaimers) is amended by in-
24 serting “(or an undivided portion of such interest)” after
25 “entire interest in the property”.

1 (b) RETENTION OF INTEREST BY DECEDENT'S
2 SPOUSE PERMITTED IN TRANSFER-TYPE DISCLAIM-
3 ERS.—Paragraph (3) of section 2518(c) is amended by
4 adding at the end the following new flush sentence:

5 “For purposes of the preceding sentence, a written
6 transfer by the spouse of the decedent of property
7 to a trust shall not fail to be treated as a transfer
8 of such spouse's interest in such property by reason
9 of such spouse having an interest in such trust.”.

10 (c) DISCLAIMERS ARE EFFECTIVE FOR INCOME TAX
11 PURPOSES.—Subsection (a) of section 2518 is amended
12 by inserting “and subtitle A” after “this subtitle” each
13 place it appears.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to transfers creating an interest
16 in the person disclaiming, and disclaimers, made after the
17 date of the enactment of this Act.

18 **SEC. 1305. INCREASE OF AMOUNT OF LAPSE OF GENERAL**
19 **POWER OF APPOINTMENT NOT TREATED AS**
20 **RELEASE FOR PURPOSES OF ESTATE AND**
21 **GIFT TAX (5 OR 5 POWER).**

22 (a) ESTATE TAX.—Subparagraph (A) of section
23 2041(b)(2) (relating to lapse of power) is amended by
24 striking “\$5,000” and inserting “\$10,000”.

1 (b) GIFT TAX.—Paragraph (1) of section 2514(e)
2 (relating to lapse of power) is amended by striking
3 “\$5,000” and inserting “\$10,000”.

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

7 **SEC. 1306. TREATMENT FOR ESTATE TAX PURPOSES OF**
8 **SHORT-TERM OBLIGATIONS HELD BY NON-**
9 **RESIDENT ALIENS.**

10 (a) IN GENERAL.—Subsection (b) of section 2105 is
11 amended by striking “and” at the end of paragraph (2),
12 by striking the period at the end of paragraph (3) and
13 inserting “, and”, and by inserting after paragraph (3)
14 the following new paragraph:

15 “(4) obligations which would be original issue
16 discount obligations as defined in section 871(g)(1)
17 but for subparagraph (B)(i) thereof, if any interest
18 thereon (were such interest received by the decedent
19 at the time of his death) would not be effectively
20 connected with the conduct of a trade or business
21 within the United States.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to estates of decedents dying after
24 the date of the enactment of this Act.

1 **SEC. 1307. CERTAIN REVOCABLE TRUSTS TREATED AS**
2 **PART OF ESTATE.**

3 (a) IN GENERAL.—Subpart A of part I of subchapter
4 J (relating to estates, trusts, beneficiaries, and decedents)
5 is amended by adding at the end the following new section:

6 **“SEC. 646. CERTAIN REVOCABLE TRUSTS TREATED AS**
7 **PART OF ESTATE.**

8 “(a) GENERAL RULE.—For purposes of this subtitle,
9 if both the executor (if any) of an estate and the trustee
10 of a qualified revocable trust elect the treatment provided
11 in this section, such trust shall be treated and taxed as
12 part of such estate (and not as a separate trust) for all
13 taxable years of the estate ending after the date of the
14 decedent’s death and before the applicable date.

15 “(b) DEFINITIONS.—For purposes of subsection
16 (a)—

17 “(1) QUALIFIED REVOCABLE TRUST.—The
18 term ‘qualified revocable trust’ means any trust (or
19 portion thereof) which was treated under section 676
20 as owned by the decedent of the estate referred to
21 in subsection (a) by reason of a power in the grantor
22 (determined without regard to section 672(e)).

23 “(2) APPLICABLE DATE.—The term ‘applicable
24 date’ means—

25 “(A) if no return of tax imposed by chap-
26 ter 11 is required to be filed, the date which is

1 2 years after the date of the decedent's death,
2 and

3 “(B) if such a return is required to be
4 filed, the date which is 6 months after the date
5 of the final determination of the liability for tax
6 imposed by chapter 11.

7 “(c) ELECTION.—The election under subsection (a)
8 shall be made not later than the time prescribed for filing
9 the return of tax imposed by this chapter for the first tax-
10 able year of the estate (determined with regard to exten-
11 sions) and, once made, shall be irrevocable.”.

12 (b) COMPARABLE TREATMENT UNDER GENERATION-
13 SKIPPING TAX.—Paragraph (1) of section 2652(b) is
14 amended by adding at the end the following new sentence:
15 “Such term shall not include any trust during any period
16 the trust is treated as part of an estate under section
17 646.”.

18 (c) CLERICAL AMENDMENT.—The table of sections
19 for such subpart A is amended by adding at the end the
20 following new item:

 “Sec. 646. Certain revocable trusts treated as part of estate.”.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply with respect to estates of decedents
23 dying after the date of the enactment of this Act.

1 **SEC. 1308. DISTRIBUTIONS DURING FIRST 65 DAYS OF TAX-**
2 **ABLE YEAR OF ESTATE.**

3 (a) IN GENERAL.—Subsection (b) of section 663 (re-
4 lating to distributions in first 65 days of taxable year) is
5 amended by inserting “an estate or” before “a trust” each
6 place it appears.

7 (b) CONFORMING AMENDMENT.—Paragraph (2) of
8 section 663(b) is amended by striking “the fiduciary of
9 such trust” and inserting “the executor of such estate or
10 the fiduciary of such trust (as the case may be)”.

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

14 **SEC. 1309. SEPARATE SHARE RULES AVAILABLE TO ES-**
15 **TATES.**

16 (a) IN GENERAL.—Subsection (c) of section 663 (re-
17 lating to separate shares treated as separate trusts) is
18 amended—

19 (1) by inserting before the last sentence the fol-
20 lowing new sentence: “Rules similar to the rules of
21 the preceding provisions of this subsection shall
22 apply to treat substantially separate and independ-
23 ent shares of different beneficiaries in an estate hav-
24 ing more than 1 beneficiary as separate estates.”,
25 and

1 (2) by inserting “or estates” after “trusts” in
2 the last sentence.

3 (b) CONFORMING AMENDMENT.—The subsection
4 heading of section 663(c) is amended by inserting “ES-
5 TATES OR” before “TRUSTS”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to estates of decedents dying after
8 the date of the enactment of this Act.

9 **SEC. 1310. EXECUTOR OF ESTATE AND BENEFICIARIES**
10 **TREATED AS RELATED PERSONS FOR DIS-**
11 **ALLOWANCE OF LOSSES, ETC.**

12 (a) DISALLOWANCE OF LOSSES.—Subsection (b) of
13 section 267 (relating to losses, expenses, and interest with
14 respect to transactions between related taxpayers) is
15 amended by striking “or” at the end of paragraph (11),
16 by striking the period at the end of paragraph (12) and
17 inserting “; or”, and by adding at the end the following
18 new paragraph:

19 “(13) Except in the case of a sale or exchange
20 in satisfaction of a pecuniary bequest, an executor of
21 an estate and a beneficiary of such estate.”.

22 (b) ORDINARY INCOME FROM GAIN FROM SALE OF
23 DEPRECIABLE PROPERTY.—Subsection (b) of section
24 1239 is amended by striking the period at the end of para-

1 graph (2) and inserting “, and” and by adding at the end
2 the following new paragraph:

3 “(3) except in the case of a sale or exchange in
4 satisfaction of a pecuniary bequest, an executor of
5 an estate and a beneficiary of such estate.”.

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

9 **SEC. 1311. LIMITATION ON TAXABLE YEAR OF ESTATES.**

10 (a) IN GENERAL.—Section 645 (relating to taxable
11 year of trusts) is amended to read as follows:

12 **“SEC. 645. TAXABLE YEAR OF ESTATES AND TRUSTS.**

13 “(a) ESTATES.—For purposes of this subtitle, the
14 taxable year of an estate shall be a year ending on October
15 31, November 30, or December 31.

16 “(b) TRUSTS.—

17 “(1) IN GENERAL.—For purposes of this sub-
18 title, the taxable year of any trust shall be the cal-
19 endar year.

20 “(2) EXCEPTION FOR TRUSTS EXEMPT FROM
21 TAX AND CHARITABLE TRUSTS.—Paragraph (1)
22 shall not apply to a trust exempt from taxation
23 under section 501(a) or to a trust described in sec-
24 tion 4947(a)(1).”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for subpart A of part I of subchapter J of chapter 1 is
3 amended by striking the item relating to section 645 and
4 inserting the following new item:

“Sec. 645. Taxable year of estates and trusts.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to estates of decedents dying after
7 the date of the enactment of this Act.

8 **SEC. 1312. TREATMENT OF FUNERAL TRUSTS.**

9 (a) IN GENERAL.—Subpart F of part I of subchapter
10 J of chapter 1 is amended by adding at the end the follow-
11 ing new section:

12 **“SEC. 684. TREATMENT OF FUNERAL TRUSTS.**

13 “(a) IN GENERAL.—In the case of a qualified funeral
14 trust—

15 “(1) subparts B, C, D, and E shall not apply,
16 and

17 “(2) no deduction shall be allowed by section
18 642(b).

19 “(b) QUALIFIED FUNERAL TRUST.—For purposes of
20 this subsection, the term ‘qualified funeral trust’ means
21 any trust (other than a foreign trust) if—

22 “(1) the trust arises as a result of a contract
23 with a person engaged in the trade or business of
24 providing funeral or burial services or property nec-
25 essary to provide such services,

1 “(2) the sole purpose of the trust is to hold, in-
2 vest, and reinvest funds in the trust and to use such
3 funds solely to make payments for such services or
4 property for the benefit of the beneficiaries of the
5 trust,

6 “(3) the only beneficiaries of such trust are in-
7 dividuals who have entered into contracts described
8 in paragraph (1) to have such services or property
9 provided at their death,

10 “(4) the only contributions to the trust are con-
11 tributions by or for the benefit of such beneficiaries,

12 “(5) the trustee elects the application of this
13 subsection, and

14 “(6) the trust would (but for the election de-
15 scribed in paragraph (5)) be treated as owned by the
16 beneficiaries under subpart E.

17 “(c) DOLLAR LIMITATION ON CONTRIBUTIONS.—

18 “(1) IN GENERAL.—The term ‘qualified funeral
19 trust’ shall not include any trust which accepts ag-
20 gregate contributions by or for the benefit of an in-
21 dividual in excess of \$7,000.

