

Calendar No. 92

105TH CONGRESS  
1ST Session

**S. 949**

[Report No. 105-33]

**A BILL**

To provide for revenue reconciliation pursuant to section 104(b) of the concurrent resolution on the budget for fiscal year 1998.

JUNE 20, 1997

Read twice and placed on the calendar

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1ST SESSION**S. 949****[Report No. 105–33]**

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IN THE SENATE OF THE UNITED STATES

JUNE 20, 1997

Mr. ROTH, from the Committee on Finance, reported the following original  
bill; which was read twice and placed on the calendar

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**A BILL**

To provide for revenue reconciliation pursuant to section  
104(b) 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,*

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

4                       **TABLE OF CONTENTS.**

5       (a) SHORT TITLE.—This Act may be cited as the  
6       “Revenue Reconciliation Act of 1997”.

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

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

#### TITLE I—CHILD TAX CREDIT AND OTHER FAMILY TAX RELIEF

Sec. 101. Child tax credit.

Sec. 102. Adjustment of minimum tax exemption amounts for taxpayers other than corporations.

#### 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 interest on education loans.

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

##### Subtitle B—Expanded Education Investment Savings Opportunities

##### PART I—QUALIFIED TUITION PROGRAMS

Sec. 211. Exclusion from gross income of education distributions from qualified tuition programs.

Sec. 212. Eligible educational institutions permitted to maintain qualified tuition programs; other modifications of qualified State tuition programs.

##### PART II—EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS

Sec. 213. Education individual retirement accounts.

##### Subtitle C—Other Education Initiatives

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

Sec. 222. Repeal of limitation on qualified 501(c)(3) bonds other than hospital bonds.

Sec. 223. Increase in arbitrage rebate exception for governmental bonds used to finance education facilities.

Sec. 224. 2-percent floor on miscellaneous itemized deductions not to apply to certain continuing education expenses of elementary and secondary school teachers.

## TITLE III—SAVINGS AND INVESTMENT INCENTIVES

## Subtitle A—Retirement Savings

- Sec. 301. Restoration of IRA deduction for certain taxpayers.
- Sec. 302. Establishment of nondeductible tax-free individual retirement accounts.
- Sec. 303. Distributions from certain plans may be used without penalty to purchase first homes and when unemployed.
- Sec. 304. Certain bullion not treated as collectibles.

## Subtitle B—Capital Gains

- Sec. 311. 20 percent maximum capital gains rate for individuals.
- Sec. 312. Modifications to exclusion of gain on certain small business stock.
- Sec. 313. Rollover of gain from sale of qualified stock.
- Sec. 314. Exemption from tax for gain on sale of principal residence.

## TITLE IV—ESTATE, GIFT, AND GENERATION-SKIPPING TAX PROVISIONS

- Sec. 401. Cost-of-living adjustments relating to estate and gift tax provisions.
- Sec. 402. Family-owned business exclusion.
- Sec. 403. Treatment of land subject to a qualified conservation easement.
- Sec. 404. 20-year installment payment where estate consists largely of interest in closely held business.
- Sec. 405. 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. 406. Extension of treatment of certain rents under section 2032A to lineal descendants.
- Sec. 407. Expansion of exception from generation-skipping transfer tax for transfers to individuals with deceased parents.

## TITLE V—EXTENSIONS

- Sec. 501. Research tax credit.
- Sec. 502. Contributions of stock to private foundations.
- Sec. 503. Work opportunity tax credit.
- Sec. 504. Orphan drug tax credit.

## TITLE VI—INCENTIVES FOR REVITALIZATION OF THE DISTRICT OF COLUMBIA

- Sec. 601. Tax incentives for revitalization of the District of Columbia.
- Sec. 602. Incentives conditioned on other DC reform.

## TITLE VII—MISCELLANEOUS PROVISIONS

## Subtitle A—Provisions Relating to Excise Taxes

- Sec. 701. Repeal of tax on diesel fuel used in recreational boats.
- Sec. 702. Intercity passenger rail fund.
- Sec. 703. Modification of tax treatment of hard cider.
- Sec. 704. General revenue portion of highway motor fuels taxes deposited into Highway Trust Fund.
- Sec. 705. Rate of tax on certain special fuels determined on basis of Btu equivalency with gasoline.

- Sec. 706. Study of feasibility of moving collection point for distilled spirits excise tax.
- Sec. 707. Extension and modification of subsidies for alcohol fuels.
- Sec. 708. Clarification of authority to use semi-generic designations on wine labels.

#### Subtitle B—Provisions Relating to Pensions and Fringe Benefits

- Sec. 711. Treatment of multiemployer plans under section 415.
- Sec. 712. Technical correction relating to partial termination of pension plans.
- Sec. 713. Increase in current liability funding limit.
- Sec. 714. Spousal consent required for certain distributions and loans under qualified cash or deferred arrangement.
- Sec. 715. Special rules for church plans.
- Sec. 716. Repeal of application of unrelated business income tax to ESOPs.

#### Subtitle C—Revisions Relating to Disasters

- Sec. 721. Treatment of livestock sold on account of weather-related conditions.
- Sec. 722. Gain or loss from sale of livestock disregarded for purposes of earned income credit.
- Sec. 723. Mortgage financing for residences located in disaster areas.

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- Sec. 731. Waiver of penalty through June 30, 1998, on small businesses failing to make electronic fund transfers of taxes.
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#### Subtitle E—Foreign Provisions

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- Sec. 742. Denial of treaty benefits for certain payments through hybrid entities.
- Sec. 743. United States property not to include certain assets acquired by dealers in ordinary course of trade or business.
- Sec. 744. Exemption for active financing income.
- Sec. 745. Treatment of nonresident aliens engaged in international transportation services.

### PART II—TREATMENT OF PASSIVE FOREIGN INVESTMENT COMPANIES

- Sec. 751. United States shareholders of controlled foreign corporations not subject to PFIC inclusion.
- Sec. 752. Election of mark to market for marketable stock in passive foreign investment company.
- Sec. 753. Effective date.

#### Subtitle F—Other Provisions

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- Sec. 762. Election to continue exception from treatment of publicly traded partnerships as corporations.
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- Sec. 764. Associations of holders of timeshare interests to be taxed like other homeowners associations.
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- Sec. 777. Modification to eligibility criteria for designation of future enterprise zones in Alaska or Hawaii.
- Sec. 778. Clarification of de minimis fringe benefit rules to no-charge employee meals.
- Sec. 779. Clarification of standard to be used in determining employment tax status of securities brokers.

## TITLE VIII—REVENUES

### Subtitle A—Financial Products

- Sec. 801. Constructive sales treatment for appreciated financial positions.
- Sec. 802. Limitation on exception for investment companies under section 351.
- Sec. 803. Gains and losses from certain terminations with respect to property.

### Subtitle B—Corporate Organizations and Reorganizations

- Sec. 811. Tax treatment of certain extraordinary dividends.
- Sec. 812. Application of section 355 to distributions followed by acquisitions and to intragroup transactions.
- Sec. 813. Tax treatment of redemptions involving related corporations.
- Sec. 814. Modification of holding period applicable to dividends received deduction.

### Subtitle C—Other Corporate Provisions

- Sec. 821. Registration and other provisions relating to confidential corporate tax shelters.
- Sec. 822. Certain preferred stock treated as boot.

### Subtitle D—Administrative Provisions

- Sec. 831. Decrease of threshold for reporting payments to corporations performing services for Federal agencies.
- Sec. 832. Disclosure of return information for administration of certain veterans programs.
- Sec. 833. Returns of beneficiaries of estates and trusts required to file returns consistent with estate or trust return or to notify Secretary of inconsistency.
- Sec. 834. Continuous levy on certain payments.
- Sec. 835. Modification of levy exemption.
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#### Subtitle E—Excise Tax Provisions

- Sec. 841. Extension and modification of Airport and Airway Trust Fund taxes.
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- Sec. 843. Application of communications tax to long-distance prepaid telephone cards.
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- Sec. 852. Limitation on increase in basis of property resulting from sale by tax-exempt entity to a related person.
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#### Subtitle G—Foreign Provisions

- Sec. 861. Definition of foreign personal holding company income.
- Sec. 862. 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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#### Subtitle H—Other Revenue Provisions

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- Sec. 877. Expansion of requirement that involuntarily converted property be replaced with property acquired from an unrelated person.
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- Sec. 880. Election to receive taxable cash compensation in lieu of nontaxable parking benefits.
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- Sec. 884. Increase in tax on prohibited transactions.
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## TITLE IX—FOREIGN-RELATED SIMPLIFICATION PROVISIONS

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- Sec. 1105. Distributions during first 65 days of taxable year of estate.
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- Sec. 1108. Treatment of funeral trusts.
- Sec. 1109. Adjustments for gifts within 3 years of decedent's death.

- Sec. 1110. Clarification of treatment of survivor annuities under qualified terminable interest rules.
- Sec. 1111. Treatment under qualified domestic trust rules of forms of ownership which are not trusts.
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- Sec. 1211. Credit or refund for imported bottled distilled spirits returned to distilled spirits plant.
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- Sec. 1213. Repeal of required maintenance of records on premises of distilled spirits plant.
- Sec. 1214. Fermented material from any brewery may be received at a distilled spirits plant.
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- Sec. 1216. Refund of tax to wine returned to bond not limited to unmerchantable wine.
- Sec. 1217. Use of additional ameliorating material in certain wines.
- Sec. 1218. Domestically produced beer may be withdrawn free of tax for use of foreign embassies, legations, etc.
- Sec. 1219. Beer may be withdrawn free of tax for destruction.
- Sec. 1220. Authority to allow drawback on exported beer without submission of records.
- Sec. 1221. Transfer to brewery of beer imported in bulk without payment of tax.
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- Sec. 1231. Authority to grant exemptions from registration requirements.
- Sec. 1232. Repeal of expired provisions.
- Sec. 1233. Simplification of imposition of excise tax on arrows.
- Sec. 1234. Modifications to retail tax on heavy trucks.
- Sec. 1235. Skydiving flights exempt from tax on transportation of persons by air.
- Sec. 1236. Allowance or credit of refund for tax-paid aviation fuel purchased by registered producer of aviation fuel.

### Subtitle B—Tax-Exempt Bond Provisions

- Sec. 1241. Repeal of \$100,000 limitation on unspent proceeds under 1-year exception from rebate.

- Sec. 1242. Exception from rebate for earnings on bona fide debt service fund under construction bond rules.
- Sec. 1243. Repeal of debt service-based limitation on investment in certain non-purpose investments.
- Sec. 1244. Repeal of expired provisions.
- Sec. 1245. Effective date.

#### Subtitle C—Tax Court Procedures

- Sec. 1251. Overpayment determinations of tax court.
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#### Subtitle D—Other Provisions

- Sec. 1261. Extension of due date of first quarter estimated tax payment by private foundations.
- Sec. 1262. Clarification of authority to withhold Puerto Rico income taxes from salaries of Federal employees.
- Sec. 1263. Certain notices disregarded under provision increasing interest rate on large corporate underpayments.

### TITLE XIII—PENSION SIMPLIFICATION

- Sec. 1301. Matching contributions of self-employed individuals not treated as elective employer contributions.
- Sec. 1302. Contributions to IRAs through payroll deductions.
- Sec. 1303. Plans not disqualified merely by accepting rollover contributions.
- Sec. 1304. Modification of prohibition of assignment or alienation.
- Sec. 1305. Elimination of paperwork burdens on plans.
- Sec. 1306. Modification of 403(b) exclusion allowance to conform to 415 modifications.
- Sec. 1307. New technologies in retirement plans.
- Sec. 1308. Extension of moratorium on application of certain nondiscrimination rules to State and local governments.
- Sec. 1309. Clarification of certain rules relating to employee stock ownership plans of S corporations.
- Sec. 1310. Modification of 10 percent tax for nondeductible contributions.
- Sec. 1311. Modification of funding requirements for certain plans.

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

- Sec. 1401. Amendments related to Small Business Job Protection Act of 1996.
- Sec. 1402. Amendments related to Health Insurance Portability and Accountability Act of 1996.
- Sec. 1403. Amendments related to Taxpayer Bill of Rights 2.
- Sec. 1404. Miscellaneous provisions.

1       **TITLE I—CHILD TAX CREDIT**  
 2       **AND OTHER FAMILY TAX RELIEF**

3       **SEC. 101. CHILD TAX CREDIT.**

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 23 the fol-  
 7 lowing new section:

8       **“SEC. 24. CHILD TAX CREDIT.**

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

13          “(b) LIMITATIONS.—

14               “(1) CREDIT LIMITED TO EDUCATION SAVINGS  
 15 FOR CERTAIN CHILDREN.—In the case of a qualify-  
 16 ing child who has attained the age of 13 as of the  
 17 close of the calendar year in which the taxable year  
 18 of the taxpayer begins, the amount of the credit al-  
 19 lowed under subsection (a) for such taxable year  
 20 with respect to such child (after the application of  
 21 paragraphs (2) and (3)) shall not exceed the excess  
 22 of—

23                       “(A) the aggregate amount contributed by  
 24 the taxpayer for such taxable year for the bene-  
 25 fit of such child to qualified tuition programs

1 (as defined in section 529) and education indi-  
 2 vidual retirement accounts (as defined in sec-  
 3 tion 530), over

4 “(B) the aggregate amount distributed  
 5 during such taxable year from such programs  
 6 and accounts (the beneficiary of which is such  
 7 child) which is subject to tax under section  
 8 529(f) or 530(c)(3).

9 “(2) LIMITATION BASED ON ADJUSTED GROSS  
 10 INCOME.—

11 “(A) IN GENERAL.—The \$500 amount in  
 12 subsection (a) shall be reduced (but not below  
 13 zero) by \$25 for each \$1,000 (or fraction there-  
 14 of) by which the taxpayer’s modified adjusted  
 15 gross income exceeds the threshold amount. For  
 16 purposes of the preceding sentence, the term  
 17 ‘modified adjusted gross income’ means ad-  
 18 justed gross income increased by any amount  
 19 excluded from gross income under section 911,  
 20 931, or 933.

21 “(B) THRESHOLD AMOUNT.—For purposes  
 22 of subparagraph (A), the term ‘threshold  
 23 amount’ means—

24 “(i) \$110,000 in the case of a joint  
 25 return,

1 “(ii) \$75,000 in the case of an indi-  
2 vidual who is not married, and

3 “(iii) \$55,000 in the case of a married  
4 individual filing a separate return.

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

7 “(3) LIMITATION BASED ON AMOUNT OF  
8 TAX.—The aggregate credit allowed by subsection  
9 (a) (determined after paragraph (2)) shall not ex-  
10 ceed the excess (if any) of—

11 “(A) the taxpayer’s regular tax liability for  
12 the taxable year reduced by the credits allow-  
13 able against such tax under this subpart (other  
14 than this section), over

15 “(B) the sum of—

16 “(i) the taxpayer’s tentative minimum  
17 tax for such taxable year (determined with-  
18 out regard to the alternative minimum tax  
19 foreign tax credit), plus

20 “(ii) 50 percent of the credit allowed  
21 for the taxable year under section 32.

22 Any reduction in the credit otherwise allowable  
23 by subsection (a) by reason of this paragraph  
24 shall be allocated pro rata among all qualifying

1 children for purposes of applying paragraph  
 2 (1).

3 “(c) QUALIFYING CHILD.—For purposes of this sec-  
 4 tion—

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

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

10 “(B) such individual has not attained the  
 11 age of 17 (age of 18 in the case of taxable  
 12 years beginning after 2002) as of the close of  
 13 the calendar year in which the taxable year of  
 14 the taxpayer begins, and

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

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

23 “(d) TAXABLE YEAR MUST BE FULL TAXABLE  
 24 YEAR.—Except in the case of a taxable year closed by rea-  
 25 son of the death of the taxpayer, no credit shall be allow-



1 able under this section in the case of a taxable year cover-  
 2 ing a period of less than 12 months.

3 “(e) RECAPTURE OF CREDIT.—

4 “(1) IN GENERAL.—If—

5 “(A) during any taxable year any amount  
 6 is withdrawn from a qualified tuition program  
 7 or an education individual retirement account  
 8 maintained for the benefit of a beneficiary and  
 9 such amount is subject to tax under section  
 10 529(f) or 530(c)(3), and

11 “(B) the amount of the credit allowed  
 12 under this section for the prior taxable year was  
 13 contingent on a contribution being made to  
 14 such a program or account for the benefit of  
 15 such beneficiary,

16 the taxpayer’s tax imposed by this chapter for the  
 17 taxable year shall be increased by the lesser of the  
 18 amount described in subparagraph (A) or the credit  
 19 described in subparagraph (B).

20 “(2) NO CREDITS AGAINST TAX, ETC.—Any in-  
 21 crease in tax under this subsection shall not be  
 22 treated as a tax imposed by this chapter for pur-  
 23 poses of determining—

24 “(A) the amount of any credit under this  
 25 subpart or subpart B or D of this part, and

1 “(B) the amount of the minimum tax im-  
 2 posed by section 55.

3 “(f) OTHER DEFINITIONS.—For purposes of this sec-  
 4 tion, the terms ‘qualified tuition program’ and ‘education  
 5 individual retirement account’ have the meanings given  
 6 such terms by section 529 and 530, respectively.

7 “(g) PHASE-IN OF CREDIT.—In the case of taxable  
 8 years beginning in 1997—

9 “(1) subsection (a)(1) shall be applied by sub-  
 10 stituting ‘\$250’ for ‘\$500’, and

11 “(2) subsection (c)(1)(B) shall be applied by  
 12 substituting ‘age of 13’ for ‘age of 17’.”

13 (b) CONFORMING AMENDMENTS.—

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

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

“Sec. 24. Child tax credit.”

21 (d) EFFECTIVE DATE.—The amendments made by  
 22 this section shall apply to taxable years beginning after  
 23 December 31, 1996.

1 **SEC. 102. ADJUSTMENT OF MINIMUM TAX EXEMPTION**  
 2 **AMOUNTS FOR TAXPAYERS OTHER THAN**  
 3 **CORPORATIONS.**

4 (a) IN GENERAL.—Subsection (d) of section 55 is  
 5 amended by adding at the end the following new para-  
 6 graph:

7 “(4) ADJUSTMENT OF EXEMPTION AMOUNTS  
 8 FOR TAXPAYERS OTHER THAN CORPORATIONS.—

9 “(A) TAXABLE YEARS BEGINNING AFTER  
 10 DECEMBER 31, 2000 AND BEFORE JANUARY 1,  
 11 2003.—In the case of any calendar year after  
 12 2000 and before 2003—

13 “(i) the dollar amount applicable  
 14 under paragraph (1)(A) for such a cal-  
 15 endar year shall be \$600 greater than the  
 16 dollar amount applicable under paragraph  
 17 (1)(A) for the prior calendar year, and

18 “(ii) the dollar amount applicable  
 19 under paragraph (1)(B) for such a cal-  
 20 endar year shall be \$450 greater than the  
 21 dollar amount applicable under paragraph  
 22 (1)(B) for the prior calendar year.

23 “(B) TAXABLE YEARS BEGINNING AFTER  
 24 DECEMBER 31, 2002.—In the case of any cal-  
 25 endar year after 2002—

1 “(i) the dollar amount applicable  
 2 under paragraph (1)(A) for such a cal-  
 3 endar year shall be \$950 greater than the  
 4 dollar amount applicable under paragraph  
 5 (1)(A) for the prior calendar year, and

6 “(ii) the dollar amount applicable  
 7 under paragraph (1)(B) for such a cal-  
 8 endar year shall be \$700 greater than the  
 9 dollar amount applicable under paragraph  
 10 (1)(B) for the prior calendar year.

11 “(C) APPLICATION OF TAXABLE YEARS.—

12 The dollar amount applicable under this para-  
 13 graph to any calendar year shall apply to tax-  
 14 able years beginning in such calendar year.”

15 (b) CONFORMING AMENDMENTS.—

16 (1) Subparagraph (C) of section 55(d)(1) is  
 17 amended by striking “\$22,500” and inserting “the  
 18 amount equal to  $\frac{1}{2}$  the dollar amount applicable  
 19 under subparagraph (A) for the taxable year”.

20 (2) The last sentence of section 55(d)(3) is  
 21 amended by striking “\$165,000 or (ii) \$22,500” and  
 22 inserting “the minimum amount of such income (as  
 23 so determined) for which the exemption amount  
 24 under paragraph (1)(C) is zero, or (ii) such exemp-

1       tion amount (determined without regard to this  
2       paragraph)’’.

3       (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to taxable years beginning after  
5 December 31, 2000.

6                   **TITLE II—EDUCATION**  
7                   **INCENTIVES**

8       **Subtitle A—Tax Benefits Relating**  
9       **to Education Expenses**

10   **SEC. 201. HOPE CREDIT FOR HIGHER EDUCATION TUITION**  
11                   **AND RELATED EXPENSES.**

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

16   **“SEC. 25A. HIGHER EDUCATION TUITION AND RELATED EX-**  
17                   **PENSES.**

18       “(a) ALLOWANCE OF CREDIT.—

19               “(1) IN GENERAL.—In the case of an individ-  
20 ual, there shall be allowed as a credit against the tax  
21 imposed by this chapter for the taxable year the  
22 amount equal to 50 percent of qualified tuition and  
23 related expenses paid by the taxpayer during such  
24 taxable year for education furnished during any aca-  
25 demic period beginning in such year.

1           “(2) SPECIAL RULE FOR EDUCATION AT COM-  
 2           MUNITY COLLEGES AND VOCATIONAL SCHOOLS.—In  
 3           the case of qualified tuition and related expenses for  
 4           education furnished at a community college or voca-  
 5           tional school, paragraph (1) shall be applied by sub-  
 6           stituting ‘75 percent’ for ‘50 percent’.

7           “(b) LIMITATIONS.—

8           “(1) DOLLAR LIMITATION.—The amount al-  
 9           lowed as a credit under subsection (a) for any tax-  
 10          able year with respect to the qualified tuition and re-  
 11          lated expenses of any 1 individual shall not exceed  
 12          \$1,500.

13          “(2) ELECTION REQUIRED.—

14                 “(A) IN GENERAL.—No credit shall be al-  
 15                 lowed under subsection (a) for a taxable year  
 16                 with respect to the qualified tuition and related  
 17                 expenses of an individual unless the taxpayer  
 18                 elects to have this section apply with respect to  
 19                 such individual for such year.

20                 “(B) CREDIT ALLOWED ONLY FOR 2 TAX-  
 21                 ABLE YEARS.—An election under this para-  
 22                 graph shall not take effect with respect to an  
 23                 individual for any taxable year if an election  
 24                 under this paragraph (by the taxpayer or any

1           other individual) is in effect with respect to  
2           such individual for any 2 prior taxable years.

3           “(C) COORDINATION WITH EXCLUSIONS.—

4           An election under this paragraph shall not take  
5           effect with respect to an individual for any tax-  
6           able year if there is in effect for such taxable  
7           year an election under section 529(c)(3)(B) or  
8           530(c)(1) (by the taxpayer or any other individ-  
9           ual) to exclude from gross income distributions  
10          from a qualified tuition program or education  
11          individual retirement account used to pay quali-  
12          fied higher education expenses of the individual.

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

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

1       pleted (before the beginning of such taxable year)  
 2       the first 2 years of postsecondary education at an el-  
 3       igible educational institution.

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

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

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

15           “(A) the excess of—

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

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

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

22          “(3) MODIFIED ADJUSTED GROSS INCOME.—  
 23      The term ‘modified adjusted gross income’ means  
 24      the adjusted gross income of the taxpayer for the



1 taxable year increased by any amount excluded from  
 2 gross income under section 911, 931, or 933.

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

4 “(1) QUALIFIED TUITION AND RELATED EX-  
 5 PENSES.—

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

10 “(i) the taxpayer,

11 “(ii) the taxpayer’s spouse, or

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

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

24 “(C) EXCEPTION FOR NONACADEMIC  
 25 FEES.—Such term does not include student ac-

1           tivity fees, athletic fees, insurance expenses, or  
2           other expenses unrelated to an individual's aca-  
3           demic course of instruction.

4           “(2) ELIGIBLE EDUCATIONAL INSTITUTION.—  
5           The term ‘eligible educational institution’ means an  
6           institution—

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

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

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

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

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

23           “(4) COMMUNITY COLLEGE.—The term ‘com-  
24           munity college’ means any institution of higher edu-  
25           cation (as defined in section 1201 of the Higher

1 Education Act of 1965 (20 U.S.C. 1141)) that  
 2 awards an associate's degree.

3 “(5) VOCATIONAL SCHOOL.—The term ‘voca-  
 4 tional school’ means a postsecondary vocational in-  
 5 stitution (as defined in section 481 of such Act (20  
 6 U.S.C. 1088)).

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 CREDIT WHERE NO HIGH  
15          SCHOOL DEGREE.—No credit shall be allowed under  
16          subsection (a) for qualified tuition and related ex-  
17          penses for the enrollment or attendance of a student  
18          for any academic period if such student has not re-  
19          ceived a high school degree (or its equivalent) before  
20          the beginning of such period. This paragraph shall  
21          not apply to a student if the student did not receive  
22          such degree by reason of enrollment in an early ad-  
23          mission program to an eligible educational institu-  
24          tion.

1           “(5) DENIAL OF DOUBLE BENEFIT.—No credit  
2           shall be allowed under this section for any expense  
3           for which a deduction is allowed under any other  
4           provision of this chapter.

5           “(6) NO CREDIT FOR MARRIED INDIVIDUALS  
6           FILING SEPARATE RETURNS.—If the taxpayer is a  
7           married individual (within the meaning of section  
8           7703), this section shall apply only if the taxpayer  
9           and the taxpayer’s spouse file a joint return for the  
10          taxable year.

11          “(7) NONRESIDENT ALIENS.—If the taxpayer is  
12          a nonresident alien individual for any portion of the  
13          taxable year, this section shall apply only if such in-  
14          dividual is treated as a resident alien of the United  
15          States for purposes of this chapter by reason of an  
16          election under subsection (g) or (h) of section 6013.

17          “(h) INFLATION ADJUSTMENTS.—

18                 “(1) DOLLAR LIMITATION ON AMOUNT OF  
19                 CREDIT.—

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

24                                 “(i) such dollar amount, multiplied by

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

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

11 “(2) INCOME LIMITS.—

12 “(A) IN GENERAL.—In the case of a tax-  
 13 able year beginning after 2000, the \$40,000  
 14 and \$80,000 amounts in subsection (c)(2) shall  
 15 each be increased by an amount equal to—

16 “(i) such dollar amount, multiplied by

17 “(ii) the cost-of-living adjustment de-  
 18 termined under section 1(f)(3) for the cal-  
 19 endar year in which the taxable year be-  
 20 gins, determined by substituting ‘calendar  
 21 year 1999’ for ‘calendar year 1992’ in sub-  
 22 paragraph (B) thereof.

23 “(B) ROUNDING.—If any amount as ad-  
 24 justed under subparagraph (A) is not a multiple

1 of \$5,000, such amount shall be rounded to the  
 2 next lowest multiple of \$5,000.

3 “(i) REGULATIONS.—The Secretary may prescribe  
 4 such regulations as may be necessary or appropriate to  
 5 carry out this section, including regulations providing for  
 6 a recapture of credit allowed under this section in cases  
 7 where there is a refund in a subsequent taxable year of  
 8 any amount which was taken into account in determining  
 9 the amount of such credit.”

10 (b) EXTENSION OF PROCEDURES APPLICABLE TO  
 11 MATHEMATICAL OR CLERICAL ERRORS.—Paragraph (2)  
 12 of section 6213(g) (relating to the definition of mathe-  
 13 matical or clerical errors) is amended by striking “and”  
 14 at the end of subparagraph (G), by striking the period  
 15 at the end of subparagraph (H) and inserting “, and”,  
 16 and by inserting after subparagraph (H) the following new  
 17 subparagraph:

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

22 (c) RETURNS RELATING TO TUITION AND RELATED  
 23 EXPENSES.—

24 (1) IN GENERAL.—Subpart B of part III of  
 25 subchapter A of chapter 61 (relating to information



1 concerning transactions with other persons) is  
 2 amended by inserting after section 6050R the fol-  
 3 lowing new section:

4 **“SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION**  
 5 **TUITION AND RELATED EXPENSES.**

6 “(a) IN GENERAL.—Any person—

7 “(1) which is an eligible educational institution  
 8 which receives payments for qualified tuition and re-  
 9 lated expenses with respect to any individual for any  
 10 calendar year, or

11 “(2) which is engaged in a trade or business  
 12 and which, in the course of such trade or business,  
 13 makes payments during any calendar year to any in-  
 14 dividual which constitute reimbursements or refunds  
 15 (or similar amounts) of qualified tuition and related  
 16 expenses of such individual,

17 shall make the return described in subsection (b) with re-  
 18 spect to the individual at such time as the Secretary may  
 19 by regulations prescribe.

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

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

24 “(2) contains—

1           “(A) the name, address, and TIN of the  
2 individual with respect to whom payments de-  
3 scribed in subsection (a) were received from (or  
4 were paid to),

5           “(B) the name, address, and TIN of any  
6 individual certified by the individual described  
7 in subparagraph (A) as the taxpayer who will  
8 claim the individual as a dependent for pur-  
9 poses of the deduction allowable under section  
10 151 for any taxable year ending with or within  
11 the calendar year, and

12           “(C) the—

13               “(i) aggregate amount of payments  
14 for qualified tuition and related expenses  
15 received with respect to the individual de-  
16 scribed in subparagraph (A) during the  
17 calendar year, and

18               “(ii) aggregate amount of reimburse-  
19 ments or refunds (or similar amounts)  
20 paid to such individual during the calendar  
21 year, and

22           “(D) such other information as the Sec-  
23 retary may prescribe.