22 “(2) RELATED TRUSTS.—For purposes of para-
23 graph (1), all trusts having trustees which are relat-
24 ed persons shall be

1 treated as 1 trust. For purposes of the preceding
2 sentence, persons are related if—

3 “(A) the relationship between such persons
4 is described in section 267 or 707(b),

5 “(B) such persons are treated as a single
6 employer under subsection (a) or (b) of section
7 52, or

8 “(C) the Secretary determines that treat-
9 ing such persons as related is necessary to pre-
10 vent avoidance of the purposes of this section.

11 “(3) INFLATION ADJUSTMENT.—In the case of
12 any contract referred to in subsection (b)(1) which
13 is entered into during any calendar year after 1998,
14 the dollar amount referred to paragraph (1) shall be
15 increased by an amount equal to—

16 “(A) such dollar amount, multiplied by

17 “(B) the cost-of-living adjustment deter-
18 mined under section 1(f)(3) for such calendar
19 year, by substituting ‘calendar year 1997’ for
20 ‘calendar year 1992’ in subparagraph (B)
21 thereof.

22 If any dollar amount after being increased under the
23 preceding sentence is not a multiple of \$100, such
24 dollar amount shall be rounded to the nearest mul-
25 tiple of \$100.

1 “(d) APPLICATION OF RATE SCHEDULE.—Section
2 1(e) shall be applied to each qualified funeral trust by
3 treating each beneficiary’s interest in each such trust as
4 a separate trust.

5 “(e) TREATMENT OF AMOUNTS REFUNDED TO BEN-
6 EFICIARY ON CANCELLATION.—No gain or loss shall be
7 recognized to a beneficiary described in subsection (b)(3)
8 of any qualified funeral trust by reason of any payment
9 from such trust to such beneficiary by reason of cancella-
10 tion of a contract referred to in subsection (b)(1). If any
11 payment referred to in the preceding sentence consists of
12 property other than money, the basis of such property in
13 the hands of such beneficiary shall be the same as the
14 trust’s basis in such property immediately before the pay-
15 ment.

16 “(f) SIMPLIFIED REPORTING.—The Secretary may
17 prescribe rules for simplified reporting of all trusts having
18 a single trustee.”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 for subpart F of part I of subchapter J of chapter 1 is
21 amended by adding at the end the following new item:

“Sec. 684. Treatment of funeral trusts.”.

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

1 **SEC. 1313. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF**
2 **DECEDENT'S DEATH.**

3 (a) GENERAL RULE.—Section 2035 is amended to
4 read as follows:

5 **“SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE**
6 **WITHIN 3 YEARS OF DECEDENT'S DEATH.**

7 “(a) INCLUSION OF CERTAIN PROPERTY IN GROSS
8 ESTATE.—If—

9 “(1) the decedent made a transfer (by trust or
10 otherwise) of an interest in any property, or relin-
11 quished a power with respect to any property, during
12 the 3-year period ending on the date of the dece-
13 dent's death, and

14 “(2) the value of such property (or an interest
15 therein) would have been included in the decedent's
16 gross estate under section 2036, 2037, 2038, or
17 2042 if such transferred interest or relinquished
18 power had been retained by the decedent on the date
19 of his death,

20 the value of the gross estate shall include the value of any
21 property (or interest therein) which would have been so
22 included.

23 “(b) INCLUSION OF GIFT TAX ON GIFTS MADE DUR-
24 ING 3 YEARS BEFORE DECEDENT'S DEATH.—The
25 amount of the gross estate (determined without regard to
26 this subsection) shall be increased by the amount of any

1 tax paid under chapter 12 by the decedent or his estate
2 on any gift made by the decedent or his spouse during
3 the 3-year period ending on the date of the decedent's
4 death.

5 “(c) OTHER RULES RELATING TO TRANSFERS
6 WITHIN 3 YEARS OF DEATH.—

7 “(1) IN GENERAL.—For purposes of—

8 “(A) section 303(b) (relating to distribu-
9 tions in redemption of stock to pay death
10 taxes),

11 “(B) section 2032A (relating to special
12 valuation of certain farms, etc., real property),
13 and

14 “(C) subchapter C of chapter 64 (relating
15 to lien for taxes),

16 the value of the gross estate shall include the value
17 of all property to the extent of any interest therein
18 of which the decedent has at any time made a trans-
19 fer, by trust or otherwise, during the 3-year period
20 ending on the date of the decedent's death.

21 “(2) COORDINATION WITH SECTION 6166.—An
22 estate shall be treated as meeting the 35 percent of
23 adjusted gross estate requirement of section
24 6166(a)(1) only if the estate meets such requirement

1 both with and without the application of paragraph
2 (1).

3 “(3) MARITAL AND SMALL TRANSFERS.—Para-
4 graph (1) shall not apply to any transfer (other than
5 a transfer with respect to a life insurance policy)
6 made during a calendar year to any donee if the de-
7 cedent was not required by section 6019 (other than
8 by reason of section 6019(2)) to file any gift tax re-
9 turn for such year with respect to transfers to such
10 donee.

11 “(d) EXCEPTION.—Subsection (a) shall not apply to
12 any bona fide sale for an adequate and full consideration
13 in money or money’s worth.

14 “(e) TREATMENT OF CERTAIN TRANSFERS FROM
15 REVOCABLE TRUSTS.—For purposes of this section and
16 section 2038, any transfer from any portion of a trust dur-
17 ing any period that such portion was treated under section
18 676 as owned by the decedent by reason of a power in
19 the grantor (determined without regard to section 672(e))
20 shall be treated as a transfer made directly by the dece-
21 dent.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 for part III of subchapter A of chapter 11 is amended
24 by striking “gifts” in the item relating to section 2035
25 and inserting “certain gifts”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to the estates of decedents dying
3 after the date of the enactment of this Act.

4 **SEC. 1314. CLARIFICATION OF TREATMENT OF SURVIVOR**
5 **ANNUITIES UNDER QUALIFIED TERMINABLE**
6 **INTEREST RULES.**

7 (a) IN GENERAL.—Subparagraph (C) of section
8 2056(b)(7) is amended by inserting “(or, in the case of
9 an interest in an annuity arising under the community
10 property laws of a State, included in the gross estate of
11 the decedent under section 2033)” after “section 2039”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to estates of decedents dying after
14 the date of the enactment of this Act.

15 **SEC. 1315. TREATMENT UNDER QUALIFIED DOMESTIC**
16 **TRUST RULES OF FORMS OF OWNERSHIP**
17 **WHICH ARE NOT TRUSTS.**

18 (a) IN GENERAL.—Subsection (c) of section 2056A
19 (defining qualified domestic trust) is amended by adding
20 at the end the following new paragraph:

21 “(3) TRUST.—To the extent provided in regula-
22 tions prescribed by the Secretary, the term ‘trust’
23 includes other arrangements which have substan-
24 tially the same effect as a trust.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to estates of decedents dying after
3 the date of the enactment of this Act.

4 **SEC. 1316. OPPORTUNITY TO CORRECT CERTAIN FAILURES**
5 **UNDER SECTION 2032A.**

6 (a) GENERAL RULE.—Paragraph (3) of section
7 2032A(d) (relating to modification of election and agree-
8 ment to be permitted) is amended to read as follows:

9 “(3) MODIFICATION OF ELECTION AND AGREE-
10 MENT TO BE PERMITTED.—The Secretary shall pre-
11 scribe procedures which provide that in any case in
12 which the executor makes an election under para-
13 graph (1) (and submits the agreement referred to in
14 paragraph (2)) within the time prescribed therefor,
15 but—

16 “(A) the notice of election, as filed, does
17 not contain all required information, or

18 “(B) signatures of 1 or more persons re-
19 quired to enter into the agreement described in
20 paragraph (2) are not included on the agree-
21 ment as filed, or the agreement does not con-
22 tain all required information,
23 the executor will have a reasonable period of time
24 (not exceeding 90 days) after notification of such
25 failures to provide such information or signatures.”.

1 (b) **EFFECTIVE DATE.**—The amendment made by
2 subsection (a) shall apply to the estates of decedents dying
3 after the date of the enactment of this Act.

4 **SEC. 1317. AUTHORITY TO WAIVE REQUIREMENT OF UNIT-**
5 **ED STATES TRUSTEE FOR QUALIFIED DOMES-**
6 **TIC TRUSTS.**

7 (a) **IN GENERAL.**—Subparagraph (A) of section
8 2056A(a)(1) is amended by inserting “except as provided
9 in regulations prescribed by the Secretary,” before “re-
10 quires”.

11 (b) **EFFECTIVE DATE.**—The amendment made by
12 this section shall apply to estates of decedents dying after
13 the date of the enactment of this Act.

1 **TITLE XIV—SIMPLIFICATION**
2 **PROVISIONS RELATING TO**
3 **EXCISE TAXES, TAX-EXEMPT**
4 **BONDS, AND OTHER MATTERS**
5 **Subtitle A—Excise Tax**
6 **Simplification**

7 **PART I—EXCISE TAXES ON HEAVY TRUCKS AND**
8 **LUXURY CARS**

9 **SEC. 1401. INCREASE IN DE MINIMIS LIMIT FOR AFTER-**
10 **MARKET ALTERATIONS FOR HEAVY TRUCKS**
11 **AND LUXURY CARS.**

12 (a) **IN GENERAL.**—Sections 4003(a)(3)(C) and
13 4051(b)(2)(B) (relating to exceptions) are each amended
14 by striking “\$200” and inserting “\$1,000”.

15 (b) **EFFECTIVE DATE.**—The amendments made by
16 subsection (a) shall apply to installations on vehicles sold
17 after the date of the enactment of this Act.

18 **SEC. 1402. CREDIT FOR TIRE TAX IN LIEU OF EXCLUSION**
19 **OF VALUE OF TIRES IN COMPUTING PRICE.**

20 (a) **IN GENERAL.**—Subsection (e) of section 4051 is
21 amended to read as follows:

22 “(e) **CREDIT AGAINST TAX FOR TIRE TAX.**—If—

23 “(1) tires are sold on or in connection with the
24 sale of any article, and

1 “(2) tax is imposed by this subchapter on the
2 sale of such tires,
3 there shall be allowed as a credit against the tax imposed
4 by this subchapter an amount equal to the tax (if any)
5 imposed by section 4071 on such tires.”.

6 (b) CONFORMING AMENDMENT.—Subparagraph (B)
7 of section 4052(b)(1) is amended by striking clause (iii),
8 by adding “and” at the end of clause (ii), and by redesignig-
9 nating clause (iv) as clause (iii).

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect on January 1, 1998.

12 **PART II—PROVISIONS RELATED TO DISTILLED**

13 **SPIRITS, WINES, AND BEER**

14 **SEC. 1411. CREDIT OR REFUND FOR IMPORTED BOTTLED**

15 **DISTILLED SPIRITS RETURNED TO DIS-**

16 **TILLED SPIRITS PLANT.**

17 (a) IN GENERAL.—Section 5008(c)(1) (relating to
18 distilled spirits returned to bonded premises) is amended
19 by striking “withdrawn from bonded premises on payment
20 or determination of tax” and inserting “on which tax has
21 been determined or paid”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall take effect on the 1st day of the 1st
24 calendar quarter that begins at least 90 days after the
25 date of the enactment of this Act.

1 **SEC. 1412. AUTHORITY TO CANCEL OR CREDIT EXPORT**
2 **BONDS WITHOUT SUBMISSION OF RECORDS.**

3 (a) **IN GENERAL.**—Section 5175(c) (relating to can-
4 cellation of credit of export bonds) is amended by striking
5 “on the submission of” and all that follows and inserting
6 “if there is such proof of exportation as the Secretary may
7 by regulations require.”.

8 (b) **EFFECTIVE DATE.**—The amendment made by
9 subsection (a) shall take effect on the 1st day of the 1st
10 calendar quarter that begins at least 90 days after the
11 date of the enactment of this Act.

12 **SEC. 1413. REPEAL OF REQUIRED MAINTENANCE OF**
13 **RECORDS ON PREMISES OF DISTILLED SPIR-**
14 **ITS PLANT.**

15 (a) **IN GENERAL.**—Section 5207(c) (relating to pres-
16 ervation and inspection) is amended by striking “shall be
17 kept on the premises where the operations covered by the
18 record are carried on and”.

19 (b) **EFFECTIVE DATE.**—The amendment made by
20 subsection (a) shall take effect on the 1st day of the 1st
21 calendar quarter that begins at least 90 days after the
22 date of the enactment of this Act.

1 **SEC. 1414. FERMENTED MATERIAL FROM ANY BREWERY**
2 **MAY BE RECEIVED AT A DISTILLED SPIRITS**
3 **PLANT.**

4 (a) IN GENERAL.—Section 5222(b)(2) (relating to
5 receipt) is amended to read as follows:

6 “(2) beer conveyed without payment of tax
7 from brewery premises, beer which has been lawfully
8 removed from brewery premises upon determination
9 of tax, or”.

10 (b) CLARIFICATION OF AUTHORITY TO PERMIT RE-
11 MOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE
12 AS DISTILLING MATERIAL.—Section 5053 (relating to ex-
13 emptions) is amended by redesignating subsection (f) as
14 subsection (i) and by inserting after subsection (e) the fol-
15 lowing new subsection:

16 “(f) REMOVAL FOR USE AS DISTILLING MATE-
17 RIAL.—Subject to such regulations as the Secretary may
18 prescribe, beer may be removed from a brewery without
19 payment of tax to any distilled spirits plant for use as
20 distilling material.”.

21 (c) CLARIFICATION OF REFUND AND CREDIT OF
22 TAX.—Section 5056 (relating to refund and credit of tax,
23 or relief from liability) is amended—

24 (1) by redesignating subsection (c) as sub-
25 section (d) and by inserting after subsection (b) the
26 following new subsection:

1 “(c) BEER RECEIVED AT A DISTILLED SPIRITS
2 PLANT.—Any tax paid by any brewer on beer produced
3 in the United States may be refunded or credited to the
4 brewer, without interest, or if the tax has not been paid,
5 the brewer may be relieved of liability therefor, under reg-
6 ulations as the Secretary may prescribe, if such beer is
7 received on the bonded premises of a distilled spirits plant
8 pursuant to the provisions of section 5222(b)(2), for use
9 in the production of distilled spirits.”, and

10 (2) by striking “or rendering unmerchantable”
11 in subsection (d) (as so redesignated) and inserting
12 “rendering unmerchantable, or receipt on the bond-
13 ed premises of a distilled spirits plant”.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect on the 1st day of the 1st cal-
16 endar quarter that begins at least 90 days after the date
17 of the enactment of this Act.

18 **SEC. 1415. REPEAL OF REQUIREMENT FOR WHOLESALE**
19 **DEALERS IN LIQUORS TO POST SIGN.**

20 (a) IN GENERAL.—Section 5115 (relating to sign re-
21 quired on premises) is hereby repealed.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 5681(a) is amended by striking “,
24 and every wholesale dealer in liquors,” and by strik-
25 ing “section 5115(a) or”.

1 (2) Section 5681(c) is amended—

2 (A) by striking “or wholesale liquor estab-
3 lishment, on which no sign required by section
4 5115(a) or” and inserting “on which no sign
5 required by”, and

6 (B) by striking “or wholesale liquor estab-
7 lishment, or who” and inserting “or who”.

8 (3) The table of sections for subpart D of part
9 II of subchapter A of chapter 51 is amended by
10 striking the item relating to section 5115.

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

14 **SEC. 1416. REFUND OF TAX TO WINE RETURNED TO BOND**
15 **NOT LIMITED TO UNMERCHANTABLE WINE.**

16 (a) IN GENERAL.—Section 5044(a) (relating to re-
17 fund of tax on unmerchantable wine) is amended by strik-
18 ing “as unmerchantable”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) Section 5361 is amended by striking
21 “unmerchantable”.

22 (2) The section heading for section 5044 is
23 amended by striking “**UNMERCHANTABLE**”.

24 (3) The item relating to section 5044 in the
25 table of sections for subpart C of part I of sub-

1 chapter A of chapter 51 is amended by striking
2 “unmerchantable”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on the 1st day of the 1st cal-
5 endar quarter that begins at least 90 days after the date
6 of the enactment of this Act.

7 **SEC. 1417. USE OF ADDITIONAL AMELIORATING MATERIAL**
8 **IN CERTAIN WINES.**

9 (a) IN GENERAL.—Section 5384(b)(2)(D) (relating
10 to ameliorated fruit and berry wines) is amended by strik-
11 ing “loganberries, currants, or gooseberries,” and insert-
12 ing “any fruit or berry with a natural fixed acid of 20
13 parts per thousand or more (before any correction of such
14 fruit or berry)”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall take effect on the 1st day of the 1st cal-
17 endar quarter that begins at least 90 days after the date
18 of the enactment of this Act.

19 **SEC. 1418. DOMESTICALLY PRODUCED BEER MAY BE WITH-**
20 **DRAWN FREE OF TAX FOR USE OF FOREIGN**
21 **EMBASSIES, LEGATIONS, ETC.**

22 (a) IN GENERAL.—Section 5053 (relating to exemp-
23 tions), as amended by section 1414(b), is amended by in-
24 serting after subsection (f) the following new subsection:

1 “(g) REMOVALS FOR USE OF FOREIGN EMBASSIES,
2 LEGATIONS, ETC.—

3 “(1) IN GENERAL.—Subject to such regulations
4 as the Secretary may prescribe—

5 “(A) beer may be withdrawn from the
6 brewery without payment of tax for transfer to
7 any customs bonded warehouse for entry pend-
8 ing withdrawal therefrom as provided in sub-
9 paragraph (B), and

10 “(B) beer entered into any customs bonded
11 warehouse under subparagraph (A) may be
12 withdrawn for consumption in the United
13 States by, and for the official and family use of,
14 such foreign governments, organizations, and
15 individuals as are entitled to withdraw imported
16 beer from such warehouses free of tax.

17 Beer transferred to any customs bonded warehouse
18 under subparagraph (A) shall be entered, stored,
19 and accounted for in such warehouse under such
20 regulations and bonds as the Secretary may pre-
21 scribe, and may be withdrawn therefrom by such
22 governments, organizations, and individuals free of
23 tax under the same conditions and procedures as im-
24 ported beer.

1 ing “found to have been paid” and all that follows and
2 inserting “paid on such beer if there is such proof of ex-
3 portation as the Secretary may by regulations require.”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall take effect on the 1st day of the 1st
6 calendar quarter that begins at least 90 days after the
7 date of the enactment of this Act.

8 **SEC. 1421. TRANSFER TO BREWERY OF BEER IMPORTED IN**
9 **BULK WITHOUT PAYMENT OF TAX.**

10 (a) IN GENERAL.—Part II of subchapter G of chap-
11 ter 51 is amended by adding at the end the following new
12 section:

13 **“SEC. 5418. BEER IMPORTED IN BULK.**

14 “Beer imported or brought into the United States in
15 bulk containers may, under such regulations as the Sec-
16 retary may prescribe, be withdrawn from customs custody
17 and transferred in such bulk containers to the premises
18 of a brewery without payment of the internal revenue tax
19 imposed on such beer. The proprietor of a brewery to
20 which such beer is transferred shall become liable for the
21 tax on the beer withdrawn from customs custody under
22 this section upon release of the beer from customs custody,
23 and the importer, or the person bringing such beer into
24 the United States, shall thereupon be relieved of the liabil-
25 ity for such tax.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for such part II is amended by adding at the end the fol-
3 lowing new item:

“Sec. 5418. Beer imported in bulk.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect on the 1st day of the 1st cal-
6 endar quarter that begins at least 90 days after the date
7 of the enactment of this Act.

8 **SEC. 1422. TRANSFER TO BONDED WINE CELLARS OF WINE**
9 **IMPORTED IN BULK WITHOUT PAYMENT OF**
10 **TAX.**

11 (a) IN GENERAL.—Part II of subchapter F of chap-
12 ter 51 is amended by inserting after section 5363 the fol-
13 lowing new section:

14 **“SEC. 5364. WINE IMPORTED IN BULK.**

15 “Wine imported or brought into the United States
16 in bulk containers may, under such regulations as the Sec-
17 retary may prescribe, be withdrawn from customs custody
18 and transferred in such bulk containers to the premises
19 of a bonded wine cellar without payment of the internal
20 revenue tax imposed on such wine. The proprietor of a
21 bonded wine cellar to which such wine is transferred shall
22 become liable for the tax on the wine withdrawn from cus-
23 toms custody under this section upon release of the wine
24 from customs custody, and the importer, or the person

1 bringing such wine into the United States, shall thereupon
2 be relieved of the liability for such tax.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 for such part II is amended by inserting after the item
5 relating to section 5363 the following new item:

“Sec. 5364. Wine imported in bulk.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall take effect on the 1st day of the 1st cal-
8 endar quarter that begins at least 90 days after the date
9 of the enactment of this Act.