24           “(c) APPLICATION TO GOVERNMENTAL UNITS.—For  
25 purposes of this section—

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

4           “(2) any return required under subsection (a)  
 5           by such governmental entity shall be made by the of-  
 6           ficer or employee appropriately designated for the  
 7           purpose of making such return.

8           “(d) STATEMENTS TO BE FURNISHED TO INDIVID-  
 9           UALS WITH RESPECT TO WHOM INFORMATION IS RE-  
 10          QUIRED.—Every person required to make a return under  
 11          subsection (a) shall furnish to each individual whose name  
 12          is required to be set forth in such return under subpara-  
 13          graph (A) or (B) of subsection (b)(2) a written statement  
 14          showing—

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

18           “(2) the aggregate amounts described in sub-  
 19           paragraph (C) of subsection (b)(2).

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

24           “(e) DEFINITIONS.—For purposes of this section, the  
 25          terms ‘eligible educational institution’ and ‘qualified tui-

tion and related expenses' have the meanings given such terms by section 25A.

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

“(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. No penalties shall be imposed under section 6724 with respect to any return or statement required under this section until such time as such regulations are issued.”

(2) ASSESSABLE PENALTIES.—

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

“(ix) section 6050S (relating to returns relating to payments for qualified tuition and related expenses),”.

1 (B) Paragraph (2) of section 6724(d) is  
 2 amended by striking “or” at the end of the next  
 3 to last subparagraph, by striking the period at  
 4 the end of the last subparagraph and inserting  
 5 “, or”, and by adding at the end the following  
 6 new subparagraph:

7 “(Z) section 6050S(d) (relating to returns  
 8 relating to qualified tuition and related ex-  
 9 penses).”

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

“Sec. 6050S. Returns relating to higher education tuition and re-  
 lated expenses.”

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

19 “(2) COORDINATION WITH HIGHER EDUCATION  
 20 CREDIT.—The amount of the qualified higher edu-  
 21 cation expenses otherwise taken into account under  
 22 subsection (a) with respect to the education of an in-  
 23 dividual shall be reduced (before the application of  
 24 subsection (b)) by the amount of such expenses

1       which are taken into account in determining the  
 2       credit allowable to the taxpayer or any other person  
 3       under section 25A with respect to such expenses.

4       (e) CLERICAL AMENDMENT.—The table of sections  
 5 for subpart A of part IV of subchapter A of chapter 1  
 6 is amended by inserting after the item relating to section  
 7 25 the following new item:

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

8       (f) EFFECTIVE DATE.—The amendments made by  
 9 this section shall apply to expenses paid after December  
 10 31, 1997 (in taxable years ending after such date), for  
 11 education furnished in academic periods beginning after  
 12 such date.

13 **SEC. 202. DEDUCTION FOR INTEREST ON EDUCATION**  
 14 **LOANS.**

15       (a) IN GENERAL.—Part VII of subchapter B of chap-  
 16 ter 1 (relating to additional itemized deductions for indi-  
 17 viduals) is amended by redesignating section 221 as sec-  
 18 tion 222 and by inserting after section 220 the following  
 19 new section:

20 **“SEC. 221. INTEREST ON EDUCATION LOANS.**

21       “(a) ALLOWANCE OF DEDUCTION.—In the case of an  
 22 individual, there shall be allowed as a deduction for the  
 23 taxable year an amount equal to the interest paid by the  
 24 taxpayer during the taxable year on any qualified edu-  
 25 cation loan.

1 “(b) MAXIMUM DEDUCTION.—

2 “(1) IN GENERAL.—Except as provided in para-  
3 graph (2), the deduction allowed by subsection (a)  
4 for the taxable year shall not exceed \$2,500.

5 “(2) LIMITATION BASED ON MODIFIED AD-  
6 JUSTED GROSS INCOME.—

7 “(A) IN GENERAL.—The amount which  
8 would (but for this paragraph) be allowable as  
9 a deduction under this section shall be reduced  
10 (but not below zero) by the amount determined  
11 under paragraph (2).

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

17 “(i) the excess of—

18 “(I) the taxpayer’s modified ad-  
19 justed gross income for such taxable  
20 year, over

21 “(II) \$40,000 (\$80,000 in the  
22 case of a joint return), bears to

23 “(ii) \$10,000 (\$20,000 in the case of  
24 a joint return).

1                   “(C) MODIFIED ADJUSTED GROSS IN-  
 2                   COME.—The term ‘modified adjusted gross in-  
 3                   come’ means adjusted gross income deter-  
 4                   mined—

5                   “(i) without regard to this section and  
 6                   sections 135, 911, 931, and 933, and

7                   “(ii) after application of sections 86,  
 8                   219, and 469.

9                   For purposes of sections 86, 135, 219, and  
 10                  469, adjusted gross income shall be determined  
 11                  without regard to the deduction allowed under  
 12                  this section.

13               “(c) DEPENDENTS NOT ELIGIBLE FOR DEDUC-  
 14               TION.—No deduction shall be allowed by this section to  
 15               an individual for the taxable year if a deduction under sec-  
 16               tion 151 with respect to such individual is allowed to an-  
 17               other taxpayer for the taxable year beginning in the cal-  
 18               endar year in which such individual’s taxable year begins.

19               “(d) LIMIT ON PERIOD DEDUCTION ALLOWED.—A  
 20               deduction shall be allowed under this section only with re-  
 21               spect to interest paid on any qualified education loan dur-  
 22               ing the first 60 months (whether or not consecutive) in  
 23               which interest payments are required. For purposes of this  
 24               paragraph, any loan and all refinancings of such loan shall  
 25               be treated as 1 loan.



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

2 “(1) QUALIFIED EDUCATION LOAN.—The term  
3 ‘qualified education loan’ means any indebtedness  
4 incurred to pay qualified higher education ex-  
5 penses—

6 “(A) which are incurred on behalf of the  
7 taxpayer, the taxpayer’s spouse, or any depend-  
8 ent of the taxpayer as of the time the indebted-  
9 ness was incurred,

10 “(B) which are paid or incurred within a  
11 reasonable period of time before or after the in-  
12 debtedness is incurred, and

13 “(C) which are attributable to education  
14 furnished during a period during which the re-  
15 cipient was an eligible student.

16 Such term includes indebtedness used to refinance  
17 indebtedness which qualifies as a qualified education  
18 loan. The term ‘qualified education loan’ shall not  
19 include any indebtedness owed to a person who is re-  
20 lated (within the meaning of section 267(b) or  
21 707(b)(1)) to the taxpayer.

22 “(2) QUALIFIED HIGHER EDUCATION EX-  
23 PENSES.—The term ‘qualified higher education ex-  
24 penses’ means the cost of attendance (as defined in  
25 section 472 of the Higher Education Act of 1965,

1       20 U.S.C. 1087ll, as in effect on the day before the  
 2       date of the enactment of this Act) at an eligible edu-  
 3       cational institution, reduced by the sum of—

4               “(A) the amount excluded from gross in-  
 5               come under section 135, 529, or 530 by reason  
 6               of such expenses, and

7               “(B) the amount of any scholarship, allow-  
 8               ance, or payment described in section  
 9               25A(g)(2).

10       For purposes of the preceding sentence, the term ‘el-  
 11       igible educational institution’ has the same meaning  
 12       given such term by section 25A(d)(2), except that  
 13       such term shall also include an institution conduct-  
 14       ing an internship or residency program leading to a  
 15       degree or certificate awarded by an institution of  
 16       higher education, a hospital, or a health care facility  
 17       which offers postgraduate training.

18               “(3) ELIGIBLE STUDENT.—The term ‘eligible  
 19       student’ has the meaning given such term by section  
 20       25A(d)(3).

21               “(4) DEPENDENT.—The term ‘dependent’ has  
 22       the meaning given such term by section 152.

23       “(f) SPECIAL RULES.—

24               “(1) DENIAL OF DOUBLE BENEFIT.—No deduc-  
 25       tion shall be allowed under this section for any

1 amount for which a deduction is allowable under any  
 2 other provision of this chapter.

3 “(2) MARRIED COUPLES MUST FILE JOINT RE-  
 4 TURN.—If the taxpayer is married at the close of  
 5 the taxable year, the deduction shall be allowed  
 6 under subsection (a) only if the taxpayer and the  
 7 taxpayer’s spouse file a joint return for the taxable  
 8 year.

9 “(3) MARITAL STATUS.—Marital status shall be  
 10 determined in accordance with section 7703.

11 “(g) INFLATION ADJUSTMENTS.—

12 “(1) DOLLAR LIMITATION ON AMOUNT OF  
 13 CREDIT.—

14 “(A) IN GENERAL.—In the case of a tax-  
 15 able year beginning after 1998, the \$2,500  
 16 amount in subsection (b)(1) shall be increased  
 17 by an amount equal to—

18 “(i) such dollar amount, multiplied by

19 “(ii) the cost-of-living adjustment de-  
 20 termined under section 1(f)(3) for the cal-  
 21 endar year in which the taxable year be-  
 22 gins, determined by substituting ‘calendar  
 23 year 1997’ for ‘calendar year 1992’ in sub-  
 24 paragraph (B) thereof.

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

5           “(2) INCOME LIMITS.—In the case of a taxable  
 6           year beginning in a calendar year after 2000, the  
 7           \$40,000 and \$80,000 amounts in subsection (b)(2)  
 8           shall each be increased by the amount the \$40,000  
 9           and \$80,000 amounts under section 25A(c)(2) are  
 10          increased for taxable years beginning in such cal-  
 11          endar year.”

12          (b) DEDUCTION ALLOWED WHETHER OR NOT TAX-  
 13          PAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a)  
 14          of section 62 is amended by inserting after paragraph (16)  
 15          the following new paragraph:

16               “(17) INTEREST ON EDUCATION LOANS.—The  
 17               deduction allowed by section 221.”

18          (c) REPORTING REQUIREMENT.—

19               (1) IN GENERAL.—Section 6050S(a)(2) (relat-  
 20               ing to returns relating to higher education tuition  
 21               and related expenses) is amended to read as follows:

22                       “(2) which is engaged in a trade or business  
 23                       and which, in the course of such trade or business—

24                               “(A) makes payments during any calendar  
 25                               year to any individual which constitutes reim-

1 bursements or refunds (or similar amounts) of  
 2 qualified tuition and related expenses of such  
 3 individual, or

4 “(B) except as provided in regulations, re-  
 5 ceives from any individual interest aggregating  
 6 \$600 or more for any calendar year on 1 or  
 7 more qualified education loans,”.

8 (2) INFORMATION.—Section 6050S(b)(2) is  
 9 amended—

10 (A) by inserting “or interest” after “pay-  
 11 ments” in subparagraph (A), and

12 (B) in subparagraph (C), by striking  
 13 “and” at the end of clause (i), by inserting  
 14 “and” at the end of clause (ii), and by inserting  
 15 after clause (ii) the following:

16 “(iii) aggregate amount of interest re-  
 17 ceived for the calendar year from such in-  
 18 dividual,”.

19 (3) DEFINITION.—Section 6050S(e) is amended  
 20 by inserting “, and except as provided in regulations,  
 21 the term ‘qualified education loan’ has the meaning  
 22 given such term by section 221(e)(1)” after “section  
 23 25A”.

24 (d) CLERICAL AMENDMENT.—The table of sections  
 25 for part VII of subchapter B of chapter 1 is amended by

1 striking the last item and inserting the following new  
2 items:

“Sec. 221. Interest on education loans.  
“Sec. 222. Cross reference.”

3 (e) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to any qualified education loan (as  
5 defined in section 221(e)(1) of the Internal Revenue Code  
6 of 1986, as added by this section) incurred on, before, or  
7 after the date of the enactment of this Act, but only with  
8 respect to—

9 (1) any loan interest payment due after Decem-  
10 ber 31, 1996, and

11 (2) the portion of the 60-month period referred  
12 to in section 221(d) of the Internal Revenue Code of  
13 1986 (as added by this section) after December 31,  
14 1996.

15 **SEC. 203. PENALTY-FREE WITHDRAWALS FROM INDIVIDUAL**  
16 **RETIREMENT PLANS FOR HIGHER EDU-**  
17 **CATION EXPENSES.**

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

23 “(E) DISTRIBUTIONS FROM INDIVIDUAL  
24 RETIREMENT PLANS FOR HIGHER EDUCATION

1           EXPENSES.—Distributions to an individual  
 2           from an individual retirement plan to the extent  
 3           such distributions do not exceed the qualified  
 4           higher education expenses (as defined in para-  
 5           graph (7)) of the taxpayer for the taxable year.  
 6           Distributions shall not be taken into account  
 7           under the preceding sentence if such distribu-  
 8           tions are described in subparagraph (A), (C), or  
 9           (D) or to the extent paragraph (1) does not  
 10          apply to such distributions by reason of sub-  
 11          paragraph (B).”

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

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

16                   “(A) IN GENERAL.—The term ‘qualified  
 17                   higher education expenses’ means qualified  
 18                   higher education expenses (as defined in section  
 19                   529(e)(3)) for education furnished to—

20                           “(i) the taxpayer,

21                           “(ii) the taxpayer’s spouse, or

22                           “(iii) any child (as defined in section  
 23                   151(c)(3)) or grandchild of the taxpayer or  
 24                   the taxpayer’s spouse,

1 at an eligible educational institution (as defined  
2 in section 529(e)(5)).

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

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to distributions after December 31,  
9 1997, with respect to expenses paid after such date (in  
10 taxable years ending after such date), for education fur-  
11 nished in academic periods beginning after such date.

## 12 **Subtitle B—Expanded Education** 13 **Investment Savings Opportunities**

### 14 **PART I—QUALIFIED TUITION PROGRAMS**

#### 15 **SEC. 211. EXCLUSION FROM GROSS INCOME OF EDUCATION** 16 **DISTRIBUTIONS FROM QUALIFIED TUITION** 17 **PROGRAMS.**

18 (a) IN GENERAL.—Subparagraph (B) of section  
19 529(c)(3) (relating to distributions) is amended to read  
20 as follows:

21 “(B) DISTRIBUTIONS FOR QUALIFIED  
22 HIGHER EDUCATION EXPENSES.—If a distribu-  
23 tee elects the application of this subparagraph  
24 for any taxable year—



1 “(i) no amount shall be includible in  
 2 gross income by reason of a distribution  
 3 which consists of providing a benefit to the  
 4 distributee which, if paid for by the dis-  
 5 tributee, would constitute payment of a  
 6 qualified higher education expense, and

7 “(ii) the amount which (but for the  
 8 election) would be includible in gross in-  
 9 come by reason of any other distribution  
 10 shall not be so includible in an amount  
 11 which bears the same ratio to the amount  
 12 which would be so includible as the amount  
 13 of the qualified higher education expenses  
 14 of the distributee bears to the amount of  
 15 the distribution.”

16 (b) EFFECTIVE DATE.—The amendments made by  
 17 this section shall apply to distributions after December 31,  
 18 1997, for education furnished in academic periods begin-  
 19 ning after such date.

20 **SEC. 212. ELIGIBLE EDUCATIONAL INSTITUTIONS PER-**  
 21 **MITTED TO MAINTAIN QUALIFIED TUITION**  
 22 **PROGRAMS; OTHER MODIFICATIONS OF**  
 23 **QUALIFIED STATE TUITION PROGRAMS.**

24 (a) ELIGIBLE EDUCATIONAL INSTITUTIONS PER-  
 25 MITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS.—

1 Paragraph (1) of section 529(b) (defining qualified State  
 2 tuition program) is amended by inserting “or by one or  
 3 more eligible educational institutions” after “maintained  
 4 by a State or agency or instrumentality thereof”.

5 (b) QUALIFIED HIGHER EDUCATION EXPENSES TO  
 6 INCLUDE ROOM AND BOARD.—Paragraph (3) of section  
 7 529(e) (defining qualified higher education expenses) is  
 8 amended to read as follows:

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

11 “(A) IN GENERAL.—The term ‘qualified  
 12 higher education expenses’ means tuition, fees,  
 13 books, supplies, and equipment required for the  
 14 enrollment or attendance of a designated bene-  
 15 ficiary at an eligible education institution.

16 “(B) ROOM AND BOARD INCLUDED FOR  
 17 STUDENTS WHO ARE AT LEAST HALF-TIME.—In  
 18 the case of an individual who is an eligible stu-  
 19 dent (as defined in section 25A(d)(3)) for any  
 20 academic period, such term shall also include  
 21 reasonable costs for such period (as determined  
 22 under the qualified tuition program) incurred  
 23 by the designated beneficiary for room and  
 24 board while attending such institution. The  
 25 amount treated as qualified higher education

1 expenses by reason of the preceding sentence  
 2 shall not exceed the minimum amount (applica-  
 3 ble to the student) included for room and board  
 4 for such period in the cost of attendance (as de-  
 5 fined in section 472 of the Higher Education  
 6 Act of 1965, 20 U.S.C. 1087ll, as in effect on  
 7 the date of the enactment of this paragraph)  
 8 for the eligible educational institution for such  
 9 period.”

10 (c) ADDITIONAL MODIFICATIONS.—

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

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

16 “(A) an individual who bears a relationship  
 17 to another individual which is a relationship de-  
 18 scribed in paragraphs (1) through (8) of section  
 19 152(a), and

20 “(B) the spouse of any individual described  
 21 in subparagraph (A).”

22 (2) ELIGIBLE EDUCATIONAL INSTITUTION.—  
 23 Section 529(e) is amended by adding at the end the  
 24 following:

1 “(5) ELIGIBLE EDUCATIONAL INSTITUTION.—

2 The term ‘eligible educational institution’ means an  
3 institution—

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

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

10 (3) NO CONTRIBUTIONS AFTER BENEFICIARY  
11 ATTAINS AGE 18; DISTRIBUTIONS REQUIRED IN CER-  
12 TAIN CASES.—

13 (A) IN GENERAL.—Subsection (b) of sec-  
14 tion 529 is amended by adding at the end the  
15 following new paragraph:

16 “(8) RESTRICTIONS RELATING TO AGE OF BEN-  
17 EFICIARY; COMPLETION OF EDUCATION.—

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

20 “(i) no contribution is accepted on be-  
21 half of a designated beneficiary after the  
22 date on which such beneficiary attains age  
23 18, and

24 “(ii) any balance to the credit of a  
25 designated beneficiary (if any) on the ac-

1 count termination date shall be distributed  
 2 within 30 days after such date to such  
 3 beneficiary (or in the case of death, the es-  
 4 tate of the beneficiary).

5 “(B) ACCOUNT TERMINATION DATE.—For  
 6 purposes of subparagraph (A), the term ‘ac-  
 7 count termination date’ means whichever of the  
 8 following dates is the earliest:

9 “(i) The date on which the designated  
 10 beneficiary attains age 30.

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

13 (B) ROLLOVERS.—Section 529(c)(3) is  
 14 amended by adding at the end the following:

15 “(E) ROLLOVERS TO IRA PLUS ACCOUNTS  
 16 AT AGE 30.—Subparagraph (A) shall not apply  
 17 to any distribution to the designated beneficiary  
 18 required under subsection (b)(8) by reason of  
 19 the beneficiary attaining age 30 to the extent  
 20 the beneficiary, within 60 days of the distribu-  
 21 tion, transfers such distribution to an IRA Plus  
 22 account established on the individual’s behalf.”

23 (C) CONFORMING AMENDMENTS.—

1 (i) Section 408(a)(1) is amended by  
 2 striking “or 403(b)(8)” and inserting  
 3 “403(b)(8), or 529(c)(3)(E)”.

4 (ii) Subparagraph (A) of section  
 5 4973(b)(1) is amended by striking “or  
 6 408(b)(3)” and inserting “408(b)(3), or  
 7 529(c)(3)(E)”.

8 (4) ESTATE AND GIFT TAX TREATMENT.—

9 (A) GIFT TAX TREATMENT.—

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

12 “(2) GIFT TAX TREATMENT OF CONTRIBU-  
 13 TIONS.—For purposes of chapters 12 and 13, any  
 14 contribution to a qualified tuition program on behalf  
 15 of any designated beneficiary shall not be treated as  
 16 a taxable gift.”

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

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

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

24 “(B) TREATMENT OF DESIGNATION OF  
 25 NEW BENEFICIARY.—The taxes imposed by

1 chapters 12 and 13 shall apply to a transfer by  
 2 reason of a change in the designated beneficiary  
 3 under the program (or a rollover to the account  
 4 of a new beneficiary) only if the new beneficiary  
 5 is a generation below the generation of the old  
 6 beneficiary (determined in accordance with sec-  
 7 tion 2651).”

8 (B) ESTATE TAX TREATMENT.—Para-  
 9 graph (4) of section 529(c) is amended to read  
 10 as follows:

11 “(4) ESTATE TAX TREATMENT.—

12 “(A) IN GENERAL.—No amount shall be  
 13 includible in the gross estate of any individual  
 14 for purposes of chapter 11 by reason of an in-  
 15 terest in a qualified tuition program.

16 “(B) AMOUNTS INCLUDIBLE IN ESTATE OF  
 17 DESIGNATED BENEFICIARY IN CERTAIN  
 18 CASES.—Subparagraph (A) shall not apply to  
 19 amounts distributed on account of the death of  
 20 a beneficiary.”

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

1           “(9) LIMITATION ON CONTRIBUTIONS TO  
 2           QUALIFIED TUITION PROGRAMS NOT MAINTAINED BY  
 3           A STATE.—In the case of a program not maintained  
 4           by a State or agency or instrumentality thereof, such  
 5           program shall not be treated as a qualified tuition  
 6           program unless it limits the annual contribution to  
 7           the program on behalf of a designated beneficiary to  
 8           the sum of \$2,000 plus the amount of the credit al-  
 9           lowable under section 25A for 1 qualifying child.”

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

13          “(f) IMPOSITION OF ADDITIONAL TAX.—

14               “(1) IN GENERAL.—In the case of a qualified  
 15               tuition program not maintained by a State or any  
 16               agency or instrumentality thereof, the tax imposed  
 17               by this chapter for any taxable year on any taxpayer  
 18               who receives a payment or distribution from such  
 19               program which is includible in gross income shall be  
 20               increased by 10 percent of the amount which is so  
 21               includible.

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



1           “(A) made to a beneficiary (or to the es-  
 2           tate of the designated beneficiary) on or after  
 3           the death of the designated beneficiary,

4           “(B) attributable to the designated bene-  
 5           ficiary’s being disabled (within the meaning of  
 6           section 72(m)(7)), or

7           “(C) made on account of a scholarship, al-  
 8           lowance, or payment described in section  
 9           25A(g)(2) received by the account holder to the  
 10          extent the amount of the payment or distribu-  
 11          tion does not exceed the amount of the scholar-  
 12          ship, allowance, or payment.

13          “(3) EXCESS CONTRIBUTIONS RETURNED BE-  
 14          FORE DUE DATE OF RETURN.—In the case of a  
 15          qualified tuition program not maintained by a State  
 16          or any agency or instrumentality thereof, paragraph  
 17          (1) shall not apply to the distribution to a contribu-  
 18          tor of any contribution made during a taxable year  
 19          on behalf of a designated beneficiary to the extent  
 20          that such contribution exceeds the limitation in sec-  
 21          tion 4973(e) if—

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

1           “(B) such distribution is accompanied by  
 2           the amount of net income attributable to such  
 3           excess contribution.

4           Any net income described in subparagraph (B) shall  
 5           be included in the gross income of the contributor  
 6           for the taxable year in which such excess contribu-  
 7           tion was made.”

8           (e) COORDINATION WITH EDUCATION SAVINGS  
 9   BOND.—Section 135(c)(2) (defining qualified higher edu-  
 10   cation expenses) is amended by adding at the end the fol-  
 11   lowing:

12           “(C) CONTRIBUTIONS TO QUALIFIED TUI-  
 13           TION PROGRAM.—Such term shall include any  
 14           contribution to a qualified tuition program (as  
 15           defined in section 529) on behalf of a des-  
 16           ignated beneficiary (as defined in such section)  
 17           who is an individual described in subparagraph  
 18           (A); but there shall be no increase in the invest-  
 19           ment in the contract for purposes of applying  
 20           section 72 by reason of any portion of such con-  
 21           tribution which is not includible in gross income  
 22           by reason of this subparagraph.”

23           (f) TAX ON EXCESS CONTRIBUTIONS.—

24           (1) IN GENERAL.—Subsection (a) of section  
 25           4973 is amended by striking “or” at the end of

1 paragraph (2) and by inserting after paragraph (3)  
 2 the following new paragraphs:

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

6 “(5) an education individual retirement account  
 7 (as defined in section 530),”.

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

11 “(e) EXCESS CONTRIBUTIONS TO PRIVATE QUALI-  
 12 FIED TUITION PROGRAM AND EDUCATION INDIVIDUAL  
 13 RETIREMENT ACCOUNTS.—For purposes of this section—

14 “(1) IN GENERAL.—In the case of private edu-  
 15 cation investment accounts maintained for the bene-  
 16 fit of any 1 beneficiary, the term ‘excess contribu-  
 17 tions’ means the amount by which the amount con-  
 18 tributed for the taxable year to such accounts ex-  
 19 ceeds the sum of \$2,000 plus the amount of the  
 20 credit allowed under section 25A for such beneficiary  
 21 for such taxable year.

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

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

4           “(B) an education individual retirement  
 5           account (as defined in section 530).

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

9           “(A) Any contribution which is distributed  
 10          out of the education individual retirement ac-  
 11          count in a distribution to which section  
 12          530(c)(3)(B) applies.

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

16          “(C) Any rollover contribution.”

17          (g) CLARIFICATION OF TAXATION OF DISTRIBU-  
 18          TIONS.—Subparagraph (A) of section 529(c)(3) is amend-  
 19          ed to read as follows:

20                 “(A) IN GENERAL.—Any distribution from  
 21                 a qualified tuition program—

22                         “(i) shall be includible in the gross in-  
 23                         come of the distributee to the extent allo-  
 24                         cable to income under the program, and

1                   “(ii) shall not be includible in gross  
2                   income to the extent allocable to the in-  
3                   vestment in the contract.

4                   For purposes of the preceding sentence, rules  
5                   similar to the rules of section 72(e)(3) shall  
6                   apply.”

7                   (h) TECHNICAL AMENDMENTS.—

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

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

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

19                  (3)(A) The section heading of section 529 is  
20                  amended to read as follows:

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

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

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

3           **“PART VIII—HIGHER EDUCATION SAVINGS**  
4                                   **ENTITIES”.**

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

                  “Part VIII. Higher education savings entities.”

8           (5)(A) Section 529(d) is amended to read as  
9           follows:

10          “(d) REPORTS.—Each officer or employee having  
11          control of the qualified tuition program or their designee  
12          shall make such reports regarding such program to the  
13          Secretary and to designated beneficiaries with respect to  
14          contributions, distributions, and such other matters as the  
15          Secretary may require under regulations. The reports re-  
16          quired by this subsection shall be filed at such time and  
17          in such manner and furnished to such individuals at such  
18          time and in such manner as may be required by those reg-  
19          ulations.”

20          (B) Paragraph (2) of section 6693(a) (relating  
21          to failure to provide reports on individual retirement  
22          accounts or annuities) is amended by striking “and”  
23          at the end of subparagraph (A), by striking the pe-  
24          riod at the end of subparagraph (B) and inserting

1 “, and”, and by adding at the end the following new  
 2 subparagraph:

3 “(C) Section 529(d) (relating to qualified  
 4 tuition programs).”

5 (C) The section heading for section 6693 is  
 6 amended by striking “**INDIVIDUAL RETIREMENT**”  
 7 and inserting “**CERTAIN TAX-FAVORED**”.

8 (D) 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 (i) 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) COORDINATION WITH EDUCATION SAVINGS  
 24 BONDS.—The amendment made by subsection (e)

1 shall apply to taxable years beginning after Decem-  
 2 ber 31, 1997.

3 (4) ESTATE AND GIFT TAX CHANGES.—

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

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

13 (5) REPORTING.—The amendments made by  
 14 subsection (g) shall apply after June 16, 1997.

## 15 **PART II—EDUCATION INDIVIDUAL RETIREMENT**

### 16 **ACCOUNTS**

#### 17 **SEC. 213. EDUCATION INDIVIDUAL RETIREMENT AC-** 18 **COUNTS.**

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

#### 22 **“SEC. 530. EDUCATION INDIVIDUAL RETIREMENT AC-** 23 **COUNTS.**

24 “(a) GENERAL RULE.—An education individual re-  
 25 tirement account shall be exempt from taxation under this



1 subtitle. Notwithstanding the preceding sentence, the edu-  
 2 cation individual retirement account shall be subject to the  
 3 taxes imposed by section 511 (relating to imposition of  
 4 tax on unrelated business income of charitable organiza-  
 5 tions).