10 **PART III—OTHER EXCISE TAX PROVISIONS**

11 **SEC. 1431. AUTHORITY TO GRANT EXEMPTIONS FROM REG-** 12 **ISTRATION REQUIREMENTS.**

13 (a) IN GENERAL.—Section 4222(b)(2) (relating to
14 export) is amended—

15 (1) by striking “in the case of any sale or resale
16 for export,”, and

17 (2) by striking “EXPORT” and inserting
18 “UNDER REGULATIONS”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 subsection (a) shall take effect on the date of the enact-
21 ment of this Act.

22 **SEC. 1432. REPEAL OF EXPIRED PROVISIONS.**

23 (a) PIGGY-BACK TRAILERS.—Section 4051 (relating
24 to imposition of tax on heavy trucks and trailers sold at

1 retail) is amended by striking subsection (d) and by redese-
2 ignating subsection (e) as subsection (d).

3 (b) DEEP SEABED MINING.—

4 (1) IN GENERAL.—Subchapter F of chapter 36
5 (relating to tax on removal of hard mineral re-
6 sources from deep seabed) is hereby repealed.

7 (2) CONFORMING AMENDMENT.—The table of
8 subchapters for chapter 36 is amended by striking
9 the item relating to subchapter F.

10 (c) OZONE-DEPLETING CHEMICALS.—

11 (1) Paragraph (1) of section 4681(b) is amend-
12 ed by striking subparagraphs (B) and (C) and in-
13 serting the following new subparagraph:

14 “(B) BASE TAX AMOUNT.—The base tax
15 amount for purposes of subparagraph (A) with
16 respect to any sale or use during any calendar
17 year after 1995 shall be \$5.35 increased by 45
18 cents for each year after 1995.”.

19 (2) Subsection (g) of section 4682 is amended
20 to read as follows:

21 “(g) CHEMICALS USED AS PROPELLANTS IN ME-
22 TERED-DOSE INHALERS.—

23 “(1) EXEMPTION FROM TAX.—

24 “(A) IN GENERAL.—No tax shall be im-
25 posed by section 4681 on—

1 “(i) any use of any substance as a
2 propellant in metered-dose inhalers, or

3 “(ii) any qualified sale by the manu-
4 facturer, producer, or importer of any sub-
5 stance.

6 “(B) QUALIFIED SALE.—For purposes of
7 subparagraph (A), the term ‘qualified sale’
8 means any sale by the manufacturer, producer,
9 or importer of any substance—

10 “(i) for use by the purchaser as a pro-
11 pellant in metered dose inhalers, or

12 “(ii) for resale by the purchaser to a
13 2d purchaser for such use by the 2d pur-
14 chaser.

15 The preceding sentence shall apply only if the
16 manufacturer, producer, and importer, and the
17 1st and 2d purchasers (if any) meet such reg-
18 istration requirements as may be prescribed by
19 the Secretary.

20 “(2) OVERPAYMENTS.—If any substance on
21 which tax was paid under this subchapter is used by
22 any person as a propellant in metered-dose inhalers,
23 credit or refund without interest shall be allowed to
24 such person in an amount equal to the tax so paid.
25 Amounts payable under the preceding sentence with

1 respect to uses during the taxable year shall be
2 treated as described in section 34(a) for such year
3 unless claim thereof has been timely filed under this
4 paragraph.”.

5 **Subtitle B—Tax-Exempt Bond**
6 **Provisions**

7 **SEC. 1441. REPEAL OF \$100,000 LIMITATION ON UNSPENT**
8 **PROCEEDS UNDER 1-YEAR EXCEPTION FROM**
9 **REBATE.**

10 Subclause (I) of section 148(f)(4)(B)(ii) (relating to
11 additional period for certain bonds) is amended by striking
12 “the lesser of 5 percent of the proceeds of the issue or
13 \$100,000” and inserting “5 percent of the proceeds of the
14 issue”.

15 **SEC. 1442. EXCEPTION FROM REBATE FOR EARNINGS ON**
16 **BONA FIDE DEBT SERVICE FUND UNDER**
17 **CONSTRUCTION BOND RULES.**

18 Subparagraph (C) of section 148(f)(4) is amended by
19 adding at the end the following new clause:

20 “(xvii) TREATMENT OF BONA FIDE
21 DEBT SERVICE FUNDS.—If the spending
22 requirements of clause (ii) are met with re-
23 spect to the available construction proceeds
24 of a construction issue, then paragraph (2)

1 shall not apply to earnings on a bona fide
2 debt service fund for such issue.”.

3 **SEC. 1443. REPEAL OF DEBT SERVICE-BASED LIMITATION**
4 **ON INVESTMENT IN CERTAIN NONPURPOSE**
5 **INVESTMENTS.**

6 Subsection (d) of section 148 (relating to special
7 rules for reasonably required reserve or replacement fund)
8 is amended by striking paragraph (3).

9 **SEC. 1444. REPEAL OF EXPIRED PROVISIONS.**

10 (a) Paragraph (2) of section 148(c) is amended by
11 striking subparagraph (B) and by redesignating subpara-
12 graphs (C), (D), and (E) as subparagraphs (B), (C), and
13 (D), respectively.

14 (b) Paragraph (4) of section 148(f) is amended by
15 striking subparagraph (E).

16 **SEC. 1445. EFFECTIVE DATE.**

17 The amendments made by this subtitle shall apply to
18 bonds issued after the date of the enactment of this Act.

19 **Subtitle C—Tax Court Procedures**

20 **SEC. 1451. OVERPAYMENT DETERMINATIONS OF TAX**
21 **COURT.**

22 (a) APPEAL OF ORDER.—Paragraph (2) of section
23 6512(b) (relating to jurisdiction to enforce) is amended
24 by adding at the end the following new sentence: “An
25 order of the Tax Court disposing of a motion under this

1 paragraph shall be reviewable in the same manner as a
2 decision of the Tax Court, but only with respect to the
3 matters determined in such order.”.

4 (b) DENIAL OF JURISDICTION REGARDING CERTAIN
5 CREDITS AND REDUCTIONS.—Subsection (b) of section
6 6512 (relating to overpayment determined by Tax Court)
7 is amended by adding at the end the following new para-
8 graph:

9 “(4) DENIAL OF JURISDICTION REGARDING
10 CERTAIN CREDITS AND REDUCTIONS.—The Tax
11 Court shall have no jurisdiction under this sub-
12 section to restrain or review any credit or reduction
13 made by the Secretary under section 6402.”.

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

17 **SEC. 1452. REDETERMINATION OF INTEREST PURSUANT TO**
18 **MOTION.**

19 (a) IN GENERAL.—Subsection (c) of section 7481
20 (relating to jurisdiction over interest determinations) is
21 amended to read as follows:

22 “(c) JURISDICTION OVER INTEREST DETERMINA-
23 TIONS.—

24 “(1) IN GENERAL.—Notwithstanding subsection
25 (a), if, within 1 year after the date the decision of

1 the Tax Court becomes final under subsection (a) in
2 a case to which this subsection applies, the taxpayer
3 files a motion in the Tax Court for a redetermina-
4 tion of the amount of interest involved, then the Tax
5 Court may reopen the case solely to determine
6 whether the taxpayer has made an overpayment of
7 such interest or the Secretary has made an under-
8 payment of such interest and the amount thereof.

9 “(2) CASES TO WHICH THIS SUBSECTION AP-
10 PLIES.—This subsection shall apply where—

11 “(A)(i) an assessment has been made by
12 the Secretary under section 6215 which in-
13 cludes interest as imposed by this title, and

14 “(ii) the taxpayer has paid the entire
15 amount of the deficiency plus interest claimed
16 by the Secretary, and

17 “(B) the Tax Court finds under section
18 6512(b) that the taxpayer has made an over-
19 payment.

20 “(3) SPECIAL RULES.—If the Tax Court deter-
21 mines under this subsection that the taxpayer has
22 made an overpayment of interest or that the Sec-
23 retary has made an underpayment of interest, then
24 that determination shall be treated under section
25 6512(b)(1) as a determination of an overpayment of

1 tax. An order of the Tax Court redetermining inter-
2 est, when entered upon the records of the court,
3 shall be reviewable in the same manner as a decision
4 of the Tax Court.”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall take effect on the date of the enactment
7 of this Act.

8 **SEC. 1453. APPLICATION OF NET WORTH REQUIREMENT**
9 **FOR AWARDS OF LITIGATION COSTS.**

10 (a) IN GENERAL.—Paragraph (4) of section 7430(c)
11 (defining prevailing party) is amended by adding at the
12 end thereof the following new subparagraph:

13 “(D) SPECIAL RULES FOR APPLYING NET
14 WORTH REQUIREMENT.—In applying the re-
15 quirements of section 2412(d)(2)(B) of title 28,
16 United States Code, for purposes of subpara-
17 graph (A)(iii) of this paragraph—

18 “(i) the net worth limitation in clause
19 (i) of such section shall apply to—

20 “(I) an estate but shall be deter-
21 mined as of the date of the decedent’s
22 death, and

23 “(II) a trust but shall be deter-
24 mined as of the last day of the taxable
25 year involved in the proceeding, and

1 “(ii) individuals filing a joint return
2 shall be treated as 1 individual for pur-
3 poses of clause (i) of such section, except
4 in the case of a spouse relieved of liability
5 under section 6013(e).”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to proceedings commenced after
8 the date of the enactment of this Act.

9 **SEC. 1454. PROCEEDINGS FOR DETERMINATION OF EM-**
10 **PLOYMENT STATUS.**

11 (a) IN GENERAL.—Subchapter B of chapter 76 (re-
12 lating to proceedings by taxpayers and third parties) is
13 amended by redesignating section 7435 as section 7436
14 and by inserting after section 7434 the following new sec-
15 tion:

16 **“SEC. 7435. PROCEEDINGS FOR DETERMINATION OF EM-**
17 **PLOYMENT STATUS.**

18 “(a) CREATION OF REMEDY.—If, in connection with
19 an audit of any person, there is an actual controversy in-
20 volving a determination by the Secretary as part of an ex-
21 amination that—

22 “(1) one or more individuals performing serv-
23 ices for such person are employees of such person
24 for purposes of subtitle C, or

1 “(2) such person is not entitled to the treat-
2 ment under subsection (a) of section 530 of the Rev-
3 enue Act of 1978 with respect to such an individual,
4 upon the filing of an appropriate pleading, the Tax Court
5 may determine whether such a determination by the Sec-
6 retary is correct. Any such determination by the Tax
7 Court shall have the force and effect of a decision of the
8 Tax Court and shall be reviewable as such.

9 “(b) LIMITATIONS.—

10 “(1) PETITIONER.—A pleading may be filed
11 under this section only by the person for whom the
12 services are performed.

13 “(2) TIME FOR FILING ACTION.—If the Sec-
14 retary sends by certified or registered mail notice to
15 the petitioner of a determination by the Secretary
16 described in subsection (a), no proceeding may be
17 initiated under this section with respect to such de-
18 termination unless the pleading is filed before the
19 91st day after the date of such mailing.

20 “(3) NO ADVERSE INFERENCE FROM TREAT-
21 MENT WHILE ACTION IS PENDING.—If, during the
22 pendency of any proceeding brought under this sec-
23 tion, the petitioner changes his treatment for em-
24 ployment tax purposes of any individual whose em-
25 ployment status as an employee is involved in such

1 proceeding (or of any individual holding a substan-
2 tially similar position) to treatment as an employee,
3 such change shall not be taken into account in the
4 Tax Court's determination under this section.

5 “(c) SMALL CASE PROCEDURES.—

6 “(1) IN GENERAL.—At the option of the peti-
7 tioner, concurred in by the Tax Court or a division
8 thereof before the hearing of the case, proceedings
9 under this section may (notwithstanding the provi-
10 sions of section 7453) be conducted subject to the
11 rules of evidence, practice, and procedure applicable
12 under section 7463 if the amount of employment
13 taxes placed in dispute is \$10,000 or less for each
14 calendar quarter involved.

15 “(2) FINALITY OF DECISIONS.—A decision en-
16 tered in any proceeding conducted under this sub-
17 section shall not be reviewed in any other court and
18 shall not be treated as a precedent for any other
19 case not involving the same petitioner and the same
20 determinations.

21 “(3) CERTAIN RULES TO APPLY.—Rules similar
22 to the rules of the last sentence of subsection (a),
23 and subsections (c), (d), and (e), of section 7463
24 shall apply to proceedings conducted under this sub-
25 section.

1 “(d) SPECIAL RULES.—

2 “(1) RESTRICTIONS ON ASSESSMENT AND COL-
3 LECTION PENDING ACTION, ETC.—The principles of
4 subsections (a), (b), and (d) of section 6213, section
5 6214(a), section 6503(a), and section 6512 shall
6 apply to proceedings brought under this section in
7 the same manner as if the Secretary’s determination
8 described in subsection (a) were a notice of defi-
9 ciency.

10 “(2) AWARDING OF COSTS AND CERTAIN
11 FEES.—Section 7430 shall apply to proceedings
12 brought under this section.

13 “(e) EMPLOYMENT TAX.—The term ‘employment
14 tax’ means any tax imposed by subtitle C.”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Subsection (d) of section 6511 is amended
17 by adding at the end the following new paragraph:

18 “(7) SPECIAL PERIOD OF LIMITATION WITH RE-
19 SPECT TO SELF-EMPLOYMENT TAX IN CERTAIN
20 CASES.—If—

21 “(A) the claim for credit or refund relates
22 to an overpayment of the tax imposed by chap-
23 ter 2 (relating to the tax on self-employment in-
24 come) attributable to Tax Court determination
25 in a proceeding under section 7435, and

1 “(B) the allowance of a credit or refund of
2 such overpayment is otherwise prevented by the
3 operation of any law or rule of law other than
4 section 7122 (relating to compromises),
5 such credit or refund may be allowed or made if
6 claim therefor is filed on or before the last day of
7 the second year after the calendar year in which
8 such determination becomes final.”.

9 (2) Sections 7453 and 7481(b) are each amend-
10 ed by striking “section 7463” and inserting “section
11 7435(e) or 7463”.

12 (3) The table of sections for subchapter B of
13 chapter 76 is amended by striking the last item and
14 inserting the following:

 “Sec. 7435. Proceedings for determination of employment status.
 “Sec. 7436. Cross references.”.

15 (c) **EFFECTIVE DATE.**—The amendments made by
16 this section shall take effect on the date of the enactment
17 of this Act.

18 **Subtitle D—Other Provisions**

19 **SEC. 1461. EXTENSION OF DUE DATE OF FIRST QUARTER** 20 **ESTIMATED TAX PAYMENT BY PRIVATE** 21 **FOUNDATIONS.**

22 (a) **IN GENERAL.**—Paragraph (3) of section 6655(g)
23 is amended by adding at the end the following new sen-
24 tence: “In the case of a private foundation, subsection

1 (c)(2) shall be applied by substituting ‘May 15’ for ‘April
2 15’.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply for purposes of determining un-
5 derpayments of estimated tax for taxable years beginning
6 after the date of the enactment of this Act.

7 **SEC. 1462. CLARIFICATION OF AUTHORITY TO WITHHOLD**
8 **PUERTO RICO INCOME TAXES FROM SALA-**
9 **RIES OF FEDERAL EMPLOYEES.**

10 (a) IN GENERAL.—Subsection (c) of section 5517 of
11 title 5, United States Code, is amended by striking “or
12 territory or possession” and inserting “, territory, posses-
13 sion, or commonwealth”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall take effect on January 1, 1998.

16 **SEC. 1463. CERTAIN NOTICES DISREGARDED UNDER PROVI-**
17 **SION INCREASING INTEREST RATE ON LARGE**
18 **CORPORATE UNDERPAYMENTS.**

19 (a) GENERAL RULE.—Subparagraph (B) of section
20 6621(c)(2) (defining applicable date) is amended by add-
21 ing at the end the following new clause:

22 “(iii) EXCEPTION FOR LETTERS OR
23 NOTICES INVOLVING SMALL AMOUNTS.—
24 For purposes of this paragraph, any letter
25 or notice shall be disregarded if the

1 amount of the deficiency or proposed defi-
2 ciency (or the assessment or proposed as-
3 sessment) set forth in such letter or notice
4 is not greater than \$100,000 (determined
5 by not taking into account any interest,
6 penalties, or additions to tax).”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall apply for purposes of determining in-
9 terest for periods after December 31, 1997.

10 **TITLE XV—TECHNICAL AMEND-**
11 **MENTS RELATED TO SMALL**
12 **BUSINESS JOB PROTECTION**
13 **ACT OF 1996 AND OTHER LEG-**
14 **ISLATION**

15 **SEC. 1501. AMENDMENTS RELATED TO SMALL BUSINESS**
16 **JOB PROTECTION ACT OF 1996.**

17 (a) AMENDMENTS RELATED TO SUBTITLE A.—

18 (1) AMENDMENT RELATED TO SECTION 1116.—
19 Paragraph (1) of section 6050R(e) is amended by
20 striking “name and address” and inserting “name,
21 address, and phone number of the information con-
22 tact”.

23 (2) AMENDMENT TO SECTION 1116.—Para-
24 graphs (1) and (2)(C) of section 1116(b) of the
25 Small Business Job Protection Act of 1996 shall

1 each be applied as if the reference to chapter 68
2 were a reference to chapter 61.

3 (b) AMENDMENT RELATED TO SUBTITLE B.—Sub-
4 section (c) of section 52 is amended by striking “targeted
5 jobs credit” and inserting “work opportunity credit”.

6 (c) AMENDMENTS RELATED TO SUBTITLE C.—

7 (1) AMENDMENT RELATED TO SECTION 1302.—

8 Subparagraph (B) of section 1361(e)(1) is amended
9 by striking “and” at the end of clause (i), striking
10 the period at the end of clause (ii) and inserting “,
11 and”, and adding at the end the following new
12 clause:

13 “(iii) any charitable remainder annu-
14 ity trust or charitable remainder unitrust
15 (as defined in section 664(d)).”.

16 (2) EFFECTIVE DATE FOR SECTION 1307.—

17 (A) Notwithstanding section 1317 of the
18 Small Business Job Protection Act of 1996, the
19 amendments made by subsections (a) and (b) of
20 section 1307 of such Act shall apply to deter-
21 minations made after December 31, 1996.

22 (B) In no event shall the 120-day period
23 referred to in section 1377(b)(1)(B) of the In-
24 ternal Revenue Code of 1986 (as added by such
25 section 1307) expire before the end of the 120-

1 day period beginning on the date of the enact-
2 ment of this Act.

3 (3) AMENDMENT RELATED TO SECTION 1308.—

4 Subparagraph (A) of section 1361(b)(3) is amended
5 by striking “For purposes of this title” and inserting
6 “Except as provided in regulations prescribed by the
7 Secretary, for purposes of this title”.

8 (4) AMENDMENTS RELATED TO SECTION
9 1316.—

10 (A) Paragraph (2) of section 512(e) is
11 amended by striking “within the meaning of
12 section 1012” and inserting “as defined in sec-
13 tion 1361(e)(1)(C)”.

14 (B) Paragraph (7) of section 1361(e) is re-
15 designated as paragraph (6).

16 (C) Subparagraph (B) of section
17 1361(b)(1) is amended by striking “subsection
18 (c)(7)” and inserting “subsection (c)(6)”.

19 (D) Paragraph (1) of section 512(e) is
20 amended by striking “section 1361(e)(7)” and
21 inserting “section 1361(e)(6)”.

22 (d) AMENDMENTS RELATED TO SUBTITLE D.—

23 (1) AMENDMENTS RELATED TO SECTION
24 1421.—

1 (A) Subsection (i) of section 408 is amend-
2 ed in the last sentence by striking “30 days”
3 and inserting “31 days”.

4 (B) Subparagraph (H) of section
5 408(k)(6) is amended by striking “if the terms
6 of such pension” and inserting “of an employer
7 if the terms of simplified employee pensions of
8 such employer”.

9 (C)(i) Subparagraph (B) of section
10 408(l)(2) is amended—

11 (I) by inserting “and the issuer of an
12 annuity established under such an arrange-
13 ment” after “under subsection (p)”, and

14 (II) in clause (i), by inserting “or is-
15 suer” after “trustee”.

16 (ii) Paragraph (2) of section 6693(c) is
17 amended—

18 (I) by inserting “or issuer” after
19 “trustee”, and

20 (II) in the heading, by inserting “AND
21 ISSUER” after “trustee”.

22 (D) Subsection (p) of section 408 is
23 amended by adding at the end the following
24 new paragraph:

1 “(8) COORDINATION WITH MAXIMUM LIMITA-
2 TION UNDER SUBSECTION (a).—In the case of any
3 simple retirement account, subsections (a)(1) and
4 (b)(2) shall be applied by substituting ‘the sum of
5 the dollar amount in effect under paragraph
6 (2)(A)(ii) of this subsection and the employer con-
7 tribution required under subparagraph (A)(iii) or
8 (B)(i) of paragraph (2) of this subsection, whichever
9 is applicable’ for ‘\$2,000’.”.