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

8 “(1) EDUCATION INDIVIDUAL RETIREMENT AC-  
 9 COUNT.—The term ‘education individual retirement  
 10 account’ means a trust created or organized in the  
 11 United States exclusively for the purpose of paying  
 12 the qualified higher education expenses of the ac-  
 13 count holder, but only if the written governing in-  
 14 strument creating the trust meets the following re-  
 15 quirements:

16 “(A) No contribution will be accepted—

17 “(i) unless it is in cash,

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

20 “(iii) except in the case of rollover  
 21 contributions, if such contribution would  
 22 result in aggregate contributions for the  
 23 taxable year exceeding the sum of—

24 “(I) \$2,000, plus

1                   “(II) the amount of the credit al-  
2                   lowable under section 25A for the tax-  
3                   able year for 1 qualifying child.

4                   “(B) The trustee is a bank (as defined in  
5                   section 408(n)) or another person who dem-  
6                   onstrates to the satisfaction of the Secretary  
7                   that the manner in which that person will ad-  
8                   minister the trust will be consistent with the re-  
9                   quirements of this section.

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

12                  “(D) The assets of the trust shall not be  
13                  commingled with other property except in a  
14                  common trust fund or common investment  
15                  fund.

16                  “(E) Upon the death of the account hold-  
17                  er, any balance in the account will be distrib-  
18                  uted as required under section 529(b)(8) (as if  
19                  such account were a qualified tuition program).

20                  “(F) The account becomes an IRA Plus as  
21                  of the date the account holder attains age 30  
22                  (and meets all requirements for an IRA Plus on  
23                  and after such date), unless the account holder  
24                  elects to have sections 529(b)(8) apply as of

1           such date (as if such account were a qualified  
2           tuition program).

3           “(2) QUALIFIED HIGHER EDUCATION EX-  
4           PENSES.—

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

8                   “(B) QUALIFIED TUITION PROGRAMS.—  
9           Such term shall include amounts paid or in-  
10          curred to purchase tuition credits or certifi-  
11          cates, or to make contributions to an account,  
12          under a qualified tuition program (as defined in  
13          section 529(b)) for the benefit of the account  
14          holder.

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

18                  “(4) ACCOUNT HOLDER.—The term ‘account  
19          holder’ means the individual for whose benefit the  
20          education individual retirement account is estab-  
21          lished.

22                  “(c) TAX TREATMENT OF DISTRIBUTIONS.—

23                   “(1) IN GENERAL.—Any amount paid or dis-  
24          tributed shall be includible in gross income to the ex-

1       tent required by section 529(c)(3) (determined as if  
2       such account were a qualified tuition program).

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

8           “(3) ADDITIONAL TAX FOR DISTRIBUTIONS NOT  
9       USED FOR EDUCATIONAL EXPENSES.—

10           “(A) IN GENERAL.—The tax imposed by  
11       section 529(f) shall apply to payments and dis-  
12       tributions from an education individual retire-  
13       ment account in the same manner as such tax  
14       applies to qualified tuition programs (as defined  
15       in section 529).

16           “(B) EXCESS CONTRIBUTIONS RETURNED  
17       BEFORE DUE DATE OF RETURN.—Subpara-  
18       graph (A) shall not apply to the distribution to  
19       a contributor of any contribution paid during a  
20       taxable year to an education individual retire-  
21       ment account to the extent that such contribu-  
22       tion exceeds the limitation in section 4973(e) if  
23       such distribution (and the net income with re-  
24       spect to such excess contribution) meet require-

1           ments comparable to the requirements of sec-  
2           tion 529(f)(3).

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

16          “(5) CHANGE IN ACCOUNT HOLDER.—Any  
17          change in the account holder of an education indi-  
18          vidual retirement account shall not be treated as a  
19          distribution for purposes of paragraph (1) if the new  
20          account holder is a member of the family (as so de-  
21          fined) of the old account holder.

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

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

4       “(e) COMMUNITY PROPERTY LAWS.—This section  
5 shall be applied without regard to any community property  
6 laws.

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

20       “(g) REPORTS.—The trustee of an education individ-  
21 ual retirement account shall make such reports regarding  
22 such account to the Secretary and to the account holder  
23 with respect to contributions, distributions, and such other  
24 matters as the Secretary may require under regulations.  
25 The reports required by this subsection shall be filed at

1 such time and in such manner and furnished to such indi-  
 2 viduals at such time and in such manner as may be re-  
 3 quired by those regulations.”

4 (b) TAX ON PROHIBITED TRANSACTIONS.—

5 (1) IN GENERAL.—Paragraph (1) of section  
 6 4975(e) (relating to prohibited transactions) is  
 7 amended by striking “or” at the end of subpara-  
 8 graph (D), by redesignating subparagraph (E) as  
 9 subparagraph (F), and by inserting after subpara-  
 10 graph (D) the following new subparagraph:

11 “(E) an education individual retirement  
 12 account described in section 530, or”.

13 (2) SPECIAL RULE.—Subsection (c) of section  
 14 4975 is amended by adding at the end of subsection  
 15 (c) the following new paragraph:

16 “(5) SPECIAL RULE FOR EDUCATION INDIVID-  
 17 UAL RETIREMENT ACCOUNTS.—An individual for  
 18 whose benefit an education individual retirement ac-  
 19 count is established and any contributor to such ac-  
 20 count shall be exempt from the tax imposed by this  
 21 section with respect to any transaction concerning  
 22 such account (which would otherwise be taxable  
 23 under this section) if section 530(d) applies with re-  
 24 spect to such transaction.”

1 (c) FAILURE TO PROVIDE REPORTS ON EDUCATION  
 2 INDIVIDUAL RETIREMENT ACCOUNTS.—Paragraph (2) of  
 3 section 6693(a) (relating to failure to provide reports on  
 4 individual retirement accounts or annuities) is amended  
 5 by striking “and” at the end of subparagraph (B), by  
 6 striking the period at the end of subparagraph (C) and  
 7 inserting “, and”, and by adding at the end the following  
 8 new subparagraph:

9 “(D) Section 530(g) (relating to education  
 10 individual retirement accounts).”

11 (d) TECHNICAL AMENDMENTS.—

12 (1) Subparagraph (F) of section 26(b)(2), as  
 13 added by the preceding section, is amended by in-  
 14 serting before the comma “and section 530(c)(3)  
 15 (relating to additional tax on certain distributions  
 16 from education individual retirement accounts)”.

17 (2) Subparagraph (C) of section 135(c)(2), as  
 18 added by the preceding section, is amended by in-  
 19 serting “, or to an education individual retirement  
 20 account (as defined in section 530) on behalf of an  
 21 account holder (as defined in such section),” after  
 22 “(as defined in such section)”.

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

“Sec. 530. Education individual retirement accounts.”



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

4 **Subtitle C—Other Education**  
 5 **Initiatives**

6 **SEC. 221. EXTENSION OF EXCLUSION FOR EMPLOYER-PRO-**  
 7 **VIDED EDUCATIONAL ASSISTANCE.**

8 (a) IN GENERAL.—Section 127 (relating to edu-  
 9 cational assistance programs) is amended by striking sub-  
 10 section (d) and by redesignating subsection (e) as sub-  
 11 section (d).

12 (b) REPEAL OF LIMITATION ON GRADUATE EDU-  
 13 CATION.—The last sentence of section 127(c)(1) is amend-  
 14 ed by striking “, and such term also does not include any  
 15 payment for, or the provision of any benefits with respect  
 16 to, any graduate level course of a kind normally taken by  
 17 an individual pursuing a program leading to a law, busi-  
 18 ness, medical, or other advanced academic or professional  
 19 degree”.

20 (c) EFFECTIVE DATES.—

21 (1) EXTENSION.—The amendments made by  
 22 subsection (a) shall apply to taxable years beginning  
 23 after December 31, 1996.

24 (2) GRADUATE EDUCATION.—The amendment  
 25 made by subsection (b) shall apply with respect to

1 expenses relating to courses beginning after Decem-  
 2 ber 31, 1996.

3 **SEC. 222. REPEAL OF LIMITATION ON QUALIFIED 501(c)(3)**

4 **BONDS OTHER THAN HOSPITAL BONDS.**

5 Section 145(b) (relating to qualified 501(c)(3) bond)  
 6 is amended by adding at the end the following new para-  
 7 graph:

8 “(5) TERMINATION OF LIMITATION.—This sub-  
 9 section shall not apply with respect to bonds issued  
 10 after the date of the enactment of this paragraph to  
 11 finance capital expenditures incurred after such  
 12 date.”

13 **SEC. 223. INCREASE IN ARBITRAGE REBATE EXCEPTION**

14 **FOR GOVERNMENTAL BONDS USED TO FI-**  
 15 **NANCE EDUCATION FACILITIES.**

16 (a) IN GENERAL.—Section 148(f)(4)(D) (relating to  
 17 exception for governmental units issuing \$5,000,000 or  
 18 less of bonds) is amended by adding at the end the follow-  
 19 ing new clause:

20 “(vii) INCREASE IN EXCEPTION FOR  
 21 BONDS FINANCING PUBLIC SCHOOL CAP-  
 22 ITAL EXPENDITURES.—Each of the  
 23 \$5,000,000 amounts in the preceding pro-  
 24 visions of this subparagraph shall be in-  
 25 creased by the lesser of \$5,000,000 or so

1 much of the aggregate face amount of the  
 2 bonds as are attributable to financing the  
 3 construction (within the meaning of sub-  
 4 paragraph (C)(iv)) of public school facili-  
 5 ties.”

6 (b) EFFECTIVE DATE.—The amendments made by  
 7 this section shall apply to bonds issued after December  
 8 31, 1997.

9 **SEC. 224. 2-PERCENT FLOOR ON MISCELLANEOUS ITEM-**  
 10 **IZED DEDUCTIONS NOT TO APPLY TO CER-**  
 11 **TAIN CONTINUING EDUCATION EXPENSES OF**  
 12 **ELEMENTARY AND SECONDARY SCHOOL**  
 13 **TEACHERS.**

14 (a) IN GENERAL.—Section 67(b) (defining mis-  
 15 cellaneous itemized deductions) is amended by striking  
 16 “and” at the end of paragraph (11), by striking the period  
 17 at the end of paragraph (12) and inserting “, and”, and  
 18 by adding at the end the following:

19 “(13) any deduction allowable for the qualified  
 20 professional development expenses of an eligible  
 21 teacher.”

22 (b) DEFINITIONS.—Section 67 is amended by adding  
 23 at the end the following new subsection:

1       “(g) QUALIFIED PROFESSIONAL DEVELOPMENT EX-  
 2 PENSES OF ELIGIBLE TEACHERS.—For purposes of sub-  
 3 section (b)(13)—

4               “(1) QUALIFIED PROFESSIONAL DEVELOPMENT  
 5 EXPENSES.—

6                       “(A) IN GENERAL.—The term ‘qualified  
 7 professional development expenses’ means ex-  
 8 penses—

9                               “(i) for tuition, fees, books, supplies,  
 10 equipment, and transportation required for  
 11 the enrollment or attendance of an individ-  
 12 ual in a qualified course of instruction, and

13                               “(ii) with respect to which a deduction  
 14 is allowable under section 162 (determined  
 15 without regard to this section).

16                       “(B) QUALIFIED COURSE OF INSTRUCC-  
 17 TION.—The term ‘qualified course of instruc-  
 18 tion’ means a course of instruction which—

19                               “(i) is at an institution of higher edu-  
 20 cation (as defined in section 481 of the  
 21 Higher Education Act of 1965 (20 U.S.C.  
 22 1088), as in effect on the date of the en-  
 23 actment of this subsection), and

24                               “(ii) is part of a program of profes-  
 25 sional development which is approved and

certified by the appropriate local educational agency as directly related to—

“(I) an increase in the individual’s knowledge of content areas the individual is required to teach,

“(II) the improvement of the individual’s capacity to teach students to the standards of the local educational agency, or

“(III) the improvement of the individual’s capacity to use learning technology in teaching.

“(C) LOCAL EDUCATIONAL AGENCY.—The term ‘local educational agency’ has the meaning given such term by section 14101 of the Elementary and Secondary Education Act of 1965, as so in effect.

“(2) ELIGIBLE TEACHER.—

“(A) IN GENERAL.—The term ‘eligible teacher’ means an individual who—

“(i) is a kindergarten through grade 12 teacher in an elementary or secondary school, and

“(ii) has completed at least 2 academic years as a teacher described in subparagraph (A) before the qualified profes-

1           sional development expenses of the individ-  
2           ual have been incurred.

3           “(B)   ELEMENTARY   OR   SECONDARY  
4           SCHOOL.—The terms ‘elementary school’ and  
5           ‘secondary school’ have the meanings given  
6           such terms by section 14101 of the Elementary  
7           and Secondary Education Act of 1965 (20  
8           U.S.C. 8801), as so in effect.”

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

12                   **TITLE III—SAVINGS AND**  
13                   **INVESTMENT INCENTIVES**  
14           **Subtitle A—Retirement Savings**

15   **SEC. 301. RESTORATION OF IRA DEDUCTION FOR CERTAIN**  
16                   **TAXPAYERS.**

17           (a) INCREASE IN INCOME LIMITS APPLICABLE TO  
18          ACTIVE PARTICIPANTS.—

19                   (1) IN GENERAL.—Subparagraph (B) of section  
20          219(g)(3) (relating to applicable dollar amount) is  
21          amended to read as follows:

22                           “(B) APPLICABLE DOLLAR AMOUNT.—The  
23                           term ‘applicable dollar amount’ means the fol-  
24                           lowing:

1 “(i) In the case of a taxpayer filing a  
2 joint return:

<b>“For taxable years beginning in:</b>	<b>The applicable dollar amount is:</b>
1998 or 1999 .....	\$50,000
2000 or 2001 .....	\$60,000
2002 or 2003 .....	\$70,000
2004 and thereafter .....	\$80,000.

3 “(ii) In the case of any other taxpayer  
4 (other than a married individual filing a  
5 separate return):

<b>“For taxable years beginning in:</b>	<b>The applicable dollar amount is:</b>
1998 or 1999 .....	\$30,000
2000 or 2001 .....	\$35,000
2002 or 2003 .....	\$40,000
2004 and thereafter .....	\$50,000.

6 “(iii) In the case of a married individ-  
7 ual filing a separate return, zero.”.

8 (2) INCREASE IN PHASE-OUT RANGE FOR JOINT  
9 RETURNS.—Clause (ii) of section 219(g)(2)(A) is  
10 amended by inserting “(\$20,000 in the case of a  
11 joint return for a taxable year beginning after De-  
12 cember 31, 2003)”.

13 (b) LIMITATIONS FOR ACTIVE PARTICIPATION NOT  
14 BASED ON SPOUSE’S PARTICIPATION.—Paragraph (1) of  
15 section 219(g) (relating to limitation on deduction for ac-  
16 tive participants in certain pension plans) is amended by  
17 striking “or the individual’s spouse”.

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

4       **SEC. 302. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE**  
 5                               **INDIVIDUAL RETIREMENT ACCOUNTS.**

6       (a) IN GENERAL.—Subpart A of part I of subchapter  
 7 D of chapter 1 (relating to pension, profit-sharing, stock  
 8 bonus plans, etc.) is amended by inserting after section  
 9 408 the following new section:

10       **“SEC. 408A. IRA PLUS ACCOUNTS.**

11               “(a) GENERAL RULE.—Except as provided in this  
 12 section, an IRA Plus account shall be treated for purposes  
 13 of this title in the same manner as an individual retire-  
 14 ment plan.

15               “(b) IRA PLUS ACCOUNT.—For purposes of this  
 16 title, the term ‘IRA Plus account’ means an individual re-  
 17 tirement plan (as defined in section 7701(a)(37)) which  
 18 is designated (in such manner as the Secretary may pre-  
 19 scribe) at the time of establishment of the plan as an IRA  
 20 Plus account. Such designation shall be made in such  
 21 manner as the Secretary may prescribe.

22               “(c) TREATMENT OF CONTRIBUTIONS.—

23                       “(1) NO DEDUCTION ALLOWED.—No deduction  
 24 shall be allowed under section 219 for a contribution  
 25 to an IRA Plus account.



1           “(2) CONTRIBUTION LIMIT.—The aggregate  
2           amount of contributions for any taxable year to all  
3           IRA Plus accounts maintained for the benefit of an  
4           individual shall not exceed the excess (if any) of—

5                   “(A) the maximum amount allowable as a  
6                   deduction under section 219 with respect to  
7                   such individual for such taxable year (computed  
8                   without regard to subsection (g) of such sec-  
9                   tion), over

10                   “(B) the amount so allowed.

11           “(3) CONTRIBUTIONS PERMITTED AFTER AGE  
12           70½.—Contributions to an IRA Plus account may be  
13           made even after the individual for whom the account  
14           is maintained has attained age 70½.

15           “(4) MANDATORY DISTRIBUTION RULES NOT  
16           TO APPLY, ETC.—

17                   “(A) IN GENERAL.—Except as provided in  
18                   subparagraph (B), subsections (a)(6) and (b)(3)  
19                   of section 408 (relating to required distribu-  
20                   tions) and section 4974 (relating to excise tax  
21                   on certain accumulations in qualified retirement  
22                   plans) shall not apply to any IRA Plus account.

23                   “(B) POST-DEATH DISTRIBUTIONS.—Rules  
24                   similar to the rules of section 401(a)(9) (other

1           than subparagraph (A) thereof) shall apply for  
2           purposes of this section.

3           “(5) ROLLOVER CONTRIBUTIONS.—

4                 “(A) IN GENERAL.—No rollover contribu-  
5           tion may be made to an IRA Plus account un-  
6           less it is a qualified rollover contribution.

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

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

13           “(d) DISTRIBUTION RULES.—For purposes of this  
14           title—

15                 “(1) GENERAL RULES.—

16                 “(A) EXCLUSIONS FROM GROSS INCOME.—  
17           Any qualified distribution from an IRA Plus ac-  
18           count shall not be includible in gross income.

19                 “(B) NONQUALIFIED DISTRIBUTIONS.—In  
20           applying section 72 to any distribution from an  
21           IRA Plus account which is not a qualified dis-  
22           tribution, such distribution shall be treated as  
23           made from contributions to the IRA Plus ac-  
24           count to the extent that such distribution, when  
25           added to all previous distributions from the

1 IRA Plus account, does not exceed the aggre-  
2 gate amount of contributions to the IRA Plus  
3 account. For purposes of the preceding sen-  
4 tence, all IRA Plus accounts maintained for the  
5 benefit of an individual shall be treated as 1 ac-  
6 count.

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

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

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

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

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

20 “(iv) which is a qualified special pur-  
21 pose distribution.

22 “(B) CERTAIN DISTRIBUTIONS WITHIN 5  
23 YEARS.—A payment or distribution shall not be  
24 treated as a qualified distribution under sub-  
25 paragraph (A) if—

1 “(i) it is made within the 5-taxable  
 2 year period beginning with the 1st taxable  
 3 year for which the individual made a con-  
 4 tribution to an IRA Plus account (or such  
 5 individual’s spouse made a contribution to  
 6 an IRA Plus account) established for such  
 7 individual, or

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

16 Clause (ii) shall not apply to a qualified rollover  
 17 contribution from an IRA plus account.

18 “(3) ROLLOVERS.—

19 “(A) IN GENERAL.—Any distribution  
 20 which is transferred in a qualified rollover con-  
 21 tribution to an IRA Plus account shall not be  
 22 included in gross income.

23 “(B) INCOME INCLUSION FOR ROLLOVERS  
 24 FROM NON-PLUS IRAS.—

1           “(i) IN GENERAL.—In the case of any  
 2           distribution to which this subparagraph  
 3           applies—

4                   “(I) sections 72(t) and 408(d)(3)  
 5                   shall not apply, and

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

13           “(ii) DISTRIBUTIONS TO WHICH SUB-  
 14           PARAGRAPH APPLIES.—This subparagraph  
 15           shall apply to a distribution from an indi-  
 16           vidual retirement plan (other than an IRA  
 17           Plus account) maintained for the benefit of  
 18           an individual to an IRA Plus account  
 19           maintained for the benefit of such individ-  
 20           ual if such distribution would be a quali-  
 21           fied rollover contribution were such individ-  
 22           ual retirement plan an IRA Plus account.  
 23           Clause (i)(II) shall only apply to distribu-  
 24           tions before January 1, 1999.

1                   “(iii) CONVERSIONS.—The conversion  
 2                   of an individual retirement plan (other  
 3                   than an IRA Plus account) to an IRA Plus  
 4                   account shall be treated for purposes of  
 5                   this subparagraph as a distribution from  
 6                   such plan to such IRA Plus account.

7                   “(C) ADDITIONAL REPORTING REQUIRE-  
 8                   MENTS.—The Secretary shall require that  
 9                   trustees of IRA Plus accounts, trustees of indi-  
 10                  vidual retirement plans, or both, whichever is  
 11                  appropriate, shall include such additional infor-  
 12                  mation in reports required under section 408(i)  
 13                  as is necessary to ensure that amounts required  
 14                  to be included in gross income under subpara-  
 15                  graph (B) are so included.

16                  “(4) COORDINATION WITH INDIVIDUAL RETIRE-  
 17                  MENT ACCOUNTS.—Section 408(d)(2) shall not apply  
 18                  to IRA Plus accounts.

19                  “(5) QUALIFIED SPECIAL PURPOSE DISTRIBU-  
 20                  TION.—For purposes of this section, the term ‘quali-  
 21                  fied special purpose distribution’ means any distribu-  
 22                  tion to which subparagraph (D) or (F) of section  
 23                  72(t)(2) applies.

24                  “(e) QUALIFIED ROLLOVER CONTRIBUTION.—For  
 25                  purposes of this section, the term ‘qualified rollover con-

1   tribution’ means a rollover contribution to an IRA Plus  
 2   account from another such account, or from an individual  
 3   retirement plan, but only if such rollover contribution  
 4   meets the requirements of section 408(d)(3). For purposes  
 5   of section 408(d)(3)(B), there shall be disregarded any  
 6   qualified rollover contribution from an individual retire-  
 7   ment plan (other than an IRA Plus account) to an IRA  
 8   Plus account.”

9       (b) EXCESS CONTRIBUTIONS.—

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

12       “(f) EXCESS CONTRIBUTIONS TO IRA PLUS AC-  
 13   COUNTS.—For purposes of this section, in the case of IRA  
 14   Plus accounts, the term ‘excess contributions’ means the  
 15   amount by which the amount contributed for the taxable  
 16   year to such accounts exceeds the limitation in section  
 17   408A(c)(2).”

18           (2) Subsection (b) of section 4973 is amended  
 19       by adding at the end the following new sentence:

20       “For purposes of this subsection, an IRA Plus ac-  
 21   count shall not be treated as an individual retire-  
 22   ment plan.”

23       (c) SPOUSAL IRA.—Clause   (ii)   of   section  
 24   219(c)(1)(B) is amended to read as follows:

1 “(ii) the compensation includible in  
 2 the gross income of such individual’s  
 3 spouse for the taxable year reduced by—

4 “(I) the amount allowed as a de-  
 5 duction under subsection (a) to such  
 6 spouse for such taxable year, and

7 “(II) the amount of any contribu-  
 8 tion on behalf of such spouse to an  
 9 IRA Plus account under section 408A  
 10 for such taxable year.”

11 (d) REPEAL OF NONDEDUCTIBLE CONTRIBU-  
 12 TIONS.—

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

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

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

19 “(5) TERMINATION.—This subsection shall not  
 20 apply to any designated nondeductible contribution  
 21 for any taxable year beginning after December 31,  
 22 1997.”

23 (4) Section 4973(b) is amended by striking the  
 24 last sentence.



1 (e) CONFORMING AMENDMENT.—The table of sec-  
 2 tions for subpart A of part I of subchapter D of chapter  
 3 1 is amended by inserting after the item relating to section  
 4 408 the following new item:

“Sec. 408A. IRA Plus accounts.”

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

8 **SEC. 303. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE**  
 9 **USED WITHOUT PENALTY TO PURCHASE**  
 10 **FIRST HOMES AND WHEN UNEMPLOYED.**

11 (a) FIRST HOMES.—

12 (1) IN GENERAL.—Paragraph (2) of section  
 13 72(t) (relating to exceptions to 10-percent additional  
 14 tax on early distributions from qualified retirement  
 15 plans), as amended by section 203, is amended by  
 16 adding at the end the following new subparagraph:

17 “(F) DISTRIBUTIONS FROM CERTAIN  
 18 PLANS FOR FIRST HOME PURCHASES.—Dis-  
 19 tributions to an individual from an individual  
 20 retirement plan which are qualified first-time  
 21 homebuyer distributions (as defined in para-  
 22 graph (8)). Distributions shall not be taken into  
 23 account under the preceding sentence if such  
 24 distributions are described in subparagraph (A),  
 25 (C), (D), or (E) or to the extent paragraph (1)

1 does not apply to such distributions by reason  
 2 of subparagraph (B).”

3 (2) DEFINITIONS.—Section 72(t), as amended  
 4 by section 203, is amended by adding at the end the  
 5 following new paragraphs:

6 “(8) QUALIFIED FIRST-TIME HOMEBUYER DIS-  
 7 TRIBUTIONS.—For purposes of paragraph (2)(F)—

8 “(A) IN GENERAL.—The term ‘qualified  
 9 first-time homebuyer distribution’ means any  
 10 payment or distribution received by an individ-  
 11 ual to the extent such payment or distribution  
 12 is used by the individual before the close of the  
 13 120th day after the day on which such payment  
 14 or distribution is received to pay qualified ac-  
 15 quisition costs with respect to a principal resi-  
 16 dence of a first-time homebuyer who is such in-  
 17 dividual, the spouse of such individual, or any  
 18 child, grandchild, or ancestor of such individual  
 19 or the individual’s spouse.

20 “(B) LIFETIME DOLLAR LIMITATION.—  
 21 The aggregate amount of payments or distribu-  
 22 tions received by an individual which may be  
 23 treated as qualified first-time homebuyer dis-  
 24 tributions for any taxable year shall not exceed  
 25 the excess (if any) of—

1 “(i) \$10,000, over

2 “(ii) the aggregate amounts treated as  
3 qualified first-time homebuyer distributions  
4 with respect to such individual for all prior  
5 taxable years.

6 “(C) QUALIFIED ACQUISITION COSTS.—

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

13 “(D) FIRST-TIME HOMEBUYER; OTHER  
14 DEFINITIONS.—For purposes of this para-  
15 graph—

16 “(i) FIRST-TIME HOMEBUYER.—The  
17 term ‘first-time homebuyer’ means any in-  
18 dividual if—

19 “(I) such individual (and if mar-  
20 ried, such individual’s spouse) had no  
21 present ownership interest in a prin-  
22 cipal residence during the 2-year pe-  
23 riod ending on the date of acquisition  
24 of the principal residence to which  
25 this paragraph applies, and

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

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

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

15 “(I) on which a binding contract  
 16 to acquire the principal residence to  
 17 which subparagraph (A) applies is en-  
 18 tered into, or

19 “(II) on which construction or re-  
 20 construction of such a principal resi-  
 21 dence is commenced.

22 “(E) SPECIAL RULE WHERE DELAY IN AC-  
 23 QUISSION.—If any distribution from any indi-  
 24 vidual retirement plan fails to meet the require-  
 25 ments of subparagraph (A) solely by reason of

a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting ‘120 days’ for ‘60 days’ in such section), except that—

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

“(ii) such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount”.

(b) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.—Subparagraph (D) of section 72(t)(2) is amended—

(1) in clause (i), by inserting “and” at the end of subclause (I), by striking “, and” at the end of subclause (II) and inserting a period, and by striking subclause (III), and

(2) by striking “FOR HEALTH INSURANCE PREMIUMS” in the heading thereof.

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

1 **SEC. 304. CERTAIN BULLION NOT TREATED AS COLLECT-**  
 2 **IBLES.**

3 (a) IN GENERAL.—Paragraph (3) of section 408(m)  
 4 (relating to exception for certain coins) is amended to read  
 5 as follows:

6 “(3) EXCEPTION FOR CERTAIN COINS AND BUL-  
 7 LION.—For purposes of this subsection, the term  
 8 ‘collectible’ shall not include—

9 “(A) any coin which is—

10 “(i) a gold coin described in para-  
 11 graph (7), (8), (9), or (10) of section  
 12 5112(a) of title 31, United States Code,

13 “(ii) a silver coin described in section  
 14 5112(e) of title 31, United States Code, or

15 “(iii) a coin issued under the laws of  
 16 any State, or

17 “(B) any gold, silver, platinum, or palla-  
 18 dium bullion (other than bullion fabricated in  
 19 the form of a coin not described in subpara-  
 20 graph (A)) of a fineness equal to or exceeding  
 21 the minimum fineness required for metals  
 22 which may be delivered in satisfaction of a reg-  
 23 ulated futures contract subject to regulation by  
 24 the Commodity Futures Trading Commission  
 25 under the Commodity Exchange Act,

1 if such bullion is in the physical possession of a  
 2 trustee described under subsection (a) of this sec-  
 3 tion.”

4 (b) EFFECTIVE DATE.—The amendment made by  
 5 this section shall apply to taxable years beginning after  
 6 December 31, 1997.

## 7 **Subtitle B—Capital Gains**

### 8 **SEC. 311. 20-PERCENT MAXIMUM CAPITAL GAINS RATE FOR** 9 **INDIVIDUALS.**

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

13 “(h) MAXIMUM CAPITAL GAINS RATE.—

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

18 “(A) a tax computed at the rates and in  
 19 the same manner as if this subsection had not  
 20 been enacted on the greater of—

21 “(i) taxable income reduced by the net  
 22 capital gain, or

23 “(ii) the amount of taxable income  
 24 taxed at a rate below 28 percent, plus

25 “(B) 24 percent of the lesser of—

1 “(i) the unrecaptured section 1250  
2 gain, or

3 “(ii) the amount of taxable income in  
4 excess of the sum of the amount on which  
5 tax is determined under subparagraph (A)  
6 plus the net capital gain determined with-  
7 out regard to unrecaptured section 1250  
8 gain, plus

9 “(C) 28 percent of the amount of taxable  
10 income in excess of the sum of—

11 “(i) the adjusted net capital gain, plus

12 “(ii) the sum of the amounts on which  
13 tax is determined under subparagraphs (A)  
14 and (B), plus

15 “(D) 10 percent of so much of the tax-  
16 payer’s adjusted net capital gain (or, if less,  
17 taxable income) as does not exceed the excess  
18 (if any) of—

19 “(i) the amount of taxable income  
20 which would (without regard to this para-  
21 graph) be taxed at a rate of 15 percent or  
22 less, over

23 “(ii) the taxable income reduced by  
24 the adjusted net capital gain, plus



1           “(E) 20 percent of the taxpayer’s adjusted  
 2           net capital gain (or, if less, taxable income) in  
 3           excess of the amount on which a tax is deter-  
 4           mined under subparagraph (D).

5           “(2) NET CAPITAL GAIN TAKEN INTO ACCOUNT  
 6           AS INVESTMENT INCOME.—For purposes of this sub-  
 7           section, the net capital gain for any taxable year  
 8           shall be reduced (but not below zero) by the amount  
 9           which the taxpayer takes into account as investment  
 10          income under section 163(d)(4)(B)(iii).

11          “(3) 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, and

16               “(B) unrecaptured section 1250 gain.

17          “(4) COLLECTIBLES GAIN.—For purposes of  
 18          paragraph (3)—

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

1           “(B) PARTNERSHIPS, ETC.—For purposes  
 2           of subparagraph (A), any gain from the sale of  
 3           an interest in a partnership, S corporation, or  
 4           trust which is attributable to unrealized appre-  
 5           ciation in the value of collectibles shall be treat-  
 6           ed as gain from the sale or exchange of a col-  
 7           lectible. Rules similar to the rules of section  
 8           751 shall apply for purposes of the preceding  
 9           sentence.

10           “(5) UNRECAPTURED SECTION 1250 GAIN.—For  
 11           purposes of this subsection, the term ‘unrecaptured  
 12           section 1250 gain’ means the excess (if any) of—

13           “(A) the amount which would be treated as  
 14           ordinary income under section 1245 if all sec-  
 15           tion 1250 property disposed of by the taxpayer  
 16           were section 1245 property, over

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

19           In the case of a taxable year which includes May 7,  
 20           1997, unrecaptured section 1250 gain shall be deter-  
 21           mined by taking into account only the gain properly  
 22           taken into account for the portion of the taxable  
 23           year after May 6, 1997.

24           “(6) PRE-EFFECTIVE DATE GAIN.—

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

5           “(B) PRE-MAY 7, 1997, GAIN.—The term  
 6           ‘pre-May 7, 1997, gain’ means the amount  
 7           which would be adjusted net capital gain for the  
 8           taxable year if adjusted net capital gain were  
 9           determined by taking into account only the gain  
 10          or loss properly taken into account for the por-  
 11          tion of the taxable year before May 7, 1997.

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

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

20                 “(i) a regulated investment company,

21                 “(ii) a real estate investment trust,

22                 “(iii) an S corporation,

23                 “(iv) a partnership,

24                 “(v) an estate or trust, and

25                 “(vi) a common trust fund.”

1 (b) MINIMUM TAX.—

2 (1) IN GENERAL.—Subsection (b) of section 55  
3 is amended by adding at the end the following new  
4 paragraph:

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

9 “(A) the amount determined under such  
10 first sentence computed at the rates and in the  
11 same manner as if this paragraph had not been  
12 enacted on the taxable excess reduced by the  
13 excess of the net capital gain over the sum of  
14 the collectibles gain (as defined in section  
15 1(h)(4)) and the pre-effective date gain (as de-  
16 fined in section 1(h)(6)), plus

17 “(B) 24 percent of the lesser of—

18 “(i) the unrecaptured section 1250  
19 gain (as defined in section 1(h)(5)), or

20 “(ii) the amount of taxable excess in  
21 excess of the sum of—

22 “(I) the adjusted net capital  
23 gain, plus

1                   “(II) the amount on which a tax  
2                   is determined under subparagraph  
3                   (A), plus

4                   “(C) 10 percent of so much of the tax-  
5                   payer’s adjusted net capital gain (or, if less,  
6                   taxable excess) as does not exceed the amount  
7                   on which a tax is determined under section  
8                   1(h)(1)(B), plus

9                   “(D) 20 percent of the taxpayer’s adjusted  
10                  net capital gain (or, if less, taxable excess) in  
11                  excess of the amount on which tax is deter-  
12                  mined under subparagraph (C).”

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

16               (c) OTHER CONFORMING AMENDMENTS.—

17               (1) Subsection (d) of section 291 is amended by  
18               inserting at the end the following new sentence:  
19               “Any capital gain dividend treated as having been  
20               paid out of such difference to a shareholder which  
21               is not a corporation retains its characters as  
22               unrecaptured section 1250 gain for purposes of ap-  
23               plying section 1(h) to such shareholder.”

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

4           (3) The second sentence of section  
 5       7518(g)(6)(A), and the second sentence of section  
 6       607(h)(6)(A) of the Merchant Marine Act, 1936, are  
 7       each amended by striking “28 percent” and insert-  
 8       ing “20 percent”.

9       (d) EFFECTIVE DATES.—

10           (1) IN GENERAL.—Except as provided in para-  
 11       graph (2), the amendments made by this section  
 12       shall apply to taxable years ending after May 6,  
 13       1997.

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

17       **SEC. 312. MODIFICATIONS TO EXCLUSION OF GAIN ON CER-**  
 18       **TAIN SMALL BUSINESS STOCK.**

19       (a) EXCLUSION AVAILABLE TO CORPORATIONS.—

20           (1) IN GENERAL.—Subsection (a) of section  
 21       1202 is amended by striking “In the case of a tax-  
 22       payer other than a corporation, gross” and inserting  
 23       “Gross”.

1           (2) TECHNICAL AMENDMENT.—Subsection (c)  
 2           of section 1202 is amended by adding at the end the  
 3           following new paragraph:

4           “(4) STOCK HELD AMONG MEMBERS OF CON-  
 5           TROLLED GROUP NOT ELIGIBLE.—Stock of a mem-  
 6           ber of a parent-subsidiary controlled group (as de-  
 7           fined in subsection (c)(3)) shall not be treated as  
 8           qualified small business stock while held by another  
 9           member of such group.”.

10          (b) REPEAL OF MINIMUM TAX PREFERENCE.—

11           (1) Subsection (a) of section 57 is amended by  
 12           striking paragraph (7).

13           (2) Subclause (II) of section 53(d)(1)(B)(ii) is  
 14           amended by striking “, (5), and (7)” and inserting  
 15           “and (5)”.

16          (c) STOCK OF LARGER BUSINESSES ELIGIBLE FOR  
 17          REDUCED RATES.—Paragraph (1) of section 1202(d) is  
 18          amended by striking “\$50,000,000” each place it appears  
 19          and inserting “\$100,000,000”.

20          (d) REPEAL OF PER-ISSUER LIMITATION.—Section  
 21          1202 is amended by striking subsection (b).

22          (e) OTHER MODIFICATIONS.—

23           (1) REPEAL OF WORKING CAPITAL LIMITA-  
 24           TION.—Paragraph (6) of section 1202(e) is amend-  
 25           ed—

1 (A) by striking “2 years” in subparagraph  
 2 (B) and inserting “5 years”, and  
 3 (B) by striking the last sentence.

4 (2) EXCEPTION FROM REDEMPTION RULES  
 5 WHERE BUSINESS PURPOSE.—Paragraph (3) of sec-  
 6 tion 1202(c) is amended by adding at the end the  
 7 following new subparagraph:

8 “(D) WAIVER WHERE BUSINESS PUR-  
 9 POSE.—A purchase of stock by the issuing cor-  
 10 poration shall be disregarded for purposes of  
 11 subparagraph (B) if the issuing corporation es-  
 12 tablishes that there was a business purpose for  
 13 such purchase and one of the principal purposes  
 14 of the purchase was not to avoid the limitations  
 15 of this section.”

16 (f) CONFORMING AMENDMENTS.—

17 (1) Subsection (c) of section 1202 is amended  
 18 by striking “subsections (f) and (h)” and inserting  
 19 “subsections (e) and (g)”.

20 (2) Paragraph (2) of section 1202(c) is amend-  
 21 ed—

22 (A) by striking “subsection (e)” each place  
 23 it appears and inserting “subsection (d)”, and



1 (B) by striking “subsection (e)(4)” in sub-  
2 paragraph (B)(ii) and inserting “subsection  
3 (d)(4)”.

4 (3) Paragraph (1) of section 1202(e) is amend-  
5 ed by striking “subsection (c)(2)” and inserting  
6 “subsection (b)(2)”.

7 (4) Paragraph (1) of section 1202(g) is amend-  
8 ed to read as follows:

9 “(1) IN GENERAL.—If any amount included in  
10 gross income by reason of holding an interest in a  
11 pass-thru entity meets the requirements of para-  
12 graph (2), such amount shall be treated as gain  
13 from the sale or exchange of any qualified small  
14 business stock held for more than 5 years.”

15 (5) Section 1202, as amended by the preceding  
16 provisions of this section, is amended by redesignat-  
17 ing subsections (c) through (k) as subsections (b)  
18 through (j), respectively.

19 (6) So much of paragraph (2) of section 172(d)  
20 as precedes subparagraph (A) thereof is amended to  
21 read as follows:

22 “(2) CAPITAL GAINS AND LOSSES.—In the case  
23 of any taxpayer—”.

24 (g) EFFECTIVE DATES.—

1           (1) IN GENERAL.—Except as provided in para-  
 2           graph (2), the amendments made by this section  
 3           shall apply to stock issued after August 10, 1993.

4           (2) SUBSECTIONS (a) and (c).—The amend-  
 5           ments made by subsections (a) and (c) shall apply  
 6           to stock issued after the date of the enactment of  
 7           this Act.

8   **SEC. 313. ROLLOVER OF GAIN FROM SALE OF QUALIFIED**  
 9           **STOCK.**

10          (a) IN GENERAL.—Part III of subchapter O of chap-  
 11       ter 1 is amended by adding at the end the following new  
 12       section:

13   **“SEC. 1045. ROLLOVER OF GAIN FROM QUALIFIED SMALL**  
 14           **BUSINESS STOCK TO ANOTHER QUALIFIED**  
 15           **SMALL BUSINESS STOCK.**

16          “(a) NONRECOGNITION OF GAIN.—In the case of any  
 17       sale of qualified small business stock with respect to which  
 18       the taxpayer elects the application of this section, eligible  
 19       gain from such sale shall be recognized only to the extent  
 20       that the amount realized on such sale exceeds—

21               “(1) the cost of any qualified small business  
 22       stock purchased by the taxpayer during the 60-day  
 23       period beginning on the date of such sale, reduced  
 24       by

1           “(2) any portion of such cost previously taken  
2           into account under this section.

3   This section shall not apply to any gain which is treated  
4   as ordinary income for purposes of this title.

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

7           “(1) QUALIFIED SMALL BUSINESS STOCK.—The  
8           term ‘qualified small business stock’ has the mean-  
9           ing given such term by section 1202(b).

10           “(2) ELIGIBLE GAIN.—The term ‘eligible gain’  
11           means any gain from the sale or exchange of quali-  
12           fied small business stock held for more than 5 years.

13           “(3) PURCHASE.—A taxpayer shall be treated  
14           as having purchased any property if, but for para-  
15           graph (4), the unadjusted basis of such property in  
16           the hands of the taxpayer would be its cost (within  
17           the meaning of section 1012).”

18           “(4) BASIS ADJUSTMENTS.—If gain from any  
19           sale is not recognized by reason of subsection (a),  
20           such gain shall be applied to reduce (in the order ac-  
21           quired) the basis for determining gain or loss of any  
22           qualified small business stock which is purchased by  
23           the taxpayer during the 60-day period described in  
24           subsection (a).

1       “(c) SPECIAL RULES FOR TREATMENT OF REPLACE-  
2   MENT STOCK.—

3               “(1) HOLDING PERIOD FOR ACCRUED GAIN.—

4       For purposes of this chapter, gain from the disposi-  
5       tion of any replacement qualified small business  
6       stock shall be treated as gain from the sale or ex-  
7       change of qualified small business stock held more  
8       than 5 years to the extent that the amount of such  
9       gain does not exceed the amount of the reduction in  
10      the basis of such stock by reason of subsection  
11      (b)(4).

12              “(2) TACKING OF HOLDING PERIOD FOR PUR-  
13      POSES OF DEFERRAL.—Solely for purposes of apply-  
14      ing this section, if any replacement qualified small  
15      business stock is disposed of before the taxpayer has  
16      held such stock for more than 5 years, gain from  
17      such stock shall be treated eligible gain for purposes  
18      of subsection (a).

19              “(3) REPLACEMENT QUALIFIED SMALL BUSI-  
20      NESS STOCK.—For purposes of this subsection, the  
21      term ‘replacement qualified small business stock’  
22      means any qualified small business stock the basis  
23      of which was reduced under subsection (b)(4).”.

24              (b) CONFORMING AMENDMENTS.—

25              (1) Section 1016(a)(23) is amended—

1 (A) by striking “or 1044” and inserting “,  
2 1044, or 1045”, and

3 (B) by striking “or 1044(d)” and inserting  
4 “, 1044(d), or 1045(b)(4)”.

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

“Sec. 1045. Rollover of gain from qualified small business stock  
to another qualified small business stock.”.

8 (c) EFFECTIVE DATES.—

9 (1) IN GENERAL.—Except as provided in para-  
10 graph (2), the amendments made by this section  
11 shall apply to stock issued after August 10, 1993.

12 (2) STOCK HELD BY A CORPORATION.—In the  
13 case of stock held by a corporation, the amendments  
14 made by this section shall apply to stock issued after  
15 the date of the enactment of this Act.

16 **SEC. 314. EXEMPTION FROM TAX FOR GAIN ON SALE OF**  
17 **PRINCIPAL RESIDENCE.**

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

1 **“SEC. 121. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL**  
2 **RESIDENCE.**

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

9 “(b) LIMITATIONS.—

10 “(1) IN GENERAL.—The amount of gain ex-  
11 cluded from gross income under subsection (a) with  
12 respect to any sale or exchange shall not exceed  
13 \$250,000.

14 “(2) \$500,000 LIMITATION FOR CERTAIN JOINT  
15 RETURNS.—Paragraph (1) shall be applied by sub-  
16 stituting ‘\$500,000’ for ‘\$250,000’ if—

17 “(A) a husband and wife make a joint re-  
18 turn for the taxable year of the sale or ex-  
19 change of the property,

20 “(B) either spouse meets the ownership re-  
21 quirements of subsection (a) with respect to  
22 such property,

23 “(C) both spouses meet the use require-  
24 ments of subsection (a) with respect to such  
25 property, and

1           “(D) neither spouse is ineligible for the  
2           benefits of subsection (a) with respect to such  
3           property by reason of paragraph (3).

4           “(3) APPLICATION TO ONLY 1 SALE OR EX-  
5           CHANGE EVERY 2 YEARS.—

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

12          “(B) PRE-MAY 7, 1997, SALES NOT TAKEN  
13          INTO ACCOUNT.—Subparagraph (A) shall be  
14          applied without regard to any sale or exchange  
15          before May 7, 1997.

16          “(c) EXCLUSION FOR TAXPAYERS FAILING TO MEET  
17          CERTAIN REQUIREMENTS.—

18          “(1) IN GENERAL.—In the case of a sale or ex-  
19          change to which this subsection applies, the owner-  
20          ship and use requirements of subsection (a) shall not  
21          apply and subsection (b)(3) shall not apply; but the  
22          amount of gain excluded from gross income under  
23          subsection (a) with respect to such sale or exchange  
24          shall not exceed—

1           “(A) the amount which bears the same  
2 ratio to the amount which would be so excluded  
3 if such requirements had been met, as

4           “(B) the shorter of—

5               “(i) the aggregate periods, during the  
6 5-year period ending on the date of such  
7 sale or exchange, such property has been  
8 owned and used by the taxpayer as the  
9 taxpayer’s principal residence, or

10              “(ii) the period after the date of the  
11 most recent prior sale or exchange by the  
12 taxpayer to which subsection (a) applied  
13 and before the date of such sale or ex-  
14 change,

15 bears to 2 years.

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

19           “(A) subsection (a) would not (but for this  
20 subsection) apply to such sale or exchange by  
21 reason of—

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

24               “(ii) subsection (b)(3), and



1           “(B) such sale or exchange is by reason of  
 2           a change in place of employment, health, or, to  
 3           the extent provided in regulations, unforeseen  
 4           circumstances.

5           “(d) SPECIAL RULES.—

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

13          “(2) PROPERTY OWNED BY SPOUSE OR FORMER  
 14          SPOUSE.—For purposes of this section—

15                 “(A) PROPERTY TRANSFERRED TO INDIV-  
 16                 VIDUAL FROM SPOUSE OR FORMER SPOUSE.—  
 17                 In the case of an individual holding property  
 18                 transferred to such individual in a transaction  
 19                 described in section 1041(a), the period such  
 20                 individual owns such property shall include the  
 21                 period the transferor owned the property.

22                 “(B) PROPERTY USED BY FORMER SPOUSE  
 23                 PURSUANT TO DIVORCE DECREE, ETC.—Solely  
 24                 for purposes of this section, an individual shall  
 25                 be treated as using property as such individ-

1           ual's principal residence during any period of  
 2           ownership while such individual's spouse or  
 3           former spouse is granted use of the property  
 4           under a divorce or separation instrument (as  
 5           defined in section 71(b)(2)).

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

12               “(A) the holding requirements of sub-  
 13               section (a) shall be applied to the holding of  
 14               such stock, and

15               “(B) the use requirements of subsection  
 16               (a) shall be applied to the house or apartment  
 17               which the taxpayer was entitled to occupy as  
 18               such stockholder.

19          “(4) INVOLUNTARY CONVERSIONS.—

20               “(A) IN GENERAL.—For purposes of this  
 21               section, the destruction, theft, seizure, requis-  
 22               tion, or condemnation of property shall be  
 23               treated as the sale of such property.

24               “(B) APPLICATION OF SECTION 1033.—In  
 25               applying section 1033 (relating to involuntary

1 conversions), the amount realized from the sale  
 2 or exchange of property shall be treated as  
 3 being the amount determined without regard to  
 4 this section, reduced by the amount of gain not  
 5 included in gross income pursuant to this sec-  
 6 tion.

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

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

23 “(6) DETERMINATION OF USE DURING PERIODS  
 24 OF OUT-OF-RESIDENCE CARE.—In the case of a tax-  
 25 payer who—

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

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

14          “(7) DETERMINATION OF MARITAL STATUS.—  
15          In the case of any sale or exchange, for purposes of  
16          this section—

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

20                 “(B) an individual legally separated from  
21                 his spouse under a decree of divorce or of sepa-  
22                 rate maintenance shall not be considered as  
23                 married.

24          “(8) SALES OF REMAINDER INTERESTS.—For  
25          purposes of this section—

1           “(A) IN GENERAL.—At the election of the  
2 taxpayer, this section shall not fail to apply to  
3 the sale or exchange of an interest in a prin-  
4 cipal residence by reason of such interest being  
5 a remainder interest in such residence, but this  
6 section shall not apply to any other interest in  
7 such residence which is sold or exchanged sepa-  
8 rately.

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

14       “(e) DENIAL OF EXCLUSION FOR EXPATRIATES.—  
15 This section shall not apply to any sale or exchange by  
16 an individual if the treatment provided by section  
17 877(a)(1) applies to such individual.

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

22       “(g) RESIDENCES ACQUIRED IN ROLLOVERS UNDER  
23 SECTION 1034.—For purposes of this section, in the case  
24 of property the acquisition of which by the taxpayer re-  
25 sulted under section 1034 (as in effect on the day before

1 the date of the enactment of this section) in the non-  
 2 recognition of any part of the gain realized on the sale  
 3 or exchange of another residence, in determining the pe-  
 4 riod for which the taxpayer has owned and used such  
 5 property as the taxpayer's principal residence, there shall  
 6 be included the aggregate periods for which such other  
 7 residence (and each prior residence taken into account  
 8 under section 1223(7) in determining the holding period  
 9 of such property) had been so owned and used.”

10 (b) REPEAL OF NONRECOGNITION OF GAIN ON  
 11 ROLLOVER OF PRINCIPAL RESIDENCE.—Section 1034  
 12 (relating to rollover of gain on sale of principal residence)  
 13 is hereby repealed.

14 (c) EXCEPTION FROM REPORTING.—Subsection (e)  
 15 of section 6045 (relating to return required in the case  
 16 of real estate transactions) is amended by adding at the  
 17 end the following new paragraph:

18 “(5) EXCEPTION FOR SALES OR EXCHANGES OF  
 19 CERTAIN PRINCIPAL RESIDENCES.—

20 “(A) IN GENERAL.—Paragraph (1) shall  
 21 not apply to any sale or exchange of a residence  
 22 for \$250,000 or less if the person referred to in  
 23 paragraph (2) receives written assurance in a  
 24 form acceptable to the Secretary from the seller  
 25 that—

1 “(i) such residence is the principal  
2 residence (within the meaning of section  
3 121) of the seller,

4 “(ii) if the Secretary requires the in-  
5 clusion on the return under subsection (a)  
6 of information as to whether there is feder-  
7 ally subsidized mortgage financing assist-  
8 ance with respect to the mortgage on resi-  
9 dences, that there is no such assistance  
10 with respect to the mortgage on such resi-  
11 dence, and

12 “(iii) the full amount of the gain on  
13 such sale or exchange is excludable from  
14 gross income under section 121.

15 If such assurance includes an assurance that  
16 the seller is married, the preceding sentence  
17 shall be applied by substituting ‘\$500,000’ for  
18 ‘\$250,000’.

19 “(B) SELLER.—For purposes of this para-  
20 graph, the term ‘seller’ includes the person re-  
21 linquishing the residence in an exchange.”

22 (d) CONFORMING AMENDMENTS.—

23 (1) The following provisions of the Internal  
24 Revenue Code of 1986 are each amended by striking  
25 “section 1034” and inserting “section 121”: sections

1       25(e)(7),               56(e)(1)(A),               56(e)(3)(B)(i),  
 2       143(i)(1)(C)(i)(I),                       163(h)(4)(A)(i)(I),  
 3       280A(d)(4)(A),       464(f)(3)(B)(i),       1033(h)(4),  
 4       1274(e)(3)(B), 6334(a)(13), and 7872(f)(11)(A).

5               (2) Paragraph (4) of section 32(c) is amended  
 6       by striking “(as defined in section 1034(h)(3))” and  
 7       by adding at the end the following new sentence:  
 8       “For purposes of the preceding sentence, the term  
 9       ‘extended active duty’ means any period of active  
 10       duty pursuant to a call or order to such duty for  
 11       a period in excess of 90 days or for an indefinite  
 12       period.”

13              (3) Subparagraph (A) of 143(m)(6) is amended  
 14       by inserting “(as in effect on the day before the date  
 15       of the enactment of the Revenue Reconciliation Act  
 16       of 1997)” after “1034(e)”.

17              (4) Subsection (e) of section 216 is amended by  
 18       striking “such exchange qualifies for nonrecognition  
 19       of gain under section 1034(f)” and inserting “such  
 20       dwelling unit is used as his principal residence (with-  
 21       in the meaning of section 121)”.

22              (5) Section 512(a)(3)(D) is amended by insert-  
 23       ing “(as in effect on the day before the date of the  
 24       enactment of the Revenue Reconciliation Act of  
 25       1997)” after “1034”.



1           (6) Paragraph (7) of section 1016(a) is amend-  
2       ed by inserting “(as in effect on the day before the  
3       date of the enactment of the Revenue Reconciliation  
4       Act of 1997)” after “1034” and by inserting “(as so  
5       in effect)” after “1034(e)”.

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

8           “(3) For exclusion from gross income of gain  
9       from involuntary conversion of principal residence,  
10      see section 121.”

11          (8) Subsection (e) of section 1038 is amended  
12      to read as follows:

13      “(e) PRINCIPAL RESIDENCES.—If—

14          “(1) subsection (a) applies to a reacquisition of  
15      real property with respect to the sale of which gain  
16      was not recognized under section 121 (relating to  
17      gain on sale of principal residence); and

18          “(2) within 1 year after the date of the reacqui-  
19      sition of such property by the seller, such property  
20      is resold by him,

21      then, under regulations prescribed by the Secretary, sub-  
22      sections (b), (c), and (d) of this section shall not apply  
23      to the reacquisition of such property and, for purposes of  
24      applying section 121, the resale of such property shall be

1 treated as a part of the transaction constituting the origi-  
2 nal sale of such property.”

3 (9) Paragraph (7) of section 1223 is amended  
4 by inserting “(as in effect on the day before the date  
5 of the enactment of the Revenue Reconciliation Act  
6 of 1997)” after “1034”.

7 (10)(A) Subsection (d) of section 1250 is  
8 amended by striking paragraph (7) and by redesignig-  
9 nating paragraphs (9) and (10) as paragraphs (7)  
10 and (8), respectively.

11 (B) Subsection (e) of section 1250 is amended  
12 by striking paragraph (3).

13 (11) Subsection (c) of section 6012 is amended  
14 by striking “(relating to one-time exclusion of gain  
15 from sale of principal residence by individual who  
16 has attained age 55)” and inserting “(relating to  
17 gain from sale of principal residence)”.

18 (12) Paragraph (2) of section 6212(c) is  
19 amended by striking subparagraph (C) and by redesignig-  
20 ating the succeeding subparagraphs accordingly.

21 (13) Section 6504 is amended by striking para-  
22 graph (4) and by redesignating the succeeding para-  
23 graphs accordingly.

1           (14) The item relating to section 121 in the  
 2       table of sections for part III of subchapter B of  
 3       chapter 1 is amended to read as follows:

          “Sec. 121. Exclusion of gain from sale of principal residence.”

4           (15) The table of sections for part III of sub-  
 5       chapter O of chapter 1 of such Code is amended by  
 6       striking the item relating to section 1034.

7       (d) EFFECTIVE DATE.—

8           (1) IN GENERAL.—The amendments made by  
 9       this section shall apply to sales and exchanges after  
 10      May 6, 1997.

11          (2) SALES BEFORE DATE OF ENACTMENT.—At  
 12      the election of the taxpayer, the amendments made  
 13      by this section shall not apply to any sale or ex-  
 14      change before the date of the enactment of this Act.

15          (3) BINDING CONTRACTS.—At the election of  
 16      the taxpayer, the amendments made by this section  
 17      shall not apply to a sale or exchange after the date  
 18      of the enactment of this Act, if—

19                (A) such sale or exchange is pursuant to a  
 20                contract which was binding on such date, or

21                (B) without regard to such amendments,  
 22                gain would not be recognized under section  
 23                1034 of the Internal Revenue Code of 1986 (as  
 24                in effect on the day before the date of the en-

1           actment of this Act) on such sale or exchange  
 2           by reason of a new residence acquired on or be-  
 3           fore such date or with respect to the acquisition  
 4           of which by the taxpayer a binding contract was  
 5           in effect on such date.

6           This paragraph shall not apply to any sale or ex-  
 7           change by an individual if the treatment provided by  
 8           section 877(a)(1) of the Internal Revenue Code of  
 9           1986 applies to such individual.

## 10 **TITLE IV—ESTATE, GIFT, AND** 11 **GENERATION-SKIPPING TAX** 12 **PROVISIONS**

### 13 **SEC. 401. COST-OF-LIVING ADJUSTMENTS RELATING TO ES-** 14 **TATE AND GIFT TAX PROVISIONS.**

15           (a) INCREASE IN UNIFIED ESTATE AND GIFT TAX  
 16 CREDIT.—

17           (1) ESTATE TAX CREDIT.—

18           (A) IN GENERAL.—Subsection (a) of sec-  
 19 tion 2010 (relating to unified credit against es-  
 20 tate tax) is amended by striking “\$192,800”  
 21 and inserting “the applicable credit amount”.

22           (B) APPLICABLE CREDIT AMOUNT.—Sec-  
 23 tion 2010 is amended by redesignating sub-  
 24 section (c) as subsection (d) and by inserting

1 after subsection (b) the following new sub-  
 2 section:

3 “(c) APPLICABLE CREDIT AMOUNT.—For purposes  
 4 of this section—

5 “(1) IN GENERAL.—For purposes of this sec-  
 6 tion, the applicable credit amount is the amount of  
 7 the tentative tax which would be determined under  
 8 the rate schedule set forth in section 2001(c) if the  
 9 amount with respect to which such tentative tax is  
 10 to be computed were the applicable exclusion amount  
 11 determined in accordance with the following table:

<b>“In the case of estates of decedents dying, and gifts made, during:</b>	<b>The applicable exclusion amount is:</b>
1998 .....	\$ 625,000
1999 .....	\$ 640,000
2000 .....	\$ 660,000
2001 .....	\$ 675,000
2002 .....	\$ 725,000
2003 .....	\$ 750,000
2004 .....	\$ 800,000
2005 .....	\$ 900,000
2006 or thereafter .....	\$1,000,000.