10 (E) Clause (i) of section 408(p)(2)(D) is
11 amended by adding at the end the following
12 new sentence: “If only individuals other than
13 employees described in subparagraph (A) or (B)
14 of section 410(b)(3) are eligible to participate
15 in such arrangement, then the preceding sen-
16 tence shall be applied without regard to any
17 qualified plan in which only employees so de-
18 scribed are eligible to participate.”.

19 (F) Subparagraph (D) of section 408(p)(2)
20 is amended by adding at the end the following
21 new clause:

22 “(iii) GRACE PERIOD.—In the case of
23 an employer who establishes and maintains
24 a plan under this subsection for 1 or more
25 years and who fails to meet the require-

1 ments of this subparagraph for any subse-
2 quent year due to any acquisition, disposi-
3 tion, or similar transaction involving an-
4 other such employer, rules similar to the
5 rules of section 410(b)(6)(C) shall apply
6 for purposes of this subparagraph.”.

7 (G) Paragraph (5) of section 408(p) is
8 amended in the text preceding subparagraph
9 (A) by striking “simplified” and inserting “sim-
10 ple”.

11 (2) AMENDMENTS RELATED TO SECTION
12 1422.—

13 (A) Clause (ii) of section 401(k)(11)(D) is
14 amended by striking the period and inserting
15 “if such plan allows only contributions required
16 under this paragraph.”.

17 (B) Paragraph (11) of section 401(k) is
18 amended by adding at the end the following
19 new subparagraph:

20 “(E) COST-OF-LIVING ADJUSTMENT.—The
21 Secretary shall adjust the \$6,000 amount under
22 subparagraph (B)(i)(I) at the same time and in
23 the same manner as under section
24 408(p)(2)(E).”.

1 (C) Subparagraph (A) of section 404(a)(3)
2 is amended—

3 (i) in clause (i), by striking “not in
4 excess of” and all that follows and insert-
5 ing the following: “not in excess of the
6 greater of—

7 “(I) 15 percent of the compensa-
8 tion otherwise paid or accrued during
9 the taxable year to the beneficiaries
10 under the stock bonus or profit-shar-
11 ing plan, or

12 “(II) the amount such employer
13 is required to contribute to such trust
14 under section 401(k)(11) for such
15 year.”, and

16 (ii) in clause (ii), by striking “15 per-
17 cent” and all that follows and inserting the
18 following “the amount described in sub-
19 clause (I) or (II) of clause (i), whichever is
20 greater, with respect to such taxable
21 year.”.

22 (D) Subparagraph (B) of section
23 401(k)(11) is amended by adding at the end
24 the following new clause:

1 “(iii) ADMINISTRATIVE REQUIRE-
2 MENTS.—

3 “(I) IN GENERAL.—Rules similar
4 to the rules of subparagraphs (B) and
5 (C) of section 408(p)(5) shall apply
6 for purposes of this subparagraph.

7 “(II) NOTICE OF ELECTION PE-
8 RIOD.—The requirements of this sub-
9 paragraph shall not be treated as met
10 with respect to any year unless the
11 employer notifies each employee eligi-
12 ble to participate, within a reasonable
13 period of time before the 60th day be-
14 fore the beginning of such year (and,
15 for the first year the employee is so
16 eligible, the 60th day before the first
17 day such employee is so eligible), of
18 the rules similar to the rules of sec-
19 tion 408(p)(5)(C) which apply by rea-
20 son of subclause (I).”.

21 (3) AMENDMENT RELATED TO SECTION 1433.—
22 The heading of paragraph (11) of section 401(m) is
23 amended by striking “ALTERNATIVE” and inserting
24 “ADDITIONAL ALTERNATIVE”.

1 (4) AMENDMENT RELATED TO SECTION 1462.—
2 The paragraph (7) of section 414(q) added by sec-
3 tion 1462 of the Small Business Job Protection Act
4 of 1996 is redesignated as paragraph (9).

5 (5) CLARIFICATION OF SECTION 1450.—

6 (A) Section 403(b)(11) of the Internal
7 Revenue Code of 1986 shall not apply with re-
8 spect to a distribution from a contract de-
9 scribed in section 1450(b)(1) of such Act to the
10 extent that such distribution is not includible in
11 income by reason of section 403(b)(8) of such
12 Code (determined after the application of sec-
13 tion 1450(b)(2) of such Act).

14 (B) This paragraph shall apply as if in-
15 cluded in section 1450 of the Small Business
16 Job Protection Act of 1996.

17 (e) AMENDMENT RELATED TO SUBTITLE E.—Sub-
18 paragraph (A) of section 956(b)(1) is amended by insert-
19 ing “to the extent such amount was accumulated in prior
20 taxable years” after “section 316(a)(1)”.

21 (f) AMENDMENTS RELATED TO SUBTITLE F.—

22 (1) AMENDMENTS RELATED TO SECTION
23 1601.—

24 (A) The heading of section 30A is amend-
25 ed to read as follows:

1 **“SEC. 30A. PUERTO RICO ECONOMIC ACTIVITY CREDIT.”.**

2 (B) The table of sections for subpart B of
3 part IV of subchapter A of chapter 1 is amend-
4 ed in the item relating to section 30A by strik-
5 ing “Puerto Rican” and inserting “Puerto
6 Rico”.

7 (C) Paragraph (1) of section 55(c) is
8 amended by striking “Puerto Rican” and in-
9 serting “Puerto Rico”.

10 (2) AMENDMENTS RELATED TO SECTION
11 1606.—

12 (A) Clause (ii) of section 9503(c)(2)(A) is
13 amended by striking “(or with respect to quali-
14 fied diesel-powered highway vehicles purchased
15 before January 1, 1999)”.

16 (B) Subparagraph (A) of section
17 9503(e)(5) is amended by striking “; except
18 that” and all that follows and inserting a pe-
19 riod.

20 (3) AMENDMENTS RELATED TO SECTION
21 1607.—

22 (A) Subsection (f) of section 4001 (relat-
23 ing to phasedown of tax on luxury passenger
24 automobiles) is amended—

25 (i) by inserting “and section 4003(a)”
26 after “subsection (a)”, and

1 (ii) by inserting “, each place it ap-
2 pears,” before “the percentage”.

3 (B) Subsection (g) of section 4001 (relat-
4 ing to termination) is amended by striking “tax
5 imposed by this section” and inserting “taxes
6 imposed by this section and section 4003” and
7 by striking “or use” and inserting “, use, or in-
8 stallation”.

9 (4) AMENDMENTS RELATED TO SECTION
10 1609.—

11 (A) Subsection (l) of section 4041 is
12 amended—

13 (i) by inserting “or a fixed-wing air-
14 craft” after “helicopter”, and

15 (ii) in the heading, by striking “HELI-
16 COPTER”.

17 (B) The last sentence of section
18 4041(a)(2) is amended by striking “section
19 4081(a)(2)(A)” and inserting “section
20 4081(a)(2)(A)(i)”.

21 (C) Subsection (b) of section 4092 is
22 amended by striking “section 4041(c)(4)” and
23 inserting “section 4041(c)(2)”.

1 (D) Subsection (g) of section 4261 (as re-
2 designated by title X) is amended by inserting
3 “on that flight” after “dedicated”.

4 (E) Paragraph (1) of section 1609(h) of
5 such Act is amended by striking “paragraph
6 (3)(A)(i)” and inserting “paragraph (3)(A)”.

7 (F) Paragraph (4) of section 1609(h) of
8 such Act is amended by inserting before the pe-
9 riod “or exclusively for the use described in sec-
10 tion 4092(b) of such Code”.

11 (5) AMENDMENTS RELATED TO SECTION
12 1616.—

13 (A) Subparagraph (A) of section 593(e)(1)
14 is amended by inserting “(and, in the case of
15 an S corporation, the accumulated adjustments
16 account, as defined in section 1368(e)(1))”
17 after “1951,”.

18 (B) Paragraph (7) of section 1374(d) is
19 amended by adding at the end the following
20 new sentence: “For purposes of applying this
21 section to any amount includible in income by
22 reason of section 593(e), the preceding sentence
23 shall be applied without regard to the phrase
24 ‘10-year’.”.

1 (6) AMENDMENTS RELATED TO SECTION
2 1621.—

3 (A) Subparagraph (A) of section
4 860L(b)(1) is amended in the text preceding
5 clause (i) by striking “after the startup date”
6 and inserting “on or after the startup date”.

7 (B) Paragraph (2) of section 860L(d) is
8 amended by striking “section 860I(e)(2)” and
9 inserting “section 860I(b)(2)”.

10 (C) Subparagraph (B) of section
11 860L(e)(2) is amended by inserting “other than
12 foreclosure property” after “any permitted
13 asset”.

14 (D) Subparagraph (A) of section
15 860L(e)(3) is amended by striking “if the
16 FASIT” and all that follows and inserting the
17 following new flush text after clause (ii):

18 “if the FASIT were treated as a REMIC and
19 permitted assets (other than cash or cash
20 equivalents) were treated as qualified mort-
21 gages.”.

22 (E)(i) Paragraph (3) of section 860L(e) is
23 amended by adding at the end the following
24 new subparagraph:

1 “(D) INCOME FROM DISPOSITIONS OF
2 FORMER HEDGE ASSETS.—Paragraph (2)(A)
3 shall not apply to income derived from the dis-
4 position of—

5 “(i) an asset which was described in
6 subsection (c)(1)(D) when first acquired by
7 the FASIT but on the date of such disposi-
8 tion was no longer described in subsection
9 (c)(1)(D)(ii), or

10 “(ii) a contract right to acquire an
11 asset described in clause (i).”.

12 (ii) Subparagraph (A) of section
13 860L(e)(2) is amended by inserting “except as
14 provided in paragraph (3),” before “the re-
15 ceipt”.

16 (g) AMENDMENTS RELATED TO SUBTITLE G.—

17 (1) EXTENSION OF PERIOD FOR CLAIMING RE-
18 FUNDS FOR ALCOHOL FUELS.—Notwithstanding sec-
19 tion 6427(i)(3)(C) of the Internal Revenue Code of
20 1986, a claim filed under section 6427(f) of such
21 Code for any period after September 30, 1995, and
22 before October 1, 1996, shall be treated as timely
23 filed if filed before the 60th day after the date of the
24 enactment of this Act.