12 “(2) COST-OF-LIVING ADJUSTMENT.—In the  
 13 case of any decedent dying, and gift made, in a cal-  
 14 endar year after 2006, the \$1,000,000 amount set  
 15 forth in paragraph (1) shall be increased by an  
 16 amount equal to—

17 “(A) \$1,000,000, multiplied by

18 “(B) the cost-of-living adjustment deter-  
 19 mined under section 1(f)(3) for such calendar  
 20 year by substituting ‘calendar year 2005’ for

1           ‘calendar year 1992’ in subparagraph (B)  
2           thereof.

3           If any amount as adjusted under the preceding sen-  
4           tence is not a multiple of \$10,000, such amount  
5           shall be rounded to the next lowest multiple of  
6           \$10,000.”

7                   (C) ESTATE TAX RETURNS.—Paragraph  
8           (1) of section 6018(a) is amended by striking  
9           “\$600,000” and inserting “the applicable exclu-  
10          sion amount in effect under section 2010(c) for  
11          the calendar year which includes the date of  
12          death”.

13                   (D) PHASEOUT OF GRADUATED RATES  
14          AND UNIFIED CREDIT.—Paragraph (2) of sec-  
15          tion 2001(c) is amended by striking  
16          “\$21,040,000” and inserting “the amount at  
17          which the average tax rate under this section is  
18          55 percent”.

19                   (E) ESTATES OF NONRESIDENTS NOT CITI-  
20          ZENS.—Subparagraph (A) of section 2102(c)(3)  
21          is amended by striking “\$192,800” and insert-  
22          ing “the applicable credit amount in effect  
23          under section 2010(c) for the calendar year  
24          which includes the date of death”.

1           (2) UNIFIED GIFT TAX CREDIT.—Paragraph  
 2           (1) of section 2505(a) is amended by striking  
 3           “\$192,800” and inserting “the applicable credit  
 4           amount in effect under section 2010(c) for such cal-  
 5           endar year”.

6           (b) ALTERNATE VALUATION OF CERTAIN FARM,  
 7           ETC., REAL PROPERTY.—Subsection (a) of section 2032A  
 8           is amended by adding at the end the following new para-  
 9           graph:

10           “(3) INFLATION ADJUSTMENT.—In the case of  
 11           estates of decedents dying in a calendar year after  
 12           1998, the \$750,000 amount contained in paragraph  
 13           (2) shall be increased by an amount equal to—

14                   “(A) \$750,000, multiplied by

15                   “(B) the cost-of-living adjustment deter-  
 16                   mined under section 1(f)(3) for such calendar  
 17                   year by substituting ‘calendar year 1997’ for  
 18                   ‘calendar year 1992’ in subparagraph (B)  
 19                   thereof.

20           If any amount as adjusted under the preceding sen-  
 21           tence is not a multiple of \$10,000, such amount  
 22           shall be rounded to the next lowest multiple of  
 23           \$10,000.”

24           (c) ANNUAL GIFT TAX EXCLUSION.—Subsection (b)  
 25           of section 2503 is amended—

1           (1) by striking the subsection heading and in-  
2       serting the following:

3       “(b) EXCLUSIONS FROM GIFTS.—

4           “(1) IN GENERAL.—”,

5           (2) by moving the text 2 ems to the right, and

6           (3) by adding at the end the following new  
7       paragraph:

8           “(2) INFLATION ADJUSTMENT.—In the case of  
9       gifts made in a calendar year after 1998, the  
10      \$10,000 amount contained in paragraph (1) shall be  
11      increased by an amount equal to—

12           “(A) \$10,000, multiplied by

13           “(B) the cost-of-living adjustment deter-  
14      mined under section 1(f)(3) for such calendar  
15      year by substituting ‘calendar year 1997’ for  
16      ‘calendar year 1992’ in subparagraph (B)  
17      thereof.

18      If any amount as adjusted under the preceding sen-  
19      tence is not a multiple of \$1,000, such amount shall  
20      be rounded to the next lowest multiple of \$1,000.”

21      (d) EXEMPTION FROM GENERATION-SKIPPING  
22      TAX.—Section 2631 (relating to GST exemption) is  
23      amended by adding at the end the following new sub-  
24      section:



1       “(c) INFLATION ADJUSTMENT.—In the case of an in-  
 2       dividual who dies in any calendar year after 1998, the  
 3       \$1,000,000 amount contained in subsection (a) shall be  
 4       increased by an amount equal to—

5               “(1) \$1,000,000, multiplied by

6               “(2) the cost-of-living adjustment determined  
 7       under section 1(f)(3) for such calendar year by sub-  
 8       stituting ‘calendar year 1997’ for ‘calendar year  
 9       1992’ in subparagraph (B) thereof.

10      If any amount as adjusted under the preceding sentence  
 11      is not a multiple of \$10,000, such amount shall be round-  
 12      ed to the next lowest multiple of \$10,000.”

13      (e) AMOUNT SUBJECT TO REDUCED RATE WHERE  
 14      EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX ON  
 15      CLOSELY HELD BUSINESS.—Subsection (j) of section  
 16      6601 is amended by redesignating paragraph (3) as para-  
 17      graph (4) and by inserting after paragraph (2) the follow-  
 18      ing new paragraph:

19               “(3) INFLATION ADJUSTMENT.—In the case of  
 20       estates of decedents dying in a calendar year after  
 21       1998, the \$1,000,000 amount contained in para-  
 22       graph (2)(A) shall be increased by an amount equal  
 23       to—

24               “(A) \$1,000,000, 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 1997’ 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 \$10,000, such amount  
 8           shall be rounded to the next lowest multiple of  
 9           \$10,000.”

10          (f) EFFECTIVE DATE.—The amendments made by  
 11 this section shall apply to the estates of decedents dying,  
 12 and gifts made, after December 31, 1997.

13 **SEC. 402. FAMILY-OWNED BUSINESS EXCLUSION.**

14          (a) IN GENERAL.—Part III of subchapter A of chap-  
 15 ter 11 (relating to gross estate) is amended by inserting  
 16 after section 2033 the following new section:

17 **“SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.**

18          “(a) IN GENERAL.—In the case of an estate of a de-  
 19 cedent to which this section applies, the value of the gross  
 20 estate shall not include the lesser of—

21               “(1) the adjusted value of the qualified family-  
 22               owned business interests of the decedent otherwise  
 23               includible in the estate, or

24               “(2) \$1,000,000.

25          “(b) ESTATES TO WHICH SECTION APPLIES.—

1           “(1) IN GENERAL.—This section shall apply to  
2       an estate if—

3           “(A) the decedent was (at the date of the  
4       decedent’s death) a citizen or resident of the  
5       United States,

6           “(B) the executor elects the application of  
7       this section and files the agreement referred to  
8       in subsection (h),

9           “(C) the sum of—

10           “(i) the adjusted value of the qualified  
11       family-owned business interests described  
12       in paragraph (2), plus

13           “(ii) the amount of the gifts of such  
14       interests determined under paragraph (3),  
15       exceeds 50 percent of the adjusted gross estate,  
16       and

17           “(D) during the 8-year period ending on  
18       the date of the decedent’s death there have  
19       been periods aggregating 5 years or more dur-  
20       ing which—

21           “(i) such interests were owned by the  
22       decedent or a member of the decedent’s  
23       family, and

24           “(ii) there was material participation  
25       (within the meaning of section

1                   2032A(e)(6)) by the decedent or a member  
2                   of the decedent's family in the operation of  
3                   the business to which such interests relate.

4                   “(2) INCLUDIBLE QUALIFIED FAMILY-OWNED  
5 BUSINESS INTERESTS.—The qualified family-owned  
6 business interests described in this paragraph are  
7 the interests which—

8                   “(A) are included in determining the value  
9 of the gross estate (without regard to this sec-  
10 tion), and

11                   “(B) are acquired by any qualified heir  
12 from, or passed to any qualified heir from, the  
13 decedent (within the meaning of section  
14 2032A(e)(9)).

15                   “(3) INCLUDIBLE GIFTS OF INTERESTS.—The  
16 amount of the gifts of qualified family-owned busi-  
17 ness interests determined under this paragraph is  
18 the excess of—

19                   “(A) the sum of—

20                   “(i) the amount of such gifts from the  
21 decedent to members of the decedent's  
22 family taken into account under subsection  
23 2001(b)(1)(B), plus

24                   “(ii) the amount of such gifts other-  
25 wise excluded under section 2503(b),

1 to the extent such interests are continuously  
 2 held by members of such family (other than the  
 3 decedent's spouse) between the date of the gift  
 4 and the date of the decedent's death, over

5 “(B) the amount of such gifts from the de-  
 6 cedent to members of the decedent's family oth-  
 7 erwise included in the gross estate.

8 “(c) ADJUSTED GROSS ESTATE.—For purposes of  
 9 this section, the term ‘adjusted gross estate’ means the  
 10 value of the gross estate (determined without regard to  
 11 this section)—

12 “(1) reduced by any amount deductible under  
 13 paragraph (3) or (4) of section 2053(a), and

14 “(2) increased by the excess of—

15 “(A) the sum of—

16 “(i) the amount of gifts determined  
 17 under subsection (b)(3), plus

18 “(ii) the amount (if more than de-  
 19 minimis) of other transfers from the dece-  
 20 dent to the decedent's spouse (at the time  
 21 of the transfer) within 10 years of the date  
 22 of the decedent's death, plus

23 “(iii) the amount of other gifts (not  
 24 included under clause (i) or (ii)) from the  
 25 decedent within 3 years of such date, other

1           than gifts to members of the decedent's  
 2           family otherwise excluded under section  
 3           2503(b), over

4           “(B) the sum of the amounts described in  
 5           clauses (i), (ii), and (iii) of subparagraph (A)  
 6           which are otherwise includible in the gross es-  
 7           tate.

8   For purposes of the preceding sentence, the Secretary may  
 9   provide that de minimis gifts to persons other than mem-  
 10   bers of the decedent's family shall not be taken into ac-  
 11   count.

12       “(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-  
 13   OWNED BUSINESS INTERESTS.—For purposes of this sec-  
 14   tion, the adjusted value of any qualified family-owned  
 15   business interest is the value of such interest for purposes  
 16   of this chapter (determined without regard to this sec-  
 17   tion), reduced by the excess of—

18           “(1) any amount deductible under paragraph  
 19       (3) or (4) of section 2053(a), over

20           “(2) the sum of—

21           “(A) any indebtedness on any qualified  
 22           residence of the decedent the interest on which  
 23           is deductible under section 163(h)(3), plus

24           “(B) any indebtedness to the extent the  
 25           taxpayer establishes that the proceeds of such

1           indebtedness were used for the payment of edu-  
 2           cational and medical expenses of the decedent,  
 3           the decedent’s spouse, or the decedent’s depend-  
 4           ents (within the meaning of section 152), plus

5           “(C) any indebtedness not described in  
 6           subparagraph (A) or (B), to the extent such in-  
 7           debtedness does not exceed \$10,000.

8           “(e) QUALIFIED FAMILY-OWNED BUSINESS INTER-  
 9   EST.—

10           “(1) IN GENERAL.—For purposes of this sec-  
 11          tion, the term ‘qualified family-owned business inter-  
 12          est’ means—

13           “(A) an interest as a proprietor in a trade  
 14          or business carried on as a proprietorship, or

15           “(B) an interest in an entity carrying on  
 16          a trade or business, if—

17           “(i) at least—

18           “(I) 50 percent of such entity is  
 19          owned (directly or indirectly) by the  
 20          decedent and members of the dece-  
 21          dent’s family,

22           “(II) 70 percent of such entity is  
 23          so owned by members of 2 families, or

1 “(III) 90 percent of such entity  
2 is so owned by members of 3 families,  
3 and

4 “(ii) for purposes of subclause (II) or  
5 (III) of clause (i), at least 30 percent of  
6 such entity is so owned by the decedent  
7 and members of the decedent’s family.

8 “(2) LIMITATION.—Such term shall not in-  
9 clude—

10 “(A) any interest in a trade or business  
11 the principal place of business of which is not  
12 located in the United States,

13 “(B) any interest in an entity, if the stock  
14 or debt of such entity or a controlled group (as  
15 defined in section 267(f)(1)) of which such en-  
16 tity was a member was readily tradable on an  
17 established securities market or secondary mar-  
18 ket (as defined by the Secretary) at any time  
19 within 3 years of the date of the decedent’s  
20 death,

21 “(C) any interest in a trade or business  
22 not described in section 542(c)(2), if more than  
23 35 percent of the adjusted ordinary gross in-  
24 come of such trade or business for the taxable  
25 year which includes the date of the decedent’s



1 death would qualify as personal holding com-  
 2 pany income (as defined in section 543(a)),

3 “(D) that portion of an interest in a trade  
 4 or business that is attributable to—

5 “(i) cash or marketable securities, or  
 6 both, in excess of the reasonably expected  
 7 day-to-day working capital needs of such  
 8 trade or business, and

9 “(ii) any other assets of the trade or  
 10 business (other than assets used in the ac-  
 11 tive conduct of a trade or business de-  
 12 scribed in section 542(c)(2)), which  
 13 produce, or are held for the production of,  
 14 income of which is described in section  
 15 543(a) or in section 954(c)(1) (determined  
 16 without regard to subparagraph (A) there-  
 17 of and by substituting ‘trade or business’  
 18 for ‘controlled foreign corporation’).

19 “(3) RULES REGARDING OWNERSHIP.—

20 “(A) OWNERSHIP OF ENTITIES.—For pur-  
 21 poses of paragraph (1)(B)—

22 “(i) CORPORATIONS.—Ownership of a  
 23 corporation shall be determined by the  
 24 holding of stock possessing the appropriate  
 25 percentage of the total combined voting

1 power of all classes of stock entitled to vote  
 2 and the appropriate percentage of the total  
 3 value of shares of all classes of stock.

4 “(ii) PARTNERSHIPS.—Ownership of a  
 5 partnership shall be determined by the  
 6 owning of the appropriate percentage of  
 7 the capital interest in such partnership.

8 “(B) OWNERSHIP OF TIERED ENTITIES.—  
 9 For purposes of this section, if by reason of  
 10 holding an interest in a trade or business, a de-  
 11 cedent, any member of the decedent’s family,  
 12 any qualified heir, or any member of any quali-  
 13 fied heir’s family is treated as holding an inter-  
 14 est in any other trade or business—

15 “(i) such ownership interest in the  
 16 other trade or business shall be dis-  
 17 regarded in determining if the ownership  
 18 interest in the first trade or business is a  
 19 qualified family-owned business interest,  
 20 and

21 “(ii) this section shall be applied sepa-  
 22 rately in determining if such interest in  
 23 any other trade or business is a qualified  
 24 family-owned business interest.

1           “(C) INDIVIDUAL OWNERSHIP RULES.—

2           For purposes of this section, an interest owned,  
 3           directly or indirectly, by or for an entity de-  
 4           scribed in paragraph (1)(B) shall be considered  
 5           as being owned proportionately by or for the en-  
 6           tity’s shareholders, partners, or beneficiaries. A  
 7           person shall be treated as a beneficiary of any  
 8           trust only if such person has a present interest  
 9           in such trust.

10          “(f) TAX TREATMENT OF FAILURE TO MATERIALLY  
 11 PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTER-  
 12 ESTS.—

13           “(1) IN GENERAL.—There is imposed an addi-  
 14           tional estate tax if, within 10 years after the date  
 15           of the decedent’s death and before the date of the  
 16           qualified heir’s death—

17           “(A) the material participation require-  
 18           ments described in section 2032A(c)(6)(B) are  
 19           not met with respect to the qualified family-  
 20           owned business interest which was acquired (or  
 21           passed) from the decedent,

22           “(B) the qualified heir disposes of any por-  
 23           tion of a qualified family-owned business inter-  
 24           est (other than by a disposition to a member of  
 25           the qualified heir’s family or through a qualified

1 conservation contribution under section  
2 170(h)),

3 “(C) the qualified heir loses United States  
4 citizenship (within the meaning of section 877)  
5 or with respect to whom an event described in  
6 subparagraph (A) or (B) of section 877(e)(1)  
7 occurs, and such heir does not comply with the  
8 requirements of subsection (g), or

9 “(D) the principal place of business of a  
10 trade or business of the qualified family-owned  
11 business interest ceases to be located in the  
12 United States.

13 “(2) ADDITIONAL ESTATE TAX.—

14 “(A) IN GENERAL.—The amount of the  
15 additional estate tax imposed by paragraph (1)  
16 shall be equal to—

17 “(i) the applicable percentage of the  
18 adjusted tax difference attributable to the  
19 qualified family-owned business interest  
20 (as determined under rules similar to the  
21 rules of section 2032A(c)(2)(B)), plus

22 “(ii) interest on the amount deter-  
23 mined under clause (i) at the underpay-  
24 ment rate established under section 6621  
25 for the period beginning on the date the

1 estate tax liability was due under this  
 2 chapter and ending on the date such addi-  
 3 tional estate tax is due.

4 “(B) APPLICABLE PERCENTAGE.—For  
 5 purposes of this paragraph, the applicable per-  
 6 centage shall be determined under the following  
 7 table:

<b>“If the event described in paragraph (1) occurs in the following year of material participation:</b>	<b>The applicable percentage is:</b>
1 through 6 .....	100
7 .....	80
8 .....	60
9 .....	40
10 .....	20.

8 “(g) SECURITY REQUIREMENTS FOR NONCITIZEN  
 9 QUALIFIED HEIRS.—

10 “(1) IN GENERAL.—Except upon the applica-  
 11 tion of subparagraph (F) or (M) of subsection (i)(3),  
 12 if a qualified heir is not a citizen of the United  
 13 States, any interest under this section passing to or  
 14 acquired by such heir (including any interest held by  
 15 such heir at a time described in subsection (f)(1)(C))  
 16 shall be treated as a qualified family-owned business  
 17 interest only if the interest passes or is acquired (or  
 18 is held) in a qualified trust.

19 “(2) QUALIFIED TRUST.—The term ‘qualified  
 20 trust’ means a trust—

1           “(A) which is organized under, and gov-  
 2           erned by, the laws of the United States or a  
 3           State, and

4           “(B) except as otherwise provided in regu-  
 5           lations, with respect to which the trust instru-  
 6           ment requires that at least 1 trustee of the  
 7           trust be an individual citizen of the United  
 8           States or a domestic corporation.

9           “(h) AGREEMENT.—The agreement referred to in  
 10          this subsection is a written agreement signed by each per-  
 11          son in being who has an interest (whether or not in posses-  
 12          sion) in any property designated in such agreement con-  
 13          sistent to the application of subsection (f) with respect  
 14          to such property.

15          “(i) OTHER DEFINITIONS AND APPLICABLE  
 16          RULES.—For purposes of this section—

17                 “(1) QUALIFIED HEIR.—The term ‘qualified  
 18          heir’—

19                         “(A) has the meaning given to such term  
 20                         by section 2032A(e)(1), and

21                         “(B) includes any active employee of the  
 22                         trade or business to which the qualified family-  
 23                         owned business interest relates if such employee  
 24                         has been employed by such trade or business

1           for a period of at least 10 years before the date  
2           of the decedent's death.

3           “(2) MEMBER OF THE FAMILY.—The term  
4           ‘member of the family’ has the meaning given to  
5           such term by section 2032A(e)(2).

6           “(3) APPLICABLE RULES.—Rules similar to the  
7           following rules shall apply:

8                 “(A) Section 2032A(b)(4) (relating to de-  
9                 cedents who are retired or disabled).

10                “(B) Section 2032A(b)(5) (relating to spe-  
11                cial rules for surviving spouses).

12                “(C) Section 2032A(c)(2)(D) (relating to  
13                partial dispositions).

14                “(D) Section 2032A(c)(3) (relating to only  
15                1 additional tax imposed with respect to any 1  
16                portion).

17                “(E) Section 2032A(c)(4) (relating to due  
18                date).

19                “(F) Section 2032A(c)(5) (relating to li-  
20                ability for tax; furnishing of bond).

21                “(G) Section 2032A(c)(7) (relating to no  
22                tax if use begins within 2 years; active manage-  
23                ment by eligible qualified heir treated as mate-  
24                rial participation).

1 “(H) Paragraphs (1) and (3) of section  
2 2032A(d) (relating to election; agreement).

3 “(I) Section 2032A(e)(10) (relating to  
4 community property).

5 “(J) Section 2032A(e)(14) (relating to  
6 treatment of replacement property acquired in  
7 section 1031 or 1033 transactions).

8 “(K) Section 2032A(f) (relating to statute  
9 of limitations).

10 “(L) Section 6166(b)(3) (relating to farm-  
11 houses and certain other structures taken into  
12 account).

13 “(M) Subparagraphs (B), (C), and (D) of  
14 section 6166(g)(1) (relating to acceleration of  
15 payment).

16 “(N) Section 6324B (relating to special  
17 lien for additional estate tax).”

18 (b) CLERICAL AMENDMENT.—The table of sections  
19 for part III of subchapter A of chapter 11 is amended  
20 by inserting after the item relating to section 2033 the  
21 following new item:

“Sec. 2033A. Family-owned business exclusion.”

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to estates of decedents dying after  
24 December 31, 1997.



1 **SEC. 403. TREATMENT OF LAND SUBJECT TO A QUALIFIED**  
 2 **CONSERVATION EASEMENT.**

3 (a) ESTATE TAX WITH RESPECT TO LAND SUBJECT  
 4 TO A QUALIFIED CONSERVATION EASEMENT.—Section  
 5 2031 (relating to the definition of gross estate) is amend-  
 6 ed by redesignating subsection (c) as subsection (d) and  
 7 by inserting after subsection (b) the following new sub-  
 8 section:

9 “(c) ESTATE TAX WITH RESPECT TO LAND SUB-  
 10 JECT TO A QUALIFIED CONSERVATION EASEMENT.—

11 “(1) IN GENERAL.—If the executor makes the  
 12 election described in paragraph (4), then, except as  
 13 otherwise provided in this subsection, there shall be  
 14 excluded from the gross estate the lesser of—

15 “(A) the applicable percentage of the value  
 16 of land subject to a qualified conservation ease-  
 17 ment, reduced by the amount of any deduction  
 18 under section 2055(f) with respect to such land,  
 19 or

20 “(B) the excess (if any) of—

21 “(i) \$1,000,000, over

22 “(ii) the exclusion allowed with re-  
 23 spect to the qualified family-owned busi-  
 24 ness interests of the decedent under sec-  
 25 tion 2033A.

1           “(2) APPLICABLE PERCENTAGE.—For purposes  
 2           of paragraph (1), the term ‘applicable percentage’  
 3           means 40 percent reduced (but not below zero) by  
 4           2 percentage points for each percentage point (or  
 5           fraction thereof) by which the value of the qualified  
 6           conservation easement is less than 30 percent of the  
 7           value of the land (determined without regard to the  
 8           value of such easement and reduced by the value of  
 9           any retained development right (as defined in para-  
 10          graph (4)).

11           “(3) TREATMENT OF CERTAIN INDEBTED-  
 12          NESS.—

13           “(A) IN GENERAL.—The exclusion pro-  
 14          vided in paragraph (1) shall not apply to the  
 15          extent that the land is debt-financed property.

16           “(B) DEFINITIONS.—For purposes of this  
 17          paragraph—

18           “(i) DEBT-FINANCED PROPERTY.—  
 19           The term ‘debt-financed property’ means  
 20           any property with respect to which there is  
 21           an acquisition indebtedness (as defined in  
 22           clause (ii)) on the date of the decedent’s  
 23           death.

24           “(ii) ACQUISITION INDEBTEDNESS.—  
 25           The term ‘acquisition indebtedness’ means,

with respect to debt-financed property, the  
unpaid amount of—

“(I) the indebtedness incurred by  
the donor in acquiring such property,

“(II) the indebtedness incurred  
before the acquisition of such property  
if such indebtedness would not have  
been incurred but for such acquisition,

“(III) the indebtedness incurred  
after the acquisition of such property  
if such indebtedness would not have  
been incurred but for such acquisition  
and the incurrence of such indebted-  
ness was reasonably foreseeable at the  
time of such acquisition, and

“(IV) the extension, renewal, or  
refinancing of an acquisition indebted-  
ness.

“(4) TREATMENT OF RETAINED DEVELOPMENT  
RIGHT.—

“(A) IN GENERAL.—Paragraph (1) shall  
not apply to the value of any development right  
retained by the donor in the conveyance of a  
qualified conservation easement.

1           “(B) TERMINATION OF RETAINED DEVEL-  
 2           OPMENT RIGHT.—If every person in being who  
 3           has an interest (whether or not in possession)  
 4           in the land executes an agreement to extinguish  
 5           permanently some or all of any development  
 6           rights (as defined in subparagraph (D)) re-  
 7           tained by the donor on or before the date for  
 8           filing the return of the tax imposed by section  
 9           2001, then any tax imposed by section 2001  
 10          shall be reduced accordingly. Such agreement  
 11          shall be filed with the return of the tax imposed  
 12          by section 2001. The agreement shall be in  
 13          such form as the Secretary shall prescribe.

14          “(C) ADDITIONAL TAX.—Any failure to  
 15          implement the agreement described in subpara-  
 16          graph (B) not later than the earlier of—

17                 “(i) the date which is 2 years after  
 18                 the date of the decedent’s death, or

19                 “(ii) the date of the sale of such land  
 20                 subject to the qualified conservation ease-  
 21                 ment,

22          shall result in the imposition of an additional  
 23          tax in the amount of the tax which would have  
 24          been due on the retained development rights  
 25          subject to such agreement. Such additional tax

1           shall be due and payable on the last day of the  
2           6th month following such date.

3           “(D) DEVELOPMENT RIGHT DEFINED.—

4           For purposes of this paragraph, the term ‘de-  
5           velopment right’ means any right to use the  
6           land subject to the qualified conservation ease-  
7           ment in which such right is retained for any  
8           commercial purpose which is not subordinate to  
9           and directly supportive of the use of such land  
10          as a farm for farming purposes (within the  
11          meaning of section 6420(c)).

12          “(4) ELECTION.—The election under this sub-  
13          section shall be made on the return of the tax im-  
14          posed by section 2001. Such an election, once made,  
15          shall be irrevocable.

16          “(5) CALCULATION OF ESTATE TAX DUE.—An  
17          executor making the election described in paragraph  
18          (4) shall, for purposes of calculating the amount of  
19          tax imposed by section 2001, include the value of  
20          any development right (as defined in paragraph (3))  
21          retained by the donor in the conveyance of such  
22          qualified conservation easement. The computation of  
23          tax on any retained development right prescribed in  
24          this paragraph shall be done in such manner and  
25          on such forms as the Secretary shall prescribe.

1           “(6) DEFINITIONS.—For purposes of this sub-  
2 section—

3           “(A) LAND SUBJECT TO A QUALIFIED  
4 CONSERVATION EASEMENT.—The term ‘land  
5 subject to a qualified conservation easement’  
6 means land—

7           “(i) which is located—

8           “(I) in or within 25 miles of an  
9 area which, on the date of the dece-  
10 dent’s death, is a metropolitan area  
11 (as defined by the Office of Manage-  
12 ment and Budget),

13           “(II) in or within 25 miles of an  
14 area which, on the date of the dece-  
15 dent’s death, is a national park or wil-  
16 derness area designated as part of the  
17 National Wilderness Preservation Sys-  
18 tem (unless it is determined by the  
19 Secretary that land in or within 25  
20 miles of such a park or wilderness  
21 area is not under significant develop-  
22 ment pressure), or

23           “(III) in or within 10 miles of an  
24 area which, on the date of the dece-  
25 dent’s death, is an Urban National

1 Forest (as designated by the Forest  
2 Service),

3 “(ii) which was owned by the decedent  
4 or a member of the decedent’s family at all  
5 times during the 3-year period ending on  
6 the date of the decedent’s death, and

7 “(iii) with respect to which a qualified  
8 conservation easement has been made by  
9 the decedent or a member of the de-  
10 cent’s family.

11 “(B) QUALIFIED CONSERVATION EASE-  
12 MENT.—The term ‘qualified conservation ease-  
13 ment’ means a qualified conservation contribu-  
14 tion (as defined in section 170(h)(1)) of a quali-  
15 fied real property interest (as defined in section  
16 170(h)(2)(C)), except that clause (iv) of section  
17 170(h)(4)(A) shall not apply, and the restric-  
18 tion on the use of such interest described in  
19 section 170(h)(2)(C) shall include a prohibition  
20 on commercial recreational activity.

21 “(C) MEMBER OF FAMILY.—The term  
22 ‘member of the decedent’s family’ means any  
23 member of the family (as defined in section  
24 2032A(e)(2)) of the decedent.

1           “(7) APPLICATION OF THIS SECTION TO INTER-  
 2       ESTS IN PARTNERSHIPS, CORPORATIONS, AND  
 3       TRUSTS.—This section shall apply to an interest in  
 4       a partnership, corporation, or trust if at least 30  
 5       percent of the entity is owned (directly or indirectly)  
 6       by the decedent, as determined under the rules de-  
 7       scribed in section 2033A(e)(3).”.

8       (b) CARRYOVER BASIS.—Section 1014(a) (relating to  
 9       basis of property acquired from a decedent), as amended  
 10      by section 502(b), is amended by striking the period at  
 11      the end of paragraph (4) and inserting “, or” and by add-  
 12      ing at the end the following new paragraph:

13           “(5) to the extent of the applicability of the ex-  
 14      clusion described in section 2031(c), the basis in the  
 15      hands of the decedent.”.

16      (c) QUALIFIED CONSERVATION CONTRIBUTION IS  
 17      NOT A DISPOSITION.—Subsection (c) of section 2032A  
 18      (relating to alternative valuation method) is amended by  
 19      adding at the end the following new paragraph:

20           “(8) QUALIFIED CONSERVATION CONTRIBUTION  
 21      IS NOT A DISPOSITION.—A qualified conservation  
 22      contribution (as defined in section 170(h)) by gift or  
 23      otherwise shall not be deemed a disposition under  
 24      subsection (c)(1)(A).”.



1 (d) QUALIFIED CONSERVATION CONTRIBUTION  
 2 WHERE SURFACE AND MINERAL RIGHTS ARE SEPA-  
 3 RATED.—Section 170(h)(5)(B)(ii) (relating to special  
 4 rule) is amended to read as follows:

5 “(ii) SPECIAL RULE.—With respect to any con-  
 6 tribution of property in which the ownership of the  
 7 surface estate and mineral interests has been and re-  
 8 mains separated, subparagraph (A) shall be treated  
 9 as met if the probability of surface mining occurring  
 10 on such property is so remote as to be negligible.”

11 (e) EFFECTIVE DATES.—

12 (1) EXCLUSION.—The amendments made by  
 13 subsections (a) and (b) shall apply to estates of de-  
 14 cedents dying after December 31, 1997.

15 (2) EASEMENTS.—The amendments made by  
 16 subsections (c) and (d) shall apply to easements  
 17 granted after December 31, 1997.

18 **SEC. 404. 20-YEAR INSTALLMENT PAYMENT WHERE ESTATE**  
 19 **CONSISTS LARGELY OF INTEREST IN CLOSE-**  
 20 **LY HELD BUSINESS.**

21 (a) IN GENERAL.—Section 6166(a) (relating to ex-  
 22 tension of time for payment of estate tax where estate con-  
 23 sists largely of interest in closely held business) is amend-  
 24 ed by striking “10” in paragraph (1) and the heading  
 25 thereof and inserting “20”.

1 (b) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to estates of decedents dying after  
 3 December 31, 1997.

4 **SEC. 405. NO INTEREST ON CERTAIN PORTION OF ESTATE**  
 5 **TAX EXTENDED UNDER SECTION 6166, RE-**  
 6 **DUCE INTEREST ON REMAINING PORTION,  
 7 **AND NO DEDUCTION FOR SUCH REDUCED IN-**  
 8 **TEREST.****

9 (a) NO INTEREST AND REDUCED INTEREST.—

10 (1) IN GENERAL.—Paragraphs (1) and (2) of  
 11 section 6601(j) (relating to 4-percent rate on certain  
 12 portion of estate tax extended under section 6166),  
 13 as amended by section 501(e), are amended to read  
 14 as follows:

15 “(1) IN GENERAL.—If the time for payment of  
 16 an amount of tax imposed by chapter 11 is extended  
 17 as provided in section 6166, then in lieu of the an-  
 18 nual rate provided by subsection (a)—

19 “(A) no interest shall be paid on the no-  
 20 interest portion of such amount, and

21 “(B) interest on so much of such amount  
 22 as exceeds such no-interest portion shall be paid  
 23 at a rate equal to 45 percent of the annual rate  
 24 provided by subsection (a).

1 For purposes of this subsection, the amount of any  
 2 deficiency which is prorated to installments payable  
 3 under section 6166 shall be treated as an amount of  
 4 tax payable in installments under such section.

5 “(2) NO-INTEREST PORTION.—For purposes of  
 6 this section, the term ‘no-interest portion’ means the  
 7 lesser of—

8 “(A)(i) the amount of the tentative tax  
 9 which would be determined under the rate  
 10 schedule set forth in section 2001(c) if the  
 11 amount with respect to which such tentative tax  
 12 is to be computed were the sum of \$1,000,000  
 13 and the applicable exclusion amount in effect  
 14 under section 2010(c), reduced by

15 “(ii) the applicable credit amount in effect  
 16 under section 2010(c), or

17 “(B) the amount of the tax imposed by  
 18 chapter 11 which is extended as provided in  
 19 section 6166.”

20 (2) CONFORMING AMENDMENTS.—

21 (A) Section 6601(j), as amended by section  
 22 501, is amended—

23 (i) by striking “4-percent” each place  
 24 it appears in paragraph (3) and inserting  
 25 “no-interest”, and

1 (ii) by striking “4-PERCENT RATE ON  
 2 CERTAIN PORTION OF” in the heading and  
 3 inserting “RATE ON”.

4 (B) Section 6166(b)(7)(A)(iii) is amended  
 5 to read as follows:

6 “(iii) for purposes of applying section  
 7 6601(j) (relating to rate on estate tax ex-  
 8 tended under section 6166), the no-interest  
 9 portion shall be zero.”

10 (C) Section 6166(b)(8)(A)(iii) is amended  
 11 to read as follows:

12 “(iii) NO-INTEREST PORTION NOT TO  
 13 APPLY.—For purposes of applying section  
 14 6601(j) (relating to rate on estate tax ex-  
 15 tended under section 6166), the no-interest  
 16 portion shall be zero.”

17 (b) DISALLOWANCE OF INTEREST DEDUCTION.—

18 (1) ESTATE TAX.—Paragraph (1) of section  
 19 2053(c) is amended by adding at the end the follow-  
 20 ing new subparagraph:

21 “(D) SECTION 6166 INTEREST.—No deduc-  
 22 tion shall be allowed under this section for any  
 23 interest payable under section 6601 on any un-  
 24 paid portion of the tax imposed by section 2001  
 25 for the period during which an extension of

1           time for payment of such tax is in effect under  
2           section 6166.”

3           (2) INCOME TAX.—Subparagraph (E) of section  
4           163(h)(2) is amended by striking “or 6166”.

5           (c) EFFECTIVE DATE.—The amendments made by  
6           this section shall apply to estates of decedents dying after  
7           December 31, 1997.

8   **SEC. 406. EXTENSION OF TREATMENT OF CERTAIN RENTS**  
9                           **UNDER SECTION 2032A TO LINEAL DESCEND-**  
10                          **ANTS.**

11          (a) GENERAL RULE.—Paragraph (7) of section  
12          2032A(c) (relating to special rules for tax treatment of  
13          dispositions and failures to use for qualified use) is  
14          amended by adding at the end the following new subpara-  
15          graph:

16                       “(E) CERTAIN RENTS TREATED AS QUALI-  
17                       FIED USE.—For purposes of this subsection, a  
18                       surviving spouse or lineal descendant of the de-  
19                       cedent shall not be treated as failing to use  
20                       qualified real property in a qualified use solely  
21                       because such spouse or descendant rents such  
22                       property to a member of the family of such  
23                       spouse or descendant on a net cash basis. For  
24                       purposes of the preceding sentence, a legally

1           adopted child of an individual shall be treated  
2           as the child of such individual by blood.”

3           (b)           CONFORMING           AMENDMENT.—Section  
4   2032A(b)(5)(A) is amended by striking the last sentence.

5           (c) EFFECTIVE DATE.—The amendments made by  
6   this section shall apply with respect to leases entered into  
7   after December 31, 1976.

8   **SEC. 407. EXPANSION OF EXCEPTION FROM GENERATION-**  
9                           **SKIPPING TRANSFER TAX FOR TRANSFERS**  
10                          **TO INDIVIDUALS WITH DECEASED PARENTS.**

11          (a) IN GENERAL.—Section 2651 (relating to genera-  
12   tion assignment) is amended by redesignating subsection  
13   (e) as subsection (f), and by inserting after subsection (d)  
14   the following new subsection:

15          “(e) SPECIAL RULE FOR PERSONS WITH A DE-  
16   CEASED PARENT.—

17               “(1) IN GENERAL.—For purposes of determin-  
18   ing whether any transfer is a generation-skipping  
19   transfer, if—

20                       “(A) an individual is a descendant of a  
21                       parent of the transferor (or the transferor’s  
22                       spouse or former spouse), and

23                       “(B) such individual’s parent who is a lin-  
24                       eal descendant of the parent of the transferor  
25                       (or the transferor’s spouse or former spouse) is

1           dead at the time the transfer (from which an  
 2           interest of such individual is established or de-  
 3           rived) is subject to a tax imposed by chapter 11  
 4           or 12 upon the transferor (and if there shall be  
 5           more than 1 such time, then at the earliest  
 6           such time),

7           such individual shall be treated as if such individual  
 8           were a member of the generation which is 1 genera-  
 9           tion below the lower of the transferor's generation or  
 10          the generation assignment of the youngest living an-  
 11          cestor of such individual who is also a descendant of  
 12          the parent of the transferor (or the transferor's  
 13          spouse or former spouse), and the generation assign-  
 14          ment of any descendant of such individual shall be  
 15          adjusted accordingly.

16           “(2) LIMITED APPLICATION OF SUBSECTION TO  
 17          COLLATERAL HEIRS.—This subsection shall not  
 18          apply with respect to a transfer to any individual  
 19          who is not a lineal descendant of the transferor (or  
 20          the transferor's spouse or former spouse) if, at the  
 21          time of the transfer, such transferor has any living  
 22          lineal descendant.”

23          (b) CONFORMING AMENDMENTS.—

1           (1) Section 2612(c) (defining direct skip) is  
 2           amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

4           (2) Section 2612(c)(2) (as so redesignated) is  
 5           amended by striking “section 2651(e)(2)” and inserting “section 2651(f)(2)”.

7           (c) EFFECTIVE DATE.—The amendments made by  
 8           this section shall apply to terminations, distributions, and  
 9           transfers occurring after December 31, 1997.

## 10           **TITLE V—EXTENSIONS**

### 11           **SEC. 501. RESEARCH TAX CREDIT.**

12           (a) IN GENERAL.—Paragraph (1) of section 41(h)  
 13           (relating to termination) is amended—

14                   (1) by striking “May 31, 1997” and inserting  
 15                   “December 31, 1999”, and

16                   (2) by striking in the last sentence “during the  
 17                   first 11 months of such taxable year.” and inserting  
 18                   “during the 42-month period beginning with the  
 19                   first month of such year. The 42 months referred to  
 20                   in the preceding sentence shall be reduced by the  
 21                   number of full months after June 1996 (and before  
 22                   the first month of such first taxable year) during  
 23                   which the taxpayer paid or incurred any amount  
 24                   which is taken into account in determining the credit  
 25                   under this section.”



1 (b) TECHNICAL AMENDMENTS.—

2 (1) Subparagraph (B) of section 41(c)(4) is  
3 amended to read as follows:

4 “(B) ELECTION.—An election under this  
5 paragraph shall apply to the taxable year for  
6 which made and all succeeding taxable years  
7 unless revoked with the consent of the Sec-  
8 retary.”

9 (2) Paragraph (1) of section 45C(b) is amended  
10 by striking “May 31, 1997” and inserting “Decem-  
11 ber 31, 1999”.

12 (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to amounts paid or incurred after  
14 May 31, 1997.

15 **SEC. 502. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDA-**  
16 **TIONS.**

17 (a) IN GENERAL.—Clause (ii) of section  
18 170(e)(5)(D) (relating to termination) is amended by  
19 striking “May 31, 1997” and inserting “December 31,  
20 1999”.

21 (b) EFFECTIVE DATE.—The amendment made by  
22 subsection (a) shall apply to contributions made after May  
23 31, 1997.

1 **SEC. 503. WORK OPPORTUNITY TAX CREDIT.**

2 (a) EXTENSION.—Subparagraph (B) of section  
3 51(c)(4) (relating to termination) is amended by striking  
4 “September 30, 1997” and inserting “July 31, 1999”.

5 (b) 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 (c) QUALIFIED SSI RECIPIENTS TREATED AS MEM-  
24 BERS OF TARGETED GROUPS.—

25 (1) IN GENERAL.—Section 51(d)(1) (relating to  
26 members of targeted groups) is amended by striking

1 “or” at the end of subparagraph (F), by striking the  
 2 period at the end of subparagraph (G) and inserting  
 3 “, or”, and by adding at the end the following new  
 4 subparagraph:

5 “(H) a qualified SSI recipient.”

6 (2) QUALIFIED SSI RECIPIENTS.—Section 51(d)  
 7 is amended by redesignating paragraphs (9), (10),  
 8 and (11) as paragraphs (10), (11), and (12), respec-  
 9 tively, and by inserting after paragraph (8) the fol-  
 10 lowing new paragraph:

11 “(9) QUALIFIED SSI RECIPIENT.—The term  
 12 ‘qualified SSI recipient’ means any individual who is  
 13 certified by the designated local agency as receiving  
 14 supplemental security income benefits under title  
 15 XVI of the Social Security Act (including supple-  
 16 mental security income benefits of the type described  
 17 in section 1616 of such Act or section 212 of Public  
 18 Law 93–66) for any month ending within the 60-day  
 19 period ending on the hiring date.”

20 (d) PERCENTAGE OF WAGES ALLOWED AS CRED-  
 21 IT.—

22 (1) IN GENERAL.—Subsection (a) of section 51  
 23 (relating to determination of amount) is amended by  
 24 striking “35 percent” and inserting “40 percent”.

1           (2) APPLICATION OF CREDIT FOR INDIVIDUALS  
 2       PERFORMING FEWER THAN 400 HOURS OF SERV-  
 3       ICES.—Paragraph (3) of section 51(i) is amended to  
 4       read as follows:

5           “(3) INDIVIDUALS NOT MEETING MINIMUM EM-  
 6       PLOYMENT PERIODS.—

7           “(A) REDUCTION OF CREDIT FOR INDIVID-  
 8       UALS PERFORMING FEWER THAN 400 HOURS OF  
 9       SERVICES.—In the case of an individual who  
 10      has completed at least 120 hours, but less than  
 11      400 hours, of services performed for the em-  
 12      ployer, subsection (a) shall be applied by sub-  
 13      stituting ‘25 percent’ for ‘40 percent’.

14          “(B) DENIAL OF CREDIT FOR INDIVIDUALS  
 15      PERFORMING FEWER THAN 120 HOURS OF  
 16      SERVICES.—No wages shall be taken into ac-  
 17      count under subsection (a) with respect to any  
 18      individual unless such individual has completed  
 19      at least 120 hours of services performed for the  
 20      employer.”

21      (e) EFFECTIVE DATE.—The amendments made by  
 22      this section shall apply to individuals who begin work for  
 23      the employer after September 30, 1997.

1 **SEC. 504. ORPHAN DRUG TAX CREDIT.**

2 (a) IN GENERAL.—Section 45C (relating to clinical  
3 testing expenses for certain drugs for rare diseases or con-  
4 ditions) is amended by striking subsection (e).

5 (b) EFFECTIVE DATE.—The amendment made by  
6 subsection (a) shall apply to amounts paid or incurred  
7 after May 31, 1997.

8 **TITLE VI—INCENTIVES FOR RE-**  
9 **VITALIZATION OF THE DIS-**  
10 **TRICT OF COLUMBIA**

11 **SEC. 601. TAX INCENTIVES FOR REVITALIZATION OF THE**  
12 **DISTRICT OF COLUMBIA.**

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

15 **“Subchapter W—Incentives for the**  
16 **Revitalization of the District of Columbia**

“Sec. 1400. First-time homebuyer credit for District of Colum-  
bia.

“Sec. 1400A. Credit for equity investments in and loans to Dis-  
trict of Columbia businesses.

“Sec. 1400B. Zero percent capital gains rate.

17 **“SEC. 1400. FIRST-TIME HOMEBUYER CREDIT FOR DIS-**  
18 **TRICT OF COLUMBIA.**

19 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
20 dividual who is a first-time homebuyer of a principal resi-  
21 dence in the District of Columbia during any taxable year,  
22 there shall be allowed as a credit against the tax imposed

1 by this chapter for the taxable year an amount equal to  
2 so much of the purchase price of the residence as does  
3 not exceed \$5,000.

4 “(b) FIRST-TIME HOMEBUYER.—For purposes of  
5 this section—

6 “(1) IN GENERAL.—The term ‘first-time home-  
7 buyer’ has the same meaning as when used in sec-  
8 tion 72(t)(8)(D)(i), except that ‘principal residence  
9 in the District of Columbia during the 1-year period’  
10 shall be substituted for ‘principal residence during  
11 the 2-year period’ in subclause (I) thereof.

12 “(2) ONE-TIME ONLY.—If an individual is  
13 treated as a first-time homebuyer with respect to  
14 any principal residence, such individual may not be  
15 treated as a first-time homebuyer with respect to  
16 any other principal residence.

17 “(3) PRINCIPAL RESIDENCE.—The term ‘prin-  
18 cipal residence’ has the same meaning as when used  
19 in section 121.

20 “(4) DATE OF ACQUISITION.—The term ‘date  
21 of acquisition’ has the same meaning as when used  
22 in section 72t(8)(D)(iii).

23 “(c) CARRYOVER OF CREDIT.—If the credit allowable  
24 under subsection (a) exceeds the limitation imposed by  
25 section 26(a) for such taxable year reduced by the sum

1 of the credits allowable under subpart A of part IV of sub-  
 2 chapter A (other than this section and section 25), such  
 3 excess shall be carried to the succeeding taxable year and  
 4 added to the credit allowable under subsection (a) for such  
 5 taxable year.

6 “(d) SPECIAL RULES.—For purposes of this sec-  
 7 tion—

8 “(1) ALLOCATION OF DOLLAR LIMITATION.—

9 “(A) MARRIED INDIVIDUALS FILING  
 10 JOINTLY.—In the case of a husband and wife  
 11 who file a joint return, the \$5,000 limitation  
 12 under subsection (a) shall apply to the joint re-  
 13 turn.

14 “(B) MARRIED INDIVIDUALS FILING SEPA-  
 15 RATELY.—In the case of a married individual  
 16 filing a separate return, subsection (a) shall be  
 17 applied by substituting ‘\$2,500’ for ‘\$5,000’.

18 “(C) OTHER TAXPAYERS.—If 2 or more  
 19 individuals who are not married purchase a  
 20 principal residence, the amount of the credit al-  
 21 lowed under subsection (a) shall be allocated  
 22 among such individuals in such manner as the  
 23 Secretary may prescribe, except that the total  
 24 amount of the credits allowed to all such indi-  
 25 viduals shall not exceed \$5,000.

1           “(2) PURCHASE.—The term ‘purchase’ means  
2 any acquisition, but only if—

3           “(A) the property is not acquired from a  
4 person whose relationship to the person acquiring it would result in the disallowance of losses  
5 under section 267 or 707(b) (but, in applying  
6 section 267 (b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be  
7 treated as providing that the family of an individual shall include only his spouse, ancestors,  
8 and lineal descendants), and

9           “(B) the basis of the property in the hands  
10 of the person acquiring it is not determined—

11           “(i) in whole or in part by reference  
12 to the adjusted basis of such property in  
13 the hands of the person from whom acquired, or  
14

15           “(ii) under section 1014(a) (relating  
16 to property acquired from a decedent).  
17

18           “(3) PURCHASE PRICE.—The term ‘purchase  
19 price’ means the adjusted basis of the principal residence on the date of acquisition.  
20

21           “(d) REPORTING.—If the Secretary requires information reporting under section 6045 to verify the eligibility  
22  
23  
24



1 of taxpayers for the credit allowable by this section, the  
 2 exception provided by section 6045(e)(5) shall not apply.

3 “(e) CREDIT TREATED AS NONREFUNDABLE PER-  
 4 SONAL CREDIT.—For purposes of this title, the credit al-  
 5 lowed by this section shall be treated as a credit allowable  
 6 under subpart A of part IV of subchapter A of this chap-  
 7 ter.

8 **“SEC. 1400B. CREDIT FOR EQUITY INVESTMENTS IN AND**  
 9 **LOANS TO DISTRICT OF COLUMBIA BUSI-**  
 10 **NESSES.**

11 “(a) GENERAL RULE.—For purposes of section 38,  
 12 the DC investment credit determined under this section  
 13 for any taxable year is—

14 “(1) the qualified lender credit for such year,  
 15 and

16 “(2) the qualified equity investment credit for  
 17 such year.

18 “(b) QUALIFIED LENDER CREDIT.—For purposes of  
 19 this section—

20 “(1) IN GENERAL.—The qualified lender credit  
 21 for any taxable year is the amount of credit specified  
 22 for such year by the Economic Development Cor-  
 23 poration with respect to qualified District loans  
 24 made by the taxpayer.

1           “(2) LIMITATION.—In no event may the quali-  
 2           fied lender credit with respect to any loan exceed 25  
 3           percent of the cost of the property purchased with  
 4           the proceeds of the loan.

5           “(3) QUALIFIED DISTRICT LOAN.—For pur-  
 6           poses of paragraph (1), the term ‘qualified district  
 7           loan’ means any loan for the purchase (as defined in  
 8           section 179(d)(2)) of property to which section 168  
 9           applies (or would apply but for section 179) (or land  
 10          which is functionally related and subordinate to such  
 11          property) and substantially all of the use of which  
 12          is in the District of Columbia and is in the active  
 13          conduct of a trade or business in the District of Co-  
 14          lumbia. A rule similar to the rule of section  
 15          1397C(a)(2) shall apply for purposes of the preced-  
 16          ing sentence.

17          “(c) QUALIFIED EQUITY INVESTMENT CREDIT.—

18           “(1) IN GENERAL.—For purposes of this sec-  
 19           tion, the qualified equity investment credit deter-  
 20           mined under this section for any taxable year is an  
 21           amount equal to the percentage specified by the  
 22           Economic Development Corporation (but not greater  
 23           than 25 percent) of the aggregate amount paid in  
 24           cash by the taxpayer during the taxable year for the  
 25           purchase of District business investments.

1           “(2) DISTRICT BUSINESS INVESTMENT.—For  
2           purposes of this subsection, the term ‘District busi-  
3           ness investment’ means—

4                   “(A) any District business stock, and

5                   “(B) any District partnership interest.

6           “(3) DISTRICT BUSINESS STOCK.—For pur-  
7           poses of this subsection—

8                   “(A) IN GENERAL.—Except as provided in  
9                   subparagraph (B), the term ‘District business  
10                  stock’ means any stock in a domestic corpora-  
11                  tion if—

12                           “(i) such stock is acquired by the tax-  
13                           payer at its original issue (directly or  
14                           through an underwriter) solely in exchange  
15                           for cash, and

16                           “(ii) as of the time such stock was is-  
17                           sued, such corporation was engaged in a  
18                           trade or business in the District of Colum-  
19                           bia (or, in the case of a new corporation,  
20                           such corporation was being organized for  
21                           purposes of engaging in such a trade or  
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           “(4) QUALIFIED DISTRICT PARTNERSHIP IN-  
 2           TEREST.—For purposes of this subsection, the term  
 3           ‘qualified District partnership interest’ means any  
 4           interest in a partnership if—

5                   “(A) such interest is acquired by the tax-  
 6           payer from the partnership solely in exchange  
 7           for cash, and

8                   “(B) as of the time such interest was ac-  
 9           quired, such partnership was engaging in a  
 10          trade or business in the District of Columbia  
 11          (or, in the case of a new partnership, such part-  
 12          nership was being organized for purposes of en-  
 13          gaging in such a trade or business).

14          A rule similar to the rule of paragraph (3)(B) shall  
 15          apply for purposes of this paragraph.

16           “(5) RECAPTURE OF CREDIT UPON CERTAIN  
 17          DISPOSITIONS OF DISTRICT BUSINESS INVEST-  
 18          MENTS.—

19                   “(A) IN GENERAL.—If a taxpayer disposes  
 20          of any District business investment (or any  
 21          other property the basis of which is determined  
 22          in whole or in part by reference to the adjusted  
 23          basis of such investment) before the end of the  
 24          5-year period beginning on the date such invest-  
 25          ment was acquired by the taxpayer, the tax-

1 payer's tax imposed by this chapter for the tax-  
 2 able year in which such distribution occurs shall  
 3 be increased by the aggregate decrease in the  
 4 credits allowed under section 38 for all prior  
 5 taxable years which would have resulted solely  
 6 from reducing to zero any credit determined  
 7 under this section with respect to such invest-  
 8 ment.

9 “(B) EXCEPTIONS.—Subparagraph (A)  
 10 shall not apply to any gift, transfer, or trans-  
 11 action described in paragraph (1), (2), or (3) of  
 12 section 1245(b).

13 “(C) SPECIAL RULE.—Any increase in tax  
 14 under subparagraph (A) shall not be treated as  
 15 a tax imposed by this chapter for purposes of—

16 “(i) determining the amount of any  
 17 credit allowable under this chapter, and

18 “(ii) determining the amount of the  
 19 tax imposed by section 55.

20 “(6) BASIS REDUCTION.—For purposes of this  
 21 title, the basis of any District business investment  
 22 shall be reduced by the amount of the credit deter-  
 23 mined under this section with respect to such invest-  
 24 ment.

25 “(d) LIMITATION ON AMOUNT OF CREDIT.—

1           “(1) IN GENERAL.—The amount of the DC in-  
 2           vestment credit determined under this section with  
 3           respect to any taxpayer for any taxable year shall  
 4           not exceed the credit amount allocated to such tax-  
 5           payer for such taxable year by the Economic Devel-  
 6           opment Corporation.

7           “(2) OVERALL LIMITATION.—The aggregate  
 8           credit amount which may be allocated by the Eco-  
 9           nomic Development Corporation under this section  
 10          shall not exceed \$75,000,000.

11          “(3) CRITERIA FOR ALLOCATING CREDIT  
 12          AMOUNTS.—The allocation of credit amounts under  
 13          this section shall be made in accordance with criteria  
 14          established by the Economic Development Corpora-  
 15          tion. In establishing such criteria, such Corporation  
 16          shall take into account—

17                 “(A) the degree to which the business re-  
 18                 ceiving the loan or investment will provide job  
 19                 opportunities for low and moderate income resi-  
 20                 dents of a targeted area, and

21                 “(B) whether such business is within a tar-  
 22                 geted area.

23          “(4) TARGETED AREA.—For purposes of para-  
 24          graph (3), the term ‘targeted area’ means—

1           “(A) any census tract located in the Dis-  
 2           trict of Columbia which is part of an enterprise  
 3           community designated under subchapter U be-  
 4           fore the date of the enactment of this sub-  
 5           chapter, and

6           “(B) any other census tract which is lo-  
 7           cated in the District of Columbia and which has  
 8           a poverty rate of not less than 35 percent.

9           “(e) ECONOMIC DEVELOPMENT CORPORATION.—For  
 10          purposes of this section, the term ‘Economic Development  
 11          Corporation’ has the meaning given such term by section  
 12          1400A(b).

13          “(f) REGULATIONS.—The Secretary shall prescribe  
 14          such regulations as may be appropriate to carry out this  
 15          section.

16          “(g) APPLICATION OF SECTION.—This section shall  
 17          apply to any credit amount allocated for taxable years be-  
 18          ginning after December 31, 1997, and before January 1,  
 19          2003.

20          **“SEC. 1400C. ZERO PERCENT CAPITAL GAINS RATE.**

21                 “(a) EXCLUSION.—Gross income shall not include  
 22          qualified capital gain from the sale or exchange of any  
 23          DC asset held for more than 5 years.

24                 “(b) DC ASSET.—For purposes of this section—

1           “(1) IN GENERAL.—The term ‘DC asset’  
2 means—

3           “(A) any DC business stock,

4           “(B) any DC partnership interest, and

5           “(C) any DC business property.

6           “(2) DC BUSINESS STOCK.—

7           “(A) IN GENERAL.—The term ‘DC busi-  
8 ness stock’ means any stock in a domestic cor-  
9 poration which is originally issued after Decem-  
10 ber 31, 1997, if—

11           “(i) such stock is acquired by the tax-  
12 payer, before January 1, 2003, at its origi-  
13 nal issue (directly or through an under-  
14 writer) solely in exchange for cash,

15           “(ii) as of the time such stock was is-  
16 sued, such corporation was a DC business  
17 (or, in the case of a new corporation, such  
18 corporation was being organized for pur-  
19 poses of being a DC business), and

20           “(iii) during substantially all of the  
21 taxpayer’s holding period for such stock,  
22 such corporation qualified as a DC busi-  
23 ness.



1           “(B) REDEMPTIONS.—A rule similar to  
2           the rule of section 1202(c)(3) shall apply for  
3           purposes of this paragraph.

4           “(3) DC PARTNERSHIP INTEREST.—The term  
5           ‘DC partnership interest’ means any capital or prof-  
6           its interest in a domestic partnership which is origi-  
7           nally issued after December 31, 1997, if—

8                   “(A) such interest is acquired by the tax-  
9                   payer, before January 1, 2003, from the part-  
10                  nership solely in exchange for cash,

11                  “(B) as of the time such interest was ac-  
12                  quired, such partnership was a DC business  
13                  (or, in the case of a new partnership, such part-  
14                  nership was being organized for purposes of  
15                  being a DC business), and

16                  “(C) during substantially all of the tax-  
17                  payer’s holding period for such interest, such  
18                  partnership qualified as a DC business.

19           A rule similar to the rule of paragraph (2)(B) shall  
20           apply for purposes of this paragraph.

21           “(4) DC BUSINESS PROPERTY.—

22                   “(A) IN GENERAL.—The term ‘DC busi-  
23                   ness property’ means tangible property if—

24                           “(i) such property was acquired by  
25                           the taxpayer by purchase (as defined in

1 section 179(d)(2)) after December 31,  
 2 1997, and before January 1, 2003,

3 “(ii) the original use of such property  
 4 in the District of Columbia commences  
 5 with the taxpayer, and

6 “(iii) during substantially all of the  
 7 taxpayer’s holding period for such prop-  
 8 erty, substantially all of the use of such  
 9 property was in a DC business of the tax-  
 10 payer.

11 “(B) SPECIAL RULE FOR BUILDINGS  
 12 WHICH ARE SUBSTANTIALLY IMPROVED.—

13 “(i) IN GENERAL.—The requirements  
 14 of clauses (i) and (ii) of subparagraph (A)  
 15 shall be treated as met with respect to—

16 “(I) property which is substan-  
 17 tially improved by the taxpayer before  
 18 January 1, 2003, and

19 “(II) any land on which such  
 20 property is located.

21 “(ii) SUBSTANTIAL IMPROVEMENT.—  
 22 For purposes of clause (i), property shall  
 23 be treated as substantially improved by the  
 24 taxpayer only if, during any 24-month pe-  
 25 riod beginning after December 31, 1997,

1 additions to basis with respect to such  
2 property in the hands of the taxpayer ex-  
3 ceed the greater of—

4 “(I) an amount equal to the ad-  
5 justed basis of such property at the  
6 beginning of such 24-month period in  
7 the hands of the taxpayer, or

8 “(II) \$5,000.

9 “(6) TREATMENT OF SUBSEQUENT PUR-  
10 CHASERS, ETC.—The term ‘DC asset’ includes any  
11 property which would be a DC asset but for para-  
12 graph (2)(A)(i), (3)(A), or (4)(A)(ii) in the hands of  
13 the taxpayer if such property was a DC asset in the  
14 hands of a prior holder.

15 “(7) 5-YEAR SAFE HARBOR.—If any property  
16 ceases to be a DC asset by reason of paragraph  
17 (2)(A)(iii), (3)(C), or (4)(A)(iii) after the 5-year pe-  
18 riod beginning on the date the taxpayer acquired  
19 such property, such property shall continue to be  
20 treated as meeting the requirements of such para-  
21 graph; except that the amount of gain to which sub-  
22 section (a) applies on any sale or exchange of such  
23 property shall not exceed the amount which would  
24 be qualified capital gain had such property been sold  
25 on the date of such cessation.

1       “(c) DC BUSINESS.—For purposes of this section,  
 2 the term ‘DC business’ means any entity which is an en-  
 3 terprise zone business (as defined in section 1397B), de-  
 4 termined—

5               “(1) by treating the District of Columbia as an  
 6 empowerment zone and as if no other area is an  
 7 empowerment zone or enterprise community, and

8               “(2) without regard to subsections (b)(6) and  
 9 (c)(5) of section 1397B.

10       “(d) OTHER DEFINITIONS AND SPECIAL RULES.—  
 11 For purposes of this section—

12               “(1) QUALIFIED CAPITAL GAIN.—Except as  
 13 otherwise provided in this subsection, the term  
 14 ‘qualified capital gain’ means any gain recognized on  
 15 the sale or exchange of—

16                       “(A) a capital asset, or

17                       “(B) property used in the trade or busi-  
 18 ness (as defined in section 1231(b)).

19               “(2) GAIN BEFORE 1998 NOT QUALIFIED.—The  
 20 term ‘qualified capital gain’ shall not include any  
 21 gain attributable to periods before January 1, 1998.

22               “(3) CERTAIN GAIN ON REAL PROPERTY NOT  
 23 QUALIFIED.—The term ‘qualified capital gain’ shall  
 24 not include any gain which would be treated as ordi-  
 25 nary income under section 1250 if section 1250 ap-

1       plied to all depreciation rather than the additional  
2       depreciation.

3               “(4) INTANGIBLES AND LAND NOT INTEGRAL  
4       PART OF DC BUSINESS.—The term ‘qualified capital  
5       gain’ shall not include any gain which is attributable  
6       to real property, or an intangible asset, which is not  
7       an integral part of a DC business.

8               “(5) RELATED PARTY TRANSACTIONS.—The  
9       term ‘qualified capital gain’ shall not include any  
10      gain attributable, directly or indirectly, in whole or  
11      in part, to a transaction with a related person. For  
12      purposes of this paragraph, persons are related to  
13      each other if such persons are described in section  
14      267(b) or 707(b)(1).

15              “(e) CERTAIN OTHER RULES TO APPLY.—Rules  
16      similar to the rules of subsections (g), (h), (i)(2), and (j)  
17      of section 1202 shall apply for purposes of this section.

18              “(f) SALES AND EXCHANGES OF INTERESTS IN  
19      PARTNERSHIPS AND S CORPORATIONS WHICH ARE DC  
20      BUSINESSES.—In the case of the sale or exchange of an  
21      interest in a partnership, or of stock in an S corporation,  
22      which was a DC business during substantially all of the  
23      period the taxpayer held such interest or stock, the  
24      amount of qualified capital gain shall be determined with-  
25      out 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 business, and

4           “(2) any gain attributable to periods before  
 5           January 1, 1998.”

6           (b) CREDITS MADE PART OF GENERAL BUSINESS  
 7 CREDIT.—

8           (1) Subsection (b) of section 38 is amended by  
 9           striking “plus” at the end of paragraph (11), by  
 10          striking the period at the end of paragraph (12) and  
 11          inserting “, plus”, and by adding at the end the fol-  
 12          lowing new paragraph:

13          “(13) the DC investment credit determined  
 14          under section 1400B(a).”

15          (2) Subsection (d) of section 39 is amended by  
 16          adding at the end the following new paragraph:

17          “(8) NO CARRYBACK OF DC CREDITS BEFORE  
 18          EFFECTIVE DATE.—No portion of the unused busi-  
 19          ness credit for any taxable year which is attributable  
 20          to the credit under section 1400B, or to the credits  
 21          under subchapter U by reason of section 1400, may  
 22          be carried back to a taxable year ending before the  
 23          date of the enactment of sections 1400B 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 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. Incentives for the Revitalization of the District  
 of Columbia.”

9       (d) EFFECTIVE DATE.—This section shall take effect  
 10 on the date of the enactment of this Act.

11 **SEC. 602. 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.

1       **TITLE VII—MISCELLANEOUS**  
 2               **PROVISIONS**  
 3       **Subtitle A—Provisions Relating to**  
 4               **Excise Taxes**

5       **SEC. 701. REPEAL OF TAX ON DIESEL FUEL USED IN REC-**  
 6               **REATIONAL BOATS.**

7           (a) IN GENERAL.—Subparagraph (B) of section  
 8       6421(e)(2) (defining off-highway business use) is amended  
 9       by striking clauses (iii) and (iv).

10          (b) CONFORMING AMENDMENTS.—

11               (1) Subparagraph (A) of section 4041(a)(1) is  
 12       amended—

13                       (A) by striking “, a diesel-powered train,  
 14                       or a diesel-powered boat” each place it appears  
 15                       and inserting “or a diesel-powered train”, and

16                       (B) by striking “vehicle, train, or boat”  
 17                       and inserting “vehicle or train”.

18               (2) Paragraph (1) of section 4041(a) is amend-  
 19       ed by striking subparagraph (D).

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

22       **SEC. 702. INTERCITY PASSENGER RAIL FUND.**

23          (a) ESTABLISHMENT OF FUND.—The Internal Reve-  
 24       nue Code of 1986 is amended by adding at the end the  
 25       following new subtitle:



1     **“Subtitle L—Intercity Passenger**  
 2                     **Rail Fund**

“Sec. 9901. Intercity passenger rail fund.

3     **“SEC. 9901. INTERCITY PASSENGER RAIL FUND.**

4             “(a) CREATION OF FUND.—There is established in  
 5 the Treasury of the United States a fund to be known  
 6 as the ‘Intercity Passenger Rail Fund’, consisting of such  
 7 amounts as may be appropriated to the Fund as provided  
 8 in this section.

9             “(b) TRANSFER TO INTERCITY PASSENGER RAIL  
 10 FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

11             “(1) IN GENERAL.—There are hereby appro-  
 12 priated to the Intercity Passenger Rail Fund  
 13 amounts equivalent to the net revenues received in  
 14 the Treasury from the applicable portion of the  
 15 taxes imposed by sections 4041, 4042, 4081, and  
 16 4091 after September 30, 1997, and before April  
 17 16, 2001.

18             “(2) APPLICABLE PORTION.—For purposes of  
 19 paragraph (1), the term ‘applicable portion’ means  
 20 the lesser of—

21                     “(A) 0.5 cent multiplied by the number of  
 22 gallons on which the taxes described in para-  
 23 graph (1) are imposed, or

1           “(B) the portion of such taxes not other-  
 2           wise appropriated to a trust fund under sub-  
 3           chapter A of chapter 98.

4           “(3) NET REVENUES.—For purposes of para-  
 5           graph (1), the term ‘net revenues’ means the  
 6           amount estimated by the Secretary based on the ex-  
 7           cess of—

8           “(A) the applicable portion of the taxes re-  
 9           ceived in the Treasury under sections 4041,  
 10          4042, 4081, and 4091, over

11          “(B) the decrease in the tax imposed by  
 12          chapter 1 resulting from the applicable portion  
 13          of the taxes imposed by sections 4041, 4042,  
 14          4081, and 4091.

15          “(4) TRANSFER OF AMOUNTS.—The amounts  
 16          appropriated by paragraph (1) shall be transferred  
 17          at least monthly from the general fund of the Treas-  
 18          ury to the Intercity Passenger Rail Fund on the  
 19          basis of estimates made by the Secretary of the  
 20          amounts referred to in such paragraph. Proper ad-  
 21          justments shall be made in the amounts subse-  
 22          quently transferred to the extent prior estimates  
 23          were in excess of or less than the amounts required  
 24          to be transferred.

25          “(c) EXPENDITURES FROM FUND.—

1           “(1) IN GENERAL.—In addition to any amounts  
 2           appropriated from the general fund of the Treasury  
 3           of the United States for fiscal years 1998 through  
 4           2001 to enable the Secretary of Transportation to  
 5           make grants to the National Railroad Passenger  
 6           Corporation, amounts in the Intercity Passenger  
 7           Rail Fund shall be available, as provided by appro-  
 8           priation Acts, to finance qualified expenses of—

9                   “(A) the National Railroad Passenger Cor-  
 10                  poration, and

11                  “(B) each non-Amtrak State, to the extent  
 12                  determined under paragraph (3).

13           The amount available for any fiscal year under the  
 14           preceding sentence shall be the amount dedicated to  
 15           such Fund for such fiscal year (and no other  
 16           amount) and shall remain available until expended.

17           “(2) MAXIMUM AMOUNT OF FUNDS TO NON-AM-  
 18           TRAK STATES.—Each non-Amtrak State shall re-  
 19           ceive under this subsection an amount equal to the  
 20           lesser of—

21                   “(A) the State’s qualified expenses for the  
 22                  fiscal year, or

23                   “(B) the product of—

24                           “(i)  $\frac{1}{12}$  of 1 percent of the aggregate  
 25                          amounts appropriated from the Intercity

1                    Passenger Rail Fund for such fiscal year  
 2                    under paragraph (1), and

3                    “(ii) the number of months such State  
 4                    is a non-Amtrak State in such fiscal year.

5                    If the amount determined under subparagraph (B)  
 6                    exceeds the amount under subparagraph (A) for any  
 7                    fiscal year, the amount under subparagraph (B) for  
 8                    the following fiscal year shall be increased by the  
 9                    amount of such excess.

10                   “(3) TRANSFERS FROM FUND FOR CERTAIN RE-  
 11                   PAYMENTS AND CREDITS.—

12                   “(A) IN GENERAL.—The Secretary shall  
 13                   pay from time to time from the Intercity Pas-  
 14                   senger Rail Fund into the general fund of the  
 15                   Treasury amounts equivalent to—

16                   “(i) the amounts paid before October  
 17                   1, 2001, under—

18                   “(I) section 6420 (relating to  
 19                   amounts paid in respect of gasoline  
 20                   used on farms),

21                   “(II) section 6421 (relating to  
 22                   amounts paid in respect of gasoline  
 23                   used for certain nonhighway purposes  
 24                   or by local transit systems), and

1                   “(III) section 6427 (relating to  
 2                   fuels not used for taxable purposes),  
 3                   on the basis of claims filed for periods end-  
 4                   ing before April 16, 2001, and  
 5                   “(ii) the credits allowed under section  
 6                   34 (relating to credit for certain uses of  
 7                   gasoline and special fuels) with respect to  
 8                   gasoline and special fuels used before April  
 9                   16, 2001.

10           The amounts payable from the Intercity Pas-  
 11           senger Rail Fund under this subparagraph shall  
 12           be determined by taking into account only  
 13           amounts transferred to such Fund.

14           “(B) TRANSFERS BASED ON ESTIMATES.—  
 15           Transfers under subparagraph (A) shall be  
 16           made on the basis of estimates by the Sec-  
 17           retary, and proper adjustments shall be made  
 18           in amounts subsequently transferred to the ex-  
 19           tent prior estimates were in excess or less than  
 20           the amounts required to be transferred.

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

22           “(1) QUALIFIED EXPENSES.—The term ‘quali-  
 23           fied expenses’ means expenses incurred after Sep-  
 24           tember 30, 1997, and before April 16, 2001—

25           “(A) for—

1 “(i) in the case of the National Rail-  
2 road Passenger Corporation—

3 “(I) the acquisition of equipment,  
4 rolling stock, and other capital im-  
5 provements, the upgrading of mainte-  
6 nance facilities, and the maintenance  
7 of existing equipment, in intercity  
8 passenger rail service, and

9 “(II) the payment of interest and  
10 principal on obligations incurred for  
11 such acquisition, upgrading, and  
12 maintenance, and

13 “(ii) in the case of a non-Amtrak  
14 State—

15 “(I) the acquisition of equipment,  
16 rolling stock, and other capital im-  
17 provements, the upgrading of mainte-  
18 nance facilities, and the maintenance  
19 of existing equipment, in intercity  
20 passenger rail or bus service,

21 “(II) the purchase of intercity  
22 passenger rail services from the Na-  
23 tional Railroad Passenger Corpora-  
24 tion, and

1                   “(III) the payment of interest  
 2                   and principal on obligations incurred  
 3                   for such acquisition, upgrading, main-  
 4                   tenance, and purchase, and

5                   “(B) certified by the Secretary of Trans-  
 6                   portation as meeting the requirements of sub-  
 7                   paragraph (A).

8                   “(2) NON-AMTRAK STATE.—The term ‘non-Am-  
 9                   trak State’ means any State which does not receive  
 10                  intercity passenger rail service from the National  
 11                  Railroad Passenger Corporation.

12                  “(e) TAX TREATMENT OF FUND EXPENDITURES.—  
 13                  With respect to any payment of qualified expenses de-  
 14                  scribed in subsection (d)(1)(A)(i) from the Intercity Pas-  
 15                  senger Rail Fund during any taxable year to a taxpayer—

16                  “(1) such payment shall not be included in the  
 17                  gross income of the taxpayer for such taxable year,

18                  “(2) no deduction shall be allowed to the tax-  
 19                  payer with respect to any amount paid or incurred  
 20                  which is attributable to such payment, and

21                  “(3) the basis of any property shall be reduced  
 22                  by the portion of the cost of such property which is  
 23                  attributable to such payment.

24                  “(f) REPORT.—It shall be the duty of the Secretary  
 25                  to hold the Intercity Passenger Rail Fund and to report

1 to the Congress each year on the financial condition and  
 2 the results of the operations of such Fund during the pre-  
 3 ceding fiscal year and on its expected condition and oper-  
 4 ations during the next fiscal year. Such report shall be  
 5 printed as a House document of the session of the Con-  
 6 gress to which the report is made.

7 “(g) INVESTMENT.—

8 “(1) IN GENERAL.—It shall be the duty of the  
 9 Secretary to invest such portion of the Intercity Pas-  
 10 senger Rail Fund as is not, in the Secretary’s judg-  
 11 ment, required to meet current withdrawals. Such  
 12 investments may be made only in interest-bearing  
 13 obligations of the United States. For such purpose,  
 14 such obligations may be acquired—

15 “(A) on original issue at the issue price, or

16 “(B) by purchase of outstanding obliga-  
 17 tions at the market price.

18 “(2) SALE OF OBLIGATIONS.—Any obligation  
 19 acquired by the Intercity Passenger Rail Fund may  
 20 be sold by the Secretary at the market price.

21 “(3) INTEREST ON CERTAIN PROCEEDS.—The  
 22 interest on, and the proceeds from the sale or re-  
 23 demption of, any obligations held in the Intercity  
 24 Passenger Rail Fund shall be credited to the general  
 25 fund of the Treasury of the United States.



1       “(h) TERMINATION.—The Secretary shall determine  
 2 and retain, not later than October 1, 2001, the amount  
 3 in the Intercity Passenger Rail Fund necessary to pay any  
 4 outstanding qualified expenses, and shall transfer any  
 5 amount not so retained to the general fund of the Treas-  
 6 ury.”

7       (b) CONFORMING AMENDMENT.—The table of sub-  
 8 titles for such Code is amended by adding at the end the  
 9 following new item:

“SUBTITLE L. Intercity Passenger Rail Fund.”

10       (c) EFFECTIVE DATE.—The amendments made by  
 11 this section shall apply with respect to taxes imposed after  
 12 September 30, 1997.

13       (d) BUDGETARY TREATMENT OF AMOUNTS DEPOS-  
 14 ITED INTO INTERCITY PASSENGER RAIL FUND.—Pursu-  
 15 ant to section 207 of such H. Con. Res. 84, of the total  
 16 revenues raised by this Act, amounts equal to the amounts  
 17 deposited into the Intercity Passenger Rail Fund for each  
 18 fiscal year are hereby dedicated to finance such Fund.

19 **SEC. 703. MODIFICATION OF TAX TREATMENT OF HARD**  
 20 **CIDER.**

21       (a) HARD CIDER CONTAINING NOT MORE THAN 7  
 22 PERCENT ALCOHOL TAXED AS WINE.—Subsection (b) of  
 23 section 5041 (relating to imposition and rate of tax) is  
 24 amended by striking “and” at the end of paragraph (4),  
 25 by striking the period at the end of paragraph (5) and

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

3           “(6) On hard cider derived primarily from ap-  
 4 ples or apple concentrate and water, containing no  
 5 other fruit product, and containing at least one-half  
 6 of 1 percent and not more than 7 percent of alcohol  
 7 by volume, 22.6 cents per wine gallon.”.

8           (b) EXCLUSION FROM SMALL PRODUCER CREDIT.—  
 9 Paragraph (1) of section 5041(c) (relating to credit for  
 10 small domestic producers) is amended by striking “sub-  
 11 section (b)(4)” and inserting “paragraphs (4) and (6) of  
 12 subsection (b)”.

13           (c) EFFECTIVE DATE.—The amendments made by  
 14 this section shall take effect on October 1, 1997.

15 **SEC. 704. GENERAL REVENUE PORTION OF HIGHWAY**  
 16 **MOTOR FUELS TAXES DEPOSITED INTO HIGH-**  
 17 **WAY TRUST FUND.**

18           (a) IN GENERAL.—Paragraph (4) of section 9503(b)  
 19 is amended by striking “and” at the end of subparagraph  
 20 (A), and by striking subparagraph (B) and inserting the  
 21 following new subparagraphs:

22           “(B) there shall not be taken into account  
 23 the taxes imposed by sections 4041 and 4081 to  
 24 the extent attributable to—

1 “(i) the Leaking Underground Stor-  
 2 age Tank Trust Fund financing rate, or

3 “(ii) fuel used in a train,

4 “(C) in the case of fuels used as described  
 5 in paragraph (4)(D), (5)(B), or (6)(D) of sub-  
 6 section (c), there shall not be taken into ac-  
 7 count—

8 “(i) in the case of gasoline and special  
 9 motor fuels, so much of the rate of tax as  
 10 exceeds 11.5 cents per gallon, and

11 “(ii) in the case of diesel fuel, so  
 12 much of the rate of tax as exceeds 17.5  
 13 cents per gallon, and

14 “(D) there shall not be taken into account  
 15 so much of the rate of the taxes received in the  
 16 Treasury after June 30, 2000, as exceeds the  
 17 excess of 4.3 cents per gallon over the portion  
 18 (if any) of such rate as is taken into account  
 19 in determining the amount appropriated to the  
 20 Intercity Passenger Rail Fund under section  
 21 9901.”

22 (b) LIMITATION ON EXPENDITURES.—Subsection (c)  
 23 of section 9503 is amended by adding at the end the fol-  
 24 lowing new paragraph:

1           “(7) LIMITATION ON EXPENDITURES.—Not-  
2       withstanding any other provision of law, in calculat-  
3       ing amounts under section 157(a) of title 23, United  
4       States Code, and sections 1013(c), 1015(a), and  
5       1015(b) of the Intermodal Surface Transportation  
6       Efficiency Act of 1991 (Public Law 102–240; 105  
7       Stat. 1914), deposits in the Highway Trust Fund  
8       resulting from the amendments made by the Reve-  
9       nue Reconciliation Act of 1997 shall not be taken  
10      into account.”

11      (c) TECHNICAL AMENDMENTS.—

12           (1) Section 9503 is amended by striking sub-  
13      section (f).

14           (2) Paragraphs (4)(D), (5)(B), and (6)(D) of  
15      section 9503(c) are each amended by striking “at-  
16      tributable to the Highway Trust Fund financing  
17      rate” and inserting “attributable to taxes taken into  
18      account in determining transfers under subpara-  
19      graph (C) of subsection (b)(4)”.

20      (d) EFFECTIVE DATE.—The amendments made by  
21      this section shall apply to taxes received in the Treasury  
22      after September 30, 1997.

1 **SEC. 705. RATE OF TAX ON CERTAIN SPECIAL FUELS DE-**  
2 **TERMINED ON BASIS OF BTU EQUIVALENCY**  
3 **WITH GASOLINE.**

4 (a) SPECIAL MOTOR FUELS.—Paragraph (2) of sec-  
5 tion 4041(a) (relating to special motor fuels) is amended  
6 to read as follows:

7 “(2) SPECIAL MOTOR FUELS.—

8 “(A) IN GENERAL.—There is hereby im-  
9 posed a tax on benzol, benzene, naphtha, lique-  
10 fied petroleum gas, casing head and natural  
11 gasoline, or any other liquid (other than ker-  
12 osene, gas oil, or fuel oil, or any product tax-  
13 able under section 4081)—

14 “(i) sold by any person to an owner,  
15 lessee, or other operator of a motor vehicle  
16 or motorboat for use as a fuel in such  
17 motor vehicle or motorboat, or

18 “(ii) used by any person as a fuel in  
19 a motor vehicle or motorboat unless there  
20 was a taxable sale of such liquid under  
21 clause (i).

22 “(B) RATE OF TAX.—The rate of the tax  
23 imposed by this paragraph shall be—

24 “(i) except as otherwise provided in  
25 this subparagraph, the rate of tax specified

1 in section 4081(a)(2)(A)(i) which is in ef-  
 2 fect at the time of such sale or use,

3 “(ii) 13.6 cents per gallon in the case  
 4 of liquefied petroleum gas, and

5 “(iii) 11.9 cents per gallon in the case  
 6 of liquefied natural gas.

7 In the case of any sale or use after September  
 8 30, 1999, clause (ii) shall be applied by sub-  
 9 stituting ‘3.2 cents’ for ‘13.6 cents’, and clause  
 10 (iii) shall be applied by substituting ‘2.8 cents’  
 11 for ‘11.9 cents’.”

12 (b) METHANOL FUEL PRODUCED FROM NATURAL  
 13 GAS.—

14 (1) IN GENERAL.—Subparagraph (A) of section  
 15 4041(m)(1) is amended by striking clause (i) and in-  
 16 serting the following new clause:

17 “(i) after September 30, 1997, and  
 18 before October 1, 1999—

19 “(I) in the case of fuel none of  
 20 the alcohol in which consists of etha-  
 21 nol, 9.15 cents per gallon, and

22 “(II) in any other case, 11.3  
 23 cents per gallon, and”.

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

4 **SEC. 706. STUDY OF FEASIBILITY OF MOVING COLLECTION**  
5 **POINT FOR DISTILLED SPIRITS EXCISE TAX.**

6       (a) IN GENERAL.—The Secretary of the Treasury or  
7 his delegate shall conduct a study of options for changing  
8 the event on which the tax imposed by section 5001 of  
9 the Internal Revenue Code of 1986 is determined. One  
10 such option which shall be studied is determining such tax  
11 on removal from registered wholesale warehouses. In  
12 studying each such option, such Secretary shall focus on  
13 administrative issues including—

- 14           (1) tax compliance,  
15           (2) the number of taxpayers required to pay the  
16 tax,  
17           (3) the types of financial responsibility require-  
18 ments that might be required, and  
19           (4) special requirements regarding segregation  
20 of nontax-paid distilled spirits from other products.  
21 Such study shall review the effects of each such option  
22 on the Department of the Treasury (including staffing and  
23 other demands on budgetary resources) and the change  
24 in the period between the time such tax is currently paid

1 and the time such tax would be paid under each such op-  
 2 tion.

3 (b) REPORT.—The report of such study shall be sub-  
 4 mitted to the Committee on Finance of the Senate and  
 5 the Committee on Ways and Means of the House of Rep-  
 6 resentatives not later than January 31, 1998.

7 **SEC. 707. EXTENSION AND MODIFICATION OF SUBSIDIES**  
 8 **FOR ALCOHOL FUELS.**

9 (a) EXTENSIONS.—

10 (1) ALCOHOL FUELS CREDIT.—Subsection (e)  
 11 of section 40 is amended—

12 (A) by striking “December 31, 2000” and  
 13 inserting “December 31, 2007”, and

14 (B) by striking “January 1, 2001” and in-  
 15 serting “January 1, 2007”.

16 (2) EXCISE TAXES.—

17 (A) Section 4041(b)(2)(C) is amended by  
 18 striking “October 1, 2000” and inserting “Oc-  
 19 tober 1, 2007”.

20 (B) Sections 4041(k)(3), 4081(c)(8),  
 21 4091(c)(5), and 6427(f)(4) are each amended  
 22 by striking “September 30, 2000” and inserting  
 23 “September 30, 2007”.

24 (b) MODIFICATION.—



1 (1) IN GENERAL.—Subsection (h) of section 40  
2 is amended to read as follows:

3 “(h) REDUCED CREDIT FOR ETHANOL BLENDERS.—

4 “(1) IN GENERAL.—In the case of any alcohol  
5 mixture credit or alcohol credit with respect to any  
6 alcohol which is ethanol—

7 “(A) subsections (b)(1)(A) and (b)(2)(A)  
8 shall be applied by substituting ‘the blender  
9 amount’ for ‘60 cents’;

10 “(B) subsection (b)(3) shall be applied by  
11 substituting ‘the low-proof blender amount’ for  
12 ‘45 cents’ and ‘the blender amount’ for ‘60  
13 cents’; and

14 “(C) subparagraphs (A) and (B) of sub-  
15 section (d)(3) shall be applied by substituting  
16 ‘the blender amount’ for ‘60 cents’ and ‘the  
17 low-proof blender amount’ for ‘45 cents’.

18 “(2) AMOUNTS.—For purposes of paragraph  
19 (1), the blender amount and the low-proof blender  
20 amount shall be determined in accordance with the  
21 following table:

<b>In the case of any sale or use during calendar year:</b>	<b>The blender amount is:</b>	<b>The low-proof blend- er amount is:</b>
2000 or 2001	53 cents	39.26 cents
2003 or 2004	52 cents	38.52 cents
2005 or thereafter .....	51 cents	37.78 cents.”

22 (2) Subparagraph (A) of section 4041(b)(2) is  
23 amended by striking “5.4 cents” and inserting “the

1 applicable blender rate” and by adding at the end  
 2 the following flush sentence:

3 “For purposes of clause (i), the applicable  
 4 blender rate is  $\frac{1}{10}$  of the blender amount appli-  
 5 cable under section 40(h)(2) for the calendar  
 6 year in which the sale or use occurs.”

7 (3) Paragraphs (4)(A) and (5) of section  
 8 4081(c) are each amended by striking “5.4 cents”  
 9 each place it appears and inserting “the applicable  
 10 blender rate (as defined in section 4041(b)(2)(A))”.

11 (4) Paragraph (1) of section 4091(c) is amend-  
 12 ed by striking “13.4 cents” each place it appears  
 13 and inserting “the applicable blender amount” and  
 14 by adding at the end the following new sentence:  
 15 “For purposes of this paragraph, the term ‘applica-  
 16 ble blender amount’ means 13.3 cents in the case of  
 17 any sale or use during 2001 or 2002, 13.2 cents in  
 18 the case of any sale or use during 2003 or 2004,  
 19 and 13.1 cents in the case of any sale or use during  
 20 2005 or thereafter.”

21 (c) EFFECTIVE DATE.—

22 (1) SUBSECTION (a).—The amendments made  
 23 by subsection (a) shall take effect on the date of the  
 24 enactment of this Act.

1           (2) SUBSECTION (b).—The amendments made  
 2       by subsection (b) shall take effect on January 1,  
 3       2001.