1 (2) AMENDMENTS TO SECTIONS 1703 AND
2 1704.—Sections 1703(n)(8) and 1704(j)(4)(B) of the
3 Small Business Job Protection Act of 1996 shall
4 each be applied as if such sections referred to sec-
5 tion 1702 instead of section 1602.

6 (h) AMENDMENTS RELATED TO SUBTITLE H.—

7 (1) AMENDMENTS RELATED TO SECTION
8 1806.—

9 (A) Subparagraph (B) of section 529(e)(1)
10 is amended by striking “subsection (c)(2)(C)”
11 and inserting “subsection (c)(3)(C)”.

12 (B) Subparagraph (C) of section 529(e)(1)
13 is amended by inserting “(or agency or instru-
14 mentality thereof)” after “local government”.

15 (C) Paragraph (2) of section 1806(c) of
16 the Small Business Job Protection Act of 1996
17 is amended by striking so much of the first sen-
18 tence as follows subparagraph (B)(ii) and in-
19 serting the following:

20 “then such program (as in effect on August 20,
21 1996) shall be treated as a qualified State tuition
22 program with respect to contributions (and earnings
23 allocable thereto) pursuant to contracts entered into
24 under such program before the first date on which
25 such program meets such requirements (determined

1 without regard to this paragraph) and the provisions
2 of such program (as so in effect) shall apply in lieu
3 of section 529(b) of the Internal Revenue Code of
4 1986 with respect to such contributions and earn-
5 ings.”.

6 (2) AMENDMENTS RELATED TO SECTION
7 1807.—

8 (A) Paragraph (2) of section 23(a) is
9 amended to read as follows:

10 “(2) YEAR CREDIT ALLOWED.—The credit
11 under paragraph (1) with respect to any expense
12 shall be allowed—

13 “(A) in the case of any expense paid or in-
14 curred before the taxable year in which such
15 adoption becomes final, for the taxable year fol-
16 lowing the taxable year during which such ex-
17 pense is paid or incurred, and

18 “(B) in the case of an expense paid or in-
19 curred during or after the taxable year in which
20 such adoption becomes final, for the taxable
21 year in which such expense is paid or in-
22 curred.”.

23 (B) Subparagraph (B) of section 23(b)(2)
24 is amended by striking “determined—” and all
25 that follows and inserting the following: “deter-

1 mined without regard to sections 911, 931, and
2 933.”.

3 (C) Paragraph (1) of section 137(b) (relat-
4 ing to adoption assistance programs) is amend-
5 ed by striking “amount excludable from gross
6 income” and inserting “of the amounts paid or
7 expenses incurred which may be taken into ac-
8 count”.

9 (D)(i) Subparagraph (C) of section
10 414(n)(3) is amended by inserting “137,” after
11 “132,”.

12 (ii) Paragraph (2) of section 414(t) is
13 amended by inserting “137,” after “132,”.

14 (iii) Paragraph (1) of section 6039D(d) is
15 amended by striking “or 129” and inserting
16 “129, or 137”.

17 (i) AMENDMENTS RELATED TO SUBTITLE I.—

18 (1) AMENDMENT RELATED TO SECTION 1901.—
19 Subsection (b) of section 6048 is amended in the
20 heading by striking “GRANTOR” and inserting
21 “OWNER”.

22 (2) AMENDMENTS RELATED TO SECTION
23 1903.—

1 Clauses (ii) and (iii) of section
2 679(a)(3)(C) are each amended by inserting “,
3 owner,” after “grantor”.

4 (3) AMENDMENTS RELATED TO SECTION
5 1907.—

6 (A) Clause (ii) of section 7701(a)(30)(E)
7 is amended by striking “fiduciaries” and insert-
8 ing “persons”.

9 (B) Subsection (b) of section 641 is
10 amended by adding at the end the following
11 new sentence: “For purposes of this subsection,
12 a foreign trust or foreign estate shall be treated
13 as a nonresident alien individual who is not
14 present in the United States at any time.”.

15 (4) EFFECTIVE DATE RELATED TO SUBTITLE
16 I.—The Secretary of the Treasury may by regula-
17 tions or other administrative guidance provide that
18 the amendments made by section 1907(a) of the
19 Small Business Job Protection Act of 1996 shall not
20 apply to a trust with respect to a reasonable period
21 beginning on the date of the enactment of such Act,
22 if—

23 (A) such trust is in existence on August
24 20, 1996, and is a United States person for
25 purposes of the Internal Revenue Code of 1986

1 on such date (determined without regard to
2 such amendments),

3 (B) no election is in effect under section
4 1907(a)(3)(B) of such Act with respect to such
5 trust,

6 (C) before the expiration of such reason-
7 able period, such trust makes the modifications
8 necessary to be treated as a United States per-
9 son for purposes of such Code (determined with
10 regard to such amendments), and

11 (D) such trust meets such other conditions
12 as the Secretary may require.

13 (j) EFFECTIVE DATE.—

14 (1) IN GENERAL.—Except as provided in para-
15 graph (2), the amendments made by this section
16 shall take effect as if included in the provisions of
17 the Small Business Job Protection Act of 1996 to
18 which they relate.

19 (2) CERTAIN ADMINISTRATIVE REQUIREMENTS
20 WITH RESPECT TO CERTAIN PENSION PLANS.—The
21 amendment made by subsection (d)(2)(D) shall
22 apply to calendar years beginning after the date of
23 the enactment of this Act.

1 **SEC. 1502. AMENDMENTS RELATED TO HEALTH INSURANCE**
2 **PORTABILITY AND ACCOUNTABILITY ACT OF**
3 **1996.**

4 (a) AMENDMENTS RELATED TO SECTION 301.—

5 (1) Paragraph (2) of section 26(b) is amended
6 by striking “and” at the end of subparagraph (N),
7 by striking the period at the end of subparagraph
8 (O) and inserting “, and”, and by adding at the end
9 the following new subparagraph:

10 “(P) section 220(f)(4) (relating to addi-
11 tional tax on medical savings account distribu-
12 tions not used for qualified medical expenses).”.

13 (2) Paragraph (3) of section 220(c) is amended
14 by striking subparagraph (A) and redesignating sub-
15 paragraphs (B) through (D) as subparagraphs (A)
16 through (C), respectively.

17 (3) Subparagraph (C) of section 220(d)(2) is
18 amended by striking “an eligible individual” and in-
19 serting “described in clauses (i) and (ii) of sub-
20 section (c)(1)(A)”.

21 (4) Subsection (a) of section 6693 is amended
22 by adding at the end the following new sentence:

23 “This subsection shall not apply to any report which is
24 an information return described in section
25 6724(d)(1)(C)(i) or a payee statement described in section
26 6724(d)(2)(X).”.

1 (5) Paragraph (4) of section 4975(d) is amend-
2 ed by striking “if, with respect to such transaction”
3 and all that follows and inserting the following: “if
4 section 220(e)(2) applies to such transaction.”.

5 (b) AMENDMENT RELATED TO SECTION 321.—Sub-
6 paragraph (B) of section 7702B(c)(2) is amended in the
7 last sentence by inserting “described in subparagraph
8 (A)(i)” after “chronically ill individual”.

9 (c) AMENDMENT RELATED TO SECTION 322.—Sub-
10 paragraph (B) of section 162(l)(2) is amended by adding
11 at the end the following new sentence: “The preceding sen-
12 tence shall be applied separately with respect to—

13 “(i) plans which include coverage for
14 qualified long-term care services (as de-
15 fined in section 7702B(c)) or are qualified
16 long-term care insurance contracts (as de-
17 fined in section 7702B(b)), and

18 “(ii) plans which do not include such
19 coverage and are not such contracts.”.

20 (d) AMENDMENTS RELATED TO SECTION 323.—

21 (1) Paragraph (1) of section 6050Q(b) is
22 amended by inserting “, address, and phone number
23 of the information contact” after “name”.

24 (2)(A) Paragraph (2) of section 6724(d) is
25 amended by striking so much as follows subpara-

1 graph (Q) and precedes the last sentence, and in-
2 serting the following new subparagraphs:

3 “(R) section 6050R(c) (relating to returns
4 relating to certain purchases of fish),

5 “(S) section 6051 (relating to receipts for
6 employees),

7 “(T) section 6052(b) (relating to returns
8 regarding payment of wages in the form of
9 group-term life insurance),

10 “(U) section 6053(b) or (c) (relating to re-
11 ports of tips),

12 “(V) section 6048(b)(1)(B) (relating to
13 foreign trust reporting requirements),

14 “(W) section 4093(c)(4)(B) (relating to
15 certain purchasers of diesel and aviation fuels),

16 “(X) section 408(i) (relating to reports
17 with respect to individual retirement plans) to
18 any person other than the Secretary with re-
19 spect to the amount of payments made to such
20 person, or

21 “(Y) section 6047(d) (relating to reports
22 by plan administrators) to any person other
23 than the Secretary with respect to the amount
24 of payments made to such person.”.

1 (B) Subsection (e) of section 6652 is amended
2 in the last sentence by striking “section
3 6724(d)(2)(X)” and inserting “section
4 6724(d)(2)(Y)”.

5 (e) AMENDMENT RELATED TO SECTION 325.—
6 Clauses (ii) and (iii) of section 7702B(g)(4)(B) are each
7 amended by striking “Secretary” and inserting “appro-
8 priate State regulatory agency”.

9 (f) AMENDMENTS RELATED TO SECTION 501.—

10 (1) Paragraph (4) of section 264(a) is amended
11 by striking subparagraph (A) and all that follows
12 through “by the taxpayer.” and inserting the follow-
13 ing:

14 “(A) is or was an officer or employee, or
15 “(B) is or was financially interested in,
16 any trade or business carried on (currently or for-
17 merly) by the taxpayer.”.

18 (2) The last 2 sentences of section
19 264(d)(2)(B)(ii) are amended to read as follows:

20 “‘For purposes of subclause (II), the term
21 ‘applicable period’ means the 12-month pe-
22 riod beginning on the date the policy is is-
23 sued (and each successive 12-month period
24 thereafter) unless the taxpayer elects a
25 number of months (not greater than 12)

1 other than such 12-month period to be its
2 applicable period. Such an election shall be
3 made not later than the 90th day after the
4 date of the enactment of this sentence and,
5 if made, shall apply to the taxpayer's first
6 taxable year ending on or after October 13,
7 1995, and all subsequent taxable years un-
8 less revoked with the consent of the Sec-
9 retary.”.

10 (3) Subparagraph (B) of section 264(d)(4) is
11 amended by striking “the employer” and inserting
12 “the taxpayer”.