4   **SEC. 708. CLARIFICATION OF AUTHORITY TO USE SEMI-GE-**  
 5                   **NERIC DESIGNATIONS ON WINE LABELS.**

6       (a) IN GENERAL.—Section 5388 (relating to designa-  
 7       tion of wines) is amended by adding at the end the follow-  
 8       ing new subsection:

9       “(c) USE OF SEMI-GENERIC DESIGNATIONS.—A  
 10      name of geographic significance, which is also the designa-  
 11      tion of a class or type of wine, shall be deemed to have  
 12      become semi-generic only if so found by the Secretary.  
 13      Semi-generic designations may be used to designate wines  
 14      of an origin other than that indicated by such name only  
 15      if—

16           “(1) there appears in direct conjunction there-  
 17      with an appropriate appellation of origin disclosing  
 18      the true place of origin of the wine, and

19           “(2) the wine so designated conforms to the  
 20      standard of identity, if any, for such wine contained  
 21      in the regulations in this section or, if there be no  
 22      such standard, to the trade understanding of such  
 23      class or type.

24      Examples of semi-generic names which are also type des-  
 25      ignations for grape wines are Angelica, Burgundy, Claret,

1 Chablis, Champagne, Chianti, Malaga, Marsala, Madeira,  
 2 Moselle, Port, Rhine Wine (syn. Hock), Sauterne, Haut  
 3 Sauterne, Sherry, Tokay.”

4 (b) EFFECTIVE DATE.—The amendment made by  
 5 this section shall take effect on the date of the enactment  
 6 of this Act.

## 7 **Subtitle B—Provisions Relating to** 8 **Pensions and Fringe Benefits**

### 9 **SEC. 711. TREATMENT OF MULTIEMPLOYER PLANS UNDER** 10 **SECTION 415.**

11 (a) IN GENERAL.—Section 415(b)(11) is amended—

12 (1) by inserting “or a multiemployer plan (as  
 13 defined in section 414(f))” after “section 414(d))”,  
 14 and

15 (2) by inserting “AND MULTIEMPLOYER” after  
 16 “GOVERNMENTAL” in the heading thereof.

17 (b) EFFECTIVE DATE.—The amendments made by  
 18 this section shall apply to years beginning after December  
 19 31, 1997.

### 20 **SEC. 712. TECHNICAL CORRECTION RELATING TO PARTIAL** 21 **TERMINATION OF PENSION PLANS.**

22 (a) IN GENERAL.—So much of section 552 of the Tax  
 23 Reform Act of 1984 (Public Law 98–369) as precedes  
 24 subparagraph (A) of paragraph (1) is amended to read  
 25 as follows:

1       “For purposes of interpreting or applying section  
 2 411(d)(3) of the Internal Revenue Code of 1986 (relating  
 3 to minimum vesting standards in the case of partial termi-  
 4 nation), any other provision of Federal law, and any provi-  
 5 sion of any plan or trust which directly or indirectly incor-  
 6 porates, or is determined by reference to, such section  
 7 411(d)(3), a partial termination shall not have occurred  
 8 based in whole or in part on a decline in plan participation  
 9 if—

10               “(1) the decline in plan participation—”.

11       (b) EFFECTIVE DATE.—The amendment made by  
 12 this section shall take effect as if included in the provisions  
 13 of section 552 of the Tax Reform Act of 1984.

14 **SEC. 713. INCREASE IN CURRENT LIABILITY FUNDING**  
 15 **LIMIT.**

16       (a) AMENDMENT TO 1986 CODE.—Section 412(c)(7)  
 17 (relating to full-funding limitation) is amended—

18               (A) by striking “150 percent” in subpara-  
 19 graph (A)(i)(I) and inserting “the applicable  
 20 percentage”, and

21               (B) by adding at the end the following:

22               “(F) APPLICABLE PERCENTAGE.—For  
 23 purposes of subparagraph (A)(i)(I), the applica-  
 24 ble percentage shall be determined in accord-  
 25 ance with the following table:

**“In the case of any plan year    The applicable percentage is—  
beginning in—**

1999 or 2000 .....	155
2001 or 2002 .....	160
2003 or 2004 .....	165
2005 and succeeding years .....	170.”

1        (b) AMENDMENT TO ERISA.—Section 302(c)(7) of  
2 the Employee Retirement Income Security Act of 1974  
3 (29 U.S.C. 1082(c)(7)) is amended—

4                    (A) by striking “150 percent” in subpara-  
5 graph (A)(i)(I) and inserting “the applicable  
6 percentage”, and

7                    (B) by adding at the end the following:

8                    “(F) APPLICABLE PERCENTAGE.—For purposes  
9 of subparagraph (A)(i)(I), the applicable percentage  
10 shall be determined in accordance with the following  
11 table:

**“In the case of any plan year    The applicable percentage is—  
beginning in—**

1999 or 2000 .....	155
2001 or 2002 .....	160
2003 or 2004 .....	165
2005 and succeeding years .....	170.”

12 **SEC. 714. SPOUSAL CONSENT REQUIRED FOR CERTAIN DIS-**  
13 **TRIBUTIONS AND LOANS UNDER QUALIFIED**  
14 **CASH OR DEFERRED ARRANGEMENT.**

15        (a) IN GENERAL.—Section 401(k) is amended by  
16 adding at the end the following new paragraph:

17                    “(13) SPOUSAL CONSENT REQUIRED.—

1           “(A) IN GENERAL.—An arrangement shall  
2           not be treated as a qualified cash or deferred  
3           arrangement unless—

4                   “(i) a distribution under the plan of  
5                   which such arrangement is a part, or

6                   “(ii) a loan all or part of which is se-  
7                   cured by the participant’s interest in the  
8                   plan of which such arrangement is a part,  
9           may not be made without the written consent of  
10          the spouse.

11           “(B) EXCEPTIONS.—Subparagraph (A)  
12          shall not apply—

13                   “(i) to distributions described in sec-  
14                   tion 402(c)(4)(A) or 411(a)(11), or

15                   “(ii) in any case described in section  
16                   417(a)(2) (relating to cases where spouse  
17                   cannot be located).

18           “(C) OTHER RULES.—The Secretary shall  
19          prescribe rules similar to the rules under sec-  
20          tion 417 for the form and timing of any consent  
21          required by this paragraph.”

22          (b) EFFECTIVE DATE.—

23                   (1) IN GENERAL.—The amendment made by  
24          this section shall apply to plan years beginning after  
25          December 31, 1998.

1           (2) PLAN AMENDMENTS.—A plan shall not be  
 2       treated as failing to meet the requirements of sec-  
 3       tion 411(d)(6) of the Internal Revenue Code of 1986  
 4       or section 204(g) of the Employee Retirement In-  
 5       come Security Act of 1974 merely because it is  
 6       amended to meet the requirements of section  
 7       401(k)(4)(13) of such Code (as added by subsection  
 8       (a)).

9   **SEC. 715. SPECIAL RULES FOR CHURCH PLANS.**

10       (a) IN GENERAL.—Section 414(e)(5) relating to spe-  
 11       cial rules for chaplains and self-employed ministers is  
 12       amended—

13           (1) by striking “not eligible to participate” in  
 14       subparagraph (C) and inserting “not otherwise par-  
 15       ticipating”, and

16           (2) by adding at the end the following new sub-  
 17       paragraph:

18           “(E) EXCLUSION.—In the case of a con-  
 19       tribution to a church plan made on behalf of a  
 20       minister described in subparagraph (A)(i)(II),  
 21       such contribution shall not be included in the  
 22       gross income of the minister to the extent that  
 23       such contribution would not be so included if  
 24       the minister was an employee of a church.”.



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

4 **SEC. 716. REPEAL OF APPLICATION OF UNRELATED BUSI-**  
 5 **NESS INCOME TAX TO ESOPS.**

6 (a) IN GENERAL.—Section 512(e) is amended—

7 (1) by striking “described in section  
 8 1361(c)(7)” in paragraph (1) and inserting “de-  
 9 scribed in section 501(c)(3) and exempt from tax-  
 10 ation under section 501(a)”, and

11 (2) by inserting “CHARITABLE ORGANIZATIONS  
 12 HOLDING STOCK IN” after “APPLICABLE TO” in the  
 13 heading.

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

17 **Subtitle C—Revisions Relating to**  
 18 **Disasters**

19 **SEC. 721. TREATMENT OF LIVESTOCK SOLD ON ACCOUNT**  
 20 **OF WEATHER-RELATED CONDITIONS.**

21 (a) DEFERRAL OF INCOME INCLUSION.—Subsection  
 22 (e) of section 451 (relating to special rules for proceeds  
 23 from livestock sold on account of drought) is amended—

24 (1) by striking “drought conditions, and that  
 25 these drought conditions” in paragraph (1) and in-

1       serting “drought, flood, or other weather-related  
2       conditions, and that such conditions”; and

3           (2) by inserting “, FLOOD, OR OTHER WEATH-  
4       ER-RELATED CONDITIONS” after “DROUGHT” in the  
5       subsection heading.

6       (b) INVOLUNTARY CONVERSIONS.—Subsection (e) of  
7       section 1033 (relating to livestock sold on account of  
8       drought) is amended—

9           (1) by inserting “, flood, or other weather-relat-  
10      ed conditions” before the period at the end thereof;  
11      and

12          (2) by inserting “, FLOOD, OR OTHER WEATH-  
13      ER-RELATED CONDITIONS” after “DROUGHT” in the  
14      subsection heading.

15      (c) EFFECTIVE DATE.—The amendments made by  
16      this section shall apply to sales and exchanges after De-  
17      cember 31, 1996.

18   **SEC. 722. GAIN OR LOSS FROM SALE OF LIVESTOCK DIS-**  
19                   **REGARDED FOR PURPOSES OF EARNED IN-**  
20                   **COME CREDIT.**

21      (a) IN GENERAL.—Section 32(i)(2)(D) (relating to  
22      disqualified income) is amended by inserting “determined  
23      without regard to gain or loss from the sale of livestock  
24      described in section 1231(b)(3),” after “taxable year,”.

1 (b) EFFECTIVE DATE.—The amendment made by  
 2 this section shall apply to taxable years beginning after  
 3 December 31, 1995.

4 **SEC. 723. MORTGAGE FINANCING FOR RESIDENCES LO-**  
 5 **CATED IN DISASTER AREAS.**

6 Subsection (k) of section 143 (relating to mortgage  
 7 revenue bonds; qualified mortgage bond and qualified vet-  
 8 eran’s mortgage bond) is amended by adding at the end  
 9 the following new paragraph:

10 “(11) SPECIAL RULES FOR RESIDENCES LO-  
 11 CATED IN DISASTER AREAS.—In the case of a resi-  
 12 dence located in an area determined by the Presi-  
 13 dent to warrant assistance from the Federal Govern-  
 14 ment under the Disaster Relief and Emergency As-  
 15 sistance Act (as in effect on the date of the enact-  
 16 ment of the Revenue Reconciliation Act of 1997),  
 17 this section shall be applied with the following modi-  
 18 fications to financing provided with respect to such  
 19 residence within 1 year after the date of the disaster  
 20 declaration:

21 “(A) Subsection (d) (relating to 3-year re-  
 22 quirement) shall not apply.

23 “(B) Subsections (e) and (f) (relating to  
 24 purchase price requirement and income require-

1           ment) shall be applied as if such residence were  
2           a targeted area residence.

3           The preceding sentence shall apply only with respect  
4           to bonds issued after December 31, 1996, and before  
5           January 1, 1999.”

## 6       **Subtitle D—Provisions Relating to** 7               **Small Businesses**

### 8       **SEC. 731. WAIVER OF PENALTY THROUGH JUNE 30, 1998, ON** 9               **SMALL BUSINESSES FAILING TO MAKE ELEC-** 10              **TRONIC FUND TRANSFERS OF TAXES.**

11           No penalty shall be imposed under the Internal Reve-  
12 nue Code of 1986 solely by reason of a failure by a person  
13 to use the electronic fund transfer system established  
14 under section 6302(h) of such Code if—

15           (1) such person is a member of a class of tax-  
16 payers first required to use such system on or after  
17 July 1, 1997, and

18           (2) such failure occurs before July 1, 1998.

### 19       **SEC. 732. MINIMUM TAX NOT TO APPLY TO FARMERS’ IN-** 20              **STALLMENT SALES.**

21           (a) IN GENERAL.—Subsection (a) of section 56 is  
22 amended by striking paragraph (6) (relating to treatment  
23 of installment sales).

24           (b) EFFECTIVE DATES.—

1           (1) IN GENERAL.—The amendment made by  
 2           this section shall apply to dispositions in taxable  
 3           years beginning after December 31, 1987.

4           (2) SPECIAL RULE FOR 1987.—In the case of  
 5           taxable years beginning in 1987, the last sentence of  
 6           section 56(a)(6) of the Internal Revenue Code of  
 7           1986 (as in effect for such taxable years) shall be  
 8           applied by inserting “or in the case of a taxpayer  
 9           using the cash receipts and disbursements method of  
 10          accounting, any disposition described in section  
 11          453C(e)(1)(B)(ii)” after “section 453C(e)(4)”.

## 12           **Subtitle E—Foreign Provisions**

### 13                   **PART I—GENERAL PROVISIONS**

#### 14           **SEC. 741. TREATMENT OF COMPUTER SOFTWARE AS FSC** 15                   **EXPORT PROPERTY.**

16          (a) IN GENERAL.—Subparagraph (B) of section  
 17          927(a)(2) (relating to property excluded from eligibility as  
 18          FSC export property) is amended by inserting “, and  
 19          other than computer software (whether or not patented)”  
 20          before “, for commercial or home use”.

21          (b) EFFECTIVE DATE.—The amendment made by  
 22          subsection (a) shall apply to gross receipts attributable to  
 23          periods after December 31, 1997, in taxable years ending  
 24          after such date.

1 **SEC. 742. DENIAL OF TREATY BENEFITS FOR CERTAIN PAY-**  
2 **MENTS THROUGH HYBRID ENTITIES.**

3 (a) IN GENERAL.—Section 894 (relating to income  
4 affected by treaty) is amended by inserting after sub-  
5 section (b) the following new subsection:

6 “(c) DENIAL OF TREATY BENEFITS FOR CERTAIN  
7 PAYMENTS THROUGH HYBRID ENTITIES.—The Secretary  
8 shall prescribe such regulations as may be necessary or  
9 appropriate to determine the extent to which a taxpayer  
10 shall be denied benefits under any income tax treaty of  
11 the United States with respect to any payment received  
12 by, or income attributable to any activities of, an entity  
13 organized in any jurisdiction (including the United States)  
14 that is treated as a partnership or is otherwise treated  
15 as fiscally transparent for United States Federal income  
16 tax purposes (including a common investment trust under  
17 section 584, a grantor trust, or an entity that is dis-  
18 regarded for United States Federal income tax purposes)  
19 and is treated as fiscally nontransparent for purposes of  
20 the tax laws of the jurisdiction of residence of the tax-  
21 payer.”

22 (b) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply upon the date of enactment of this  
24 Act.

1 **SEC. 743. UNITED STATES PROPERTY NOT TO INCLUDE**  
2 **CERTAIN ASSETS ACQUIRED BY DEALERS IN**  
3 **ORDINARY COURSE OF TRADE OR BUSINESS.**

4 (a) IN GENERAL.—Section 956(c)(2) is amended by  
5 striking “and” at the end of subparagraph (H), by strik-  
6 ing the period at the end of subparagraph (I) and insert-  
7 ing a semicolon, and by adding at the end the following  
8 new subparagraphs:

9 “(J) deposits of cash or securities made or  
10 received on commercial terms in the ordinary  
11 course of a United States or foreign person’s  
12 business as a dealer in securities or in commod-  
13 ities, but only to the extent such deposits are  
14 made or received as collateral or margin for (i)  
15 a securities loan, notional principal contract,  
16 options contract, forward contract, or futures  
17 contract, or (ii) any other financial transaction  
18 in which the Secretary determines that it is cus-  
19 tomary to post collateral or margin; and

20 “(K) an obligation of a United States per-  
21 son to the extent the principal amount of the  
22 obligation does not exceed the fair market value  
23 of readily marketable securities sold or pur-  
24 chased pursuant to a sale and repurchase  
25 agreement or otherwise posted or received as  
26 collateral for the obligation in the ordinary

1 course of its business by a United States or for-  
 2 eign person which is a dealer in securities or  
 3 commodities.

4 For purposes of subparagraphs (J) and (K), the  
 5 term ‘dealer in securities’ has the meaning given  
 6 such term by section 475(c)(1), and the term ‘dealer  
 7 in commodities’ means a futures commission mer-  
 8 chant or any person which would be a dealer in se-  
 9 curities if securities under section 475(c)(2) included  
 10 commodities, evidences of an interest in commod-  
 11 ities, and derivative instruments in respect of com-  
 12 modities (other than any activity gain or loss from  
 13 which is described in section 1256(a)(3)).”

14 (b) EFFECTIVE DATE.—The amendments made by  
 15 this section shall apply to taxable years of foreign corpora-  
 16 tions beginning after December 31, 1997, and to taxable  
 17 years of United States shareholders with or within which  
 18 such taxable years of foreign corporations end.

19 **SEC. 744. EXEMPTION FOR ACTIVE FINANCING INCOME.**

20 (a) EXEMPTION FROM FOREIGN PERSONAL HOLD-  
 21 ING COMPANY INCOME.—Subsection (c) of section 954 is  
 22 amended by adding at the end the following new para-  
 23 graph:

24 “(4) CERTAIN INCOME DERIVED IN ACTIVE  
 25 CONDUCT OF TRADE OR BUSINESS.—



1           “(A) IN GENERAL.—For purposes of para-  
2 graph (1), foreign personal holding company in-  
3 come shall not include income which is—

4           “(i) derived in or incident to the ac-  
5 tive conduct by a controlled foreign cor-  
6 poration of a banking, financing, or similar  
7 business, but only if the corporation is pre-  
8 dominantly engaged in the active conduct  
9 of such business,

10          “(ii) received from a person other  
11 than a related person (within the meaning  
12 of subsection (d)(3)) and derived from the  
13 investments made by a qualifying insur-  
14 ance company of its unearned premiums or  
15 reserves ordinary and necessary for the  
16 proper conduct of its insurance business,  
17 or

18          “(iii) received from a person other  
19 than a related person (within the meaning  
20 of subsection (d)(3)) and derived from in-  
21 vestments made by a qualifying insurance  
22 company of an amount of its assets equal  
23 to—

24           “(I) in the case of contracts reg-  
25 ulated in the country in which sold as

1 property, casualty, or health insurance  
2 contracts, one-third of its premiums  
3 earned on insurance contracts during  
4 the taxable year (as defined in section  
5 832(b)(4)), and

6 “(II) in the case of contracts reg-  
7 ulated in the country in which sold as  
8 life insurance or annuity contracts,  
9 the greater of 10 percent of the re-  
10 serves described in clause (ii) or  
11 \$10,000,000,

12 which are not directly or indirectly attrib-  
13 utable to the insurance or reinsurance of  
14 risks of persons who are related persons  
15 (within the meaning of subsection (d)(3)).

16 “(B) APPLICABLE PRINCIPLES.—

17 “(i) BANKING, ETC. INCOME.—The  
18 Secretary shall prescribe regulations which  
19 interpret subparagraph (A)(i) in accord-  
20 ance with the applicable principles of sec-  
21 tion 904(d)(2)(C), except that in prescrib-  
22 ing such regulations, the Secretary shall  
23 include income from all leases in income  
24 from a banking, financing, or similar busi-  
25 ness.

1           “(ii) LOOK-THRU RULES.—The Sec-  
 2           retary shall prescribe regulations consist-  
 3           ent with the principles of section 904(d)(3)  
 4           which provide that dividends, interest, in-  
 5           come equivalent to interest, rents, or royal-  
 6           ties received or accrued from a related per-  
 7           son (within the meaning of subsection  
 8           (d)(3)) shall be subject to look-thru treat-  
 9           ment for purposes of this section.

10           “(iii) SPECIAL RULE FOR BANKING OR  
 11           SECURITIES BUSINESS.—In the case of a  
 12           corporation described in subparagraph  
 13           (C)(ii), the regulations under clauses (i)  
 14           and (ii) shall be consistent with the appli-  
 15           cable principles of section 1296(b) (as in  
 16           effect on the day before the enactment of  
 17           the Revenue Reconciliation Act of 1997).

18           “(C) PREDOMINANTLY ENGAGED.—For  
 19           purposes of subparagraph (A)(i), a corporation  
 20           shall be deemed predominantly engaged in the  
 21           active conduct of a banking, financing, or simi-  
 22           lar business only if—

23           “(i) more than 70 percent of its gross  
 24           income from such business is derived from  
 25           transactions with unrelated persons (as de-

1            fined in subsection (d)(3)), and more than  
2            20 percent of its gross income from that  
3            business is derived from transactions with  
4            unrelated persons (as so defined) located  
5            within the country under the laws of which  
6            the controlled foreign corporation is cre-  
7            ated or organized, or

8            “(ii) the corporation is—

9                    “(I) predominantly engaged in  
10                   the active conduct of a banking or se-  
11                   curities business (within the meaning  
12                   of section 1296(b), as in effect before  
13                   the enactment of the Revenue Rec-  
14                   onciliation Act of 1997), or

15                   “(II) a qualified bank affiliate or  
16                   a qualified securities affiliate for pur-  
17                   poses of section 1296(b) (as so in ef-  
18                   fect).

19            “(D) QUALIFYING INSURANCE COMPANY.—

20            For purposes of clauses (ii) and (iii) of sub-  
21            paragraph (A), the term ‘qualifying insurance  
22            company’ means any entity which is subject to  
23            regulation as an insurance company under the  
24            laws of its country of incorporation and which  
25            realizes at least 50 percent of its gross income

(other than gross income derived from investments) from premiums written on risks situated within its country of incorporation.

“(E) APPLICATION.—This paragraph shall apply to taxable years of foreign corporations beginning after December 31, 1997, and before January 1, 1999, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.”

(b) EXEMPTION FROM FOREIGN BASE COMPANY SERVICES INCOME.—Paragraph (2) of section 954(e) is amended by striking “or” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, or”, and by adding at the end the following:

“(C) in the case of taxable years described in subsection (c)(4)(E), the active conduct by a controlled foreign corporation of a banking, financing, insurance, or similar business, but only if the corporation is predominantly engaged in the active conduct of that business (within the meaning of subsection (c)(4)(C)).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1997, and before January 1, 1999, and to taxable years of United States share-

1 holders with or within which such taxable years of foreign  
2 corporations end.

3 **SEC. 745. TREATMENT OF NONRESIDENT ALIENS ENGAGED**  
4 **IN INTERNATIONAL TRANSPORTATION SERV-**  
5 **ICES.**

6 (a) SOURCING RULES.—

7 (1) IN GENERAL.—Section 861(a)(3) is amend-  
8 ed by adding at the end the following new flush sen-  
9 tence:

10 “In addition, compensation for labor or services per-  
11 formed in the United States shall not be deemed to  
12 be income from sources within the United States if  
13 the labor or services are performed by a nonresident  
14 alien individual in connection with the individual’s  
15 temporary presence in the United States as a regu-  
16 lar member of the crew of a foreign vessel engaged  
17 in transportation between the United States and a  
18 foreign country or a possession of the United  
19 States.”

20 (2) TRANSPORTATION INCOME.—Subparagraph  
21 (B) of section 863(c)(2) is amended by adding at  
22 the end the following flush sentence:

23 “In the case of transportation income derived  
24 from, or in connection with, a vessel, this sub-

1 paragraph shall only apply if the taxpayer is a  
 2 citizen or resident alien.”

3 (3) CONFORMING AMENDMENT.—Section  
 4 410(b)(3)(C) is amended by inserting “without re-  
 5 gard to the last sentence thereof” after “section  
 6 861(a)(3)”.

7 (b) EXCLUSION FROM INCOME.—Section 872(b) is  
 8 amended by redesignating paragraphs (6) and (7) as para-  
 9 graphs (7) and (8), respectively, and by inserting after  
 10 paragraph (5) the following new paragraph:

11 “(6) PERSONAL SERVICES OF CREW MEM-  
 12 BERS.—Income derived by an individual resident of  
 13 a foreign country from personal services as a regular  
 14 crew member on board a vessel to which paragraph  
 15 (1) applies.”

16 (c) PRESENCE IN UNITED STATES.—

17 (1) IN GENERAL.—Paragraph (7) of section  
 18 7701(b) is amended by adding at the end the follow-  
 19 ing new subparagraph:

20 “(D) CREW MEMBERS TEMPORARILY  
 21 PRESENT.—If an individual is temporarily  
 22 present in the United States as a regular mem-  
 23 ber of the crew of a foreign vessel engaged in  
 24 transportation between the United States and a  
 25 foreign country or a possession of the United

1 States, such individual shall not be treated as  
 2 present in the United States on any such day.”

3 (2) CONFORMING AMENDMENT.—Subparagraph  
 4 (A) of section 7701(b)(7) is amended by striking “or  
 5 (C)” and inserting “, (C), or (D)”.

6 (d) EFFECTIVE DATES.—

7 (1) IN GENERAL.—The amendments made by  
 8 this section shall apply to remuneration for services  
 9 performed in taxable years beginning after Decem-  
 10 ber 31, 1997.

11 (2) PRESENCE.—The amendment made by sub-  
 12 section (c) shall apply to taxable years beginning  
 13 after December 31, 1997.

14 **PART II—TREATMENT OF PASSIVE FOREIGN**  
 15 **INVESTMENT COMPANIES**

16 **SEC. 751. UNITED STATES SHAREHOLDERS OF CON-**  
 17 **TROLLED FOREIGN CORPORATIONS NOT**  
 18 **SUBJECT TO PFIC INCLUSION.**

19 Section 1296 is amended by adding at the end the  
 20 following new subsection:

21 “(e) EXCEPTION FOR UNITED STATES SHAREHOLD-  
 22 ERS OF CONTROLLED FOREIGN CORPORATIONS.—

23 “(1) IN GENERAL.—For purposes of this part,  
 24 a corporation shall not be treated with respect to a  
 25 shareholder as a passive foreign investment company



1 during the qualified portion of such shareholder's  
 2 holding period with respect to stock in such corpora-  
 3 tion.

4 “(2) QUALIFIED PORTION.—For purposes of  
 5 this subsection, the term ‘qualified portion’ means  
 6 the portion of the shareholder’s holding period—

7 “(A) which is after December 31, 1997,  
 8 and

9 “(B) during which the shareholder is a  
 10 United States shareholder (as defined in section  
 11 951(b)) of the corporation and the corporation  
 12 is a controlled foreign corporation.

13 “(3) NEW HOLDING PERIOD IF QUALIFIED POR-  
 14 TION ENDS.—

15 “(A) IN GENERAL.—Except as provided in  
 16 subparagraph (B), if the qualified portion of a  
 17 shareholder’s holding period with respect to any  
 18 stock ends after December 31, 1997, solely for  
 19 purposes of this part, the shareholder’s holding  
 20 period with respect to such stock shall be treat-  
 21 ed as beginning as of the first day following  
 22 such period.

23 “(B) EXCEPTION.—Subparagraph (A)  
 24 shall not apply if such stock was, with respect  
 25 to such shareholder, stock in a passive foreign

1 investment company at any time before the  
 2 qualified portion of the shareholder's holding  
 3 period with respect to such stock and no elec-  
 4 tion under section 1298(b)(1) is made.”

5 **SEC. 752. ELECTION OF MARK TO MARKET FOR MARKET-**  
 6 **ABLE STOCK IN PASSIVE FOREIGN INVEST-**  
 7 **MENT COMPANY.**

8 (a) IN GENERAL.—Part VI of subchapter P of chap-  
 9 ter 1 is amended by redesignating subpart C as subpart  
 10 D, by redesignating sections 1296 and 1297 as sections  
 11 1297 and 1298, respectively, and by inserting after sub-  
 12 part B the following new subpart:

13 **“Subpart C—Election of Mark to Market For**  
 14 **Marketable Stock**

“Sec. 1296. Election of mark to market for marketable stock.

15 **“SEC. 1296. ELECTION OF MARK TO MARKET FOR MARKET-**  
 16 **ABLE STOCK.**

17 “(a) GENERAL RULE.—In the case of marketable  
 18 stock in a passive foreign investment company which is  
 19 owned (or treated under subsection (g) as owned) by a  
 20 United States person at the close of any taxable year of  
 21 such person, at the election of such person—

22 “(1) If the fair market value of such stock as  
 23 of the close of such taxable year exceeds its adjusted  
 24 basis, such United States person shall include in

gross income for such taxable year an amount equal to the amount of such excess.

“(2) If the adjusted basis of such stock exceeds the fair market value of such stock as of the close of such taxable year, such United States person shall be allowed a deduction for such taxable year equal to the lesser of—

“(A) the amount of such excess, or

“(B) the unreversed inclusions with respect to such stock.

“(b) BASIS ADJUSTMENTS.—

“(1) IN GENERAL.—The adjusted basis of stock in a passive foreign investment company—

“(A) shall be increased by the amount included in the gross income of the United States person under subsection (a)(1) with respect to such stock, and

“(B) shall be decreased by the amount allowed as a deduction to the United States person under subsection (a)(2) with respect to such stock.

“(2) SPECIAL RULE FOR STOCK CONSTRUCTIVELY OWNED.—In the case of stock in a passive foreign investment company which the United States person is treated as owning under subsection (g)—

1           “(A) the adjustments under paragraph (1)  
2           shall