13 (4) Subsection (c) of section 501 of the Health
14 Insurance Portability and Accountability Act of
15 1996 is amended by striking paragraph (3).

16 (5) Paragraph (2) of section 501(d) of such Act
17 is amended by striking “no additional premiums”
18 and all that follows and inserting the following: “a
19 lapse occurring by reason of no additional premiums
20 being received under the contract after October 13,
21 1995.”.

22 (g) AMENDMENTS RELATED TO SECTION 511.—

23 (1) Subparagraph (B) of section 877(d)(2) is
24 amended by striking “the 10-year period described
25 in subsection (a)” and inserting “the 10-year period

1 beginning on the date the individual loses United
2 States citizenship”.

3 (2) Subparagraph (D) of section 877(d)(2) is
4 amended by adding at the end the following new
5 sentence: “In the case of any exchange occurring
6 during such 5 years, any gain recognized under this
7 subparagraph shall be recognized immediately after
8 such loss of citizenship.”.

9 (3) Paragraph (3) of section 877(d) is amended
10 by inserting “and the period applicable under para-
11 graph (2)” after “subsection (a)”.

12 (4) Subparagraph (A) of section 877(d)(4) is
13 amended—

14 (A) by inserting “during the 10-year pe-
15 riod beginning on the date the individual loses
16 United States citizenship” after “contributes
17 property” in clause (i),

18 (B) by inserting “immediately before such
19 contribution” after “from such property”, and

20 (C) by striking “during the 10-year period
21 referred to in subsection (a),”.

22 (5) Subparagraph (C) of section 2501(a)(3) is
23 amended by striking “decedent” and inserting
24 “donor”.

1 (6)(A) Clause (i) of section 2107(c)(2)(A) is
2 amended by striking “such foreign country in re-
3 spect of property included in the gross estate” and
4 inserting “such foreign country”.

5 (B) Subparagraph (C) of section 2107(c)(2) is
6 amended to read as follows:

7 “(C) PROPORTIONATE SHARE.—In the
8 case of property which is included in the gross
9 estate solely by reason of subsection (b), such
10 property’s proportionate share is the percentage
11 which the value of such property bears to the
12 total value of all property included in the gross
13 estate solely by reason of subsection (b).”.

14 (h) AMENDMENTS RELATED TO SECTION 512.—

15 (1) Subpart A of part III of subchapter A of
16 chapter 61 is amended by redesignating the section
17 6039F added by section 512 of the Health Insur-
18 ance Portability and Accountability Act of 1996 as
19 section 6039G and by moving such section 6039G to
20 immediately after the section 6039F added by sec-
21 tion 1905 of the Small Business Job Protection Act
22 of 1996.

23 (2) The table of sections for subpart A of part
24 III of subchapter A of chapter 61 is amended by
25 striking the item relating to the section 6039F relat-

1 ed to information on individuals losing United States
2 citizenship and inserting after the item relating to
3 the section 6039F related to notice of large gifts re-
4 ceived from foreign persons the following new item:

“Sec. 6039G. Information on individuals losing United States citi-
zanship.”.

5 (3) Paragraph (1) of section 877(e) is amended
6 by striking “6039F” and inserting “6039G”.

7 (i) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect as if included in the provisions
9 of the Health Insurance Portability and Accountability
10 Act of 1996 to which such amendments relate.

11 **SEC. 1503. AMENDMENTS RELATED TO TAXPAYER BILL OF**
12 **RIGHTS 2.**

13 (a) AMENDMENT RELATED TO SECTION 1311.—Sub-
14 section (b) of section 4962 is amended by striking “sub-
15 chapter A or C” and inserting “subchapter A, C, or D”.

16 (b) AMENDMENTS RELATED TO SECTION 1312.—

17 (1)(A) Paragraph (10) of section 6033(b) is
18 amended by striking all that precedes subparagraph
19 (A) and inserting the following:

20 “(10) the respective amounts (if any) of the
21 taxes imposed on the organization, or any organiza-
22 tion manager of the organization, during the taxable
23 year under any of the following provisions (and the
24 respective amounts (if any) of reimbursements paid

1 by the organization during the taxable year with re-
2 spect to taxes imposed on any such organization
3 manager under any of such provisions):”.

4 (B) Subparagraph (C) of section 6033(b)(10) is
5 amended by adding at the end the following: “except
6 to the extent that, by reason of section 4962, the
7 taxes imposed under such section are not required to
8 be paid or are credited or refunded,”.

9 (2) Paragraph (11) of section 6033(b) is
10 amended to read as follows:

11 “(11) the respective amounts (if any) of—

12 “(A) the taxes imposed with respect to the
13 organization on any organization manager, or
14 any disqualified person, during the taxable year
15 under section 4958 (relating to taxes on private
16 excess benefit from certain charitable organiza-
17 tions), and

18 “(B) reimbursements paid by the organiza-
19 tion during the taxable year with respect to
20 taxes imposed under such section,

21 except to the extent that, by reason of section 4962,
22 the taxes imposed under such section are not re-
23 quired to be paid or are credited or refunded,”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect as if included in the provisions

1 of the Taxpayer Bill of Rights 2 to which such amend-
2 ments relate.

3 **SEC. 1504. MISCELLANEOUS PROVISIONS.**

4 (a) AMENDMENTS RELATED TO ENERGY POLICY
5 ACT OF 1992.—

6 (1) Paragraph (1) of section 263(a) is amended
7 by striking “or” at the end of subparagraph (F), by
8 striking the period at the end of subparagraph (G)
9 and inserting “; or”, and by adding at the end the
10 following new subparagraph:

11 “(H) expenditures for which a deduction is
12 allowed under section 179A.”.

13 (2) Subparagraph (B) of section 312(k)(3) is
14 amended—

15 (A) by striking “179” in the heading and
16 the first place it appears in the text and insert-
17 ing “179 or 179A”, and

18 (B) by striking “179” the last place it ap-
19 pears and inserting “179 or 179A, as the case
20 may be”.

21 (3) Paragraphs (2)(C) and (3)(C) of section
22 1245(a) are each amended by inserting “179A,”
23 after “179,”.

24 (4) The amendments made by this subsection
25 shall take effect as if included in the amendments

1 made by section 1913 of the Energy Policy Act of
2 1992.

3 (b) AMENDMENTS RELATED TO URUGUAY ROUND
4 AGREEMENTS ACT.—

5 (1) Paragraph (1) of section 6621(a) is amend-
6 ed in the last sentence by striking “subsection
7 (c)(3))” and inserting “subsection (c)(3), applied by
8 substituting ‘overpayment’ for ‘underpayment’”.

9 (2) Subclause (II) of section 412(m)(5)(E)(ii) is
10 amended by striking “clause (i)” and inserting “sub-
11 clause (I)”.

12 (3) Subparagraph (A) of section 767(d)(3) of
13 the Uruguay Round Agreements Act is amended in
14 the last sentence by striking “(except that” and all
15 that follows through “into account)”.

16 (4) The amendments made by this subsection
17 shall take effect as if included in the sections of the
18 Uruguay Round Agreements Act to which they re-
19 late.

20 (c) AMENDMENT RELATED TO OMNIBUS BUDGET
21 RECONCILIATION ACT OF 1993.—

22 (1) Paragraph (6) of section 168(j) (defining
23 Indian reservation) is amended by adding at the end
24 the following new flush sentence:

1 “For purposes of the preceding sentence, such sec-
2 tion 3(d) shall be applied by treating the term
3 ‘former Indian reservations in Oklahoma’ as includ-
4 ing only lands which are within the jurisdictional
5 area of an Oklahoma Indian tribe (as determined by
6 the Secretary of the Interior) and are recognized by
7 such Secretary as eligible for trust land status under
8 25 CFR Part 151 (as in effect on the date of the
9 enactment of this sentence).”.

10 (2) The amendment made by paragraph (1)
11 shall apply as if included in the amendments made
12 by section 13321 of the Omnibus Budget Reconcili-
13 ation Act of 1993, except that such amendment shall
14 not apply—

15 (A) with respect to property (with an ap-
16 plicable recovery period under section 168(j) of
17 the Internal Revenue Code of 1986 of 6 years
18 or less) held by the taxpayer if the taxpayer
19 claimed the benefits of section 168(j) of such
20 Code with respect to such property on a return
21 filed before March 18, 1997, but only if such
22 return is the first return of tax filed for the
23 taxable year in which such property was placed
24 in service, or

1 (B) with respect to wages for which the
2 taxpayer claimed the benefits of section 45A of
3 such Code for a taxable year on a return filed
4 before March 18, 1997, but only if such return
5 was the first return of tax filed for such taxable
6 year.

7 (d) AMENDMENT RELATED TO TAX REFORM ACT OF
8 1986.—Paragraph (3) of section 1059(d) is amended by
9 striking “subsection (a)(2)” and inserting “subsection
10 (a)”.

11 (e) AMENDMENT RELATED TO TAX REFORM ACT OF
12 1984.—

13 (1) Section 267(f) is amended by adding at the
14 end the following new paragraph:

15 “(4) DETERMINATION OF RELATIONSHIP RE-
16 SULTING IN DISALLOWANCE OF LOSS, FOR PUR-
17 POSES OF OTHER PROVISIONS.—For purposes of any
18 other section of this title which refers to a relation-
19 ship which would result in a disallowance of losses
20 under this section, deferral under paragraph (2)
21 shall be treated as disallowance.”.

22 (2) EFFECTIVE DATE.—The amendment made
23 by paragraph (1) shall take effect as if included in
24 section 174(b) of the Tax Reform Act of 1984.

25 (f) CLERICAL AMENDMENTS.—

1 (1) Clause (iii) of section 163(j)(2)(B) is
2 amended by striking “clause (i)” and inserting
3 “clause (ii)”.

4 (2) Paragraph (1) of section 665(d) is amended
5 in the last sentence by striking “or 669(d) and (e)”.

6 (3) Subsection (g) of section 1441 (relating to
7 cross reference) is amended by striking “one-half”
8 and inserting “85 percent”.

9 (4) Paragraph (1) of section 2523(g) is amend-
10 ed by striking “qualified remainder trust” and in-
11 sserting “qualified charitable remainder trust”.

12 (5) Subsection (d) of section 9502 is amended
13 by redesignating the paragraph added by section
14 806 of the Federal Aviation Reauthorization Act of
15 1996 as paragraph (6).

Passed the House of Representatives June 26, 1997.

Attest:

ROBIN H. CARLE,

Clerk.

By JULIE PERRIER,

Assistant to the Clerk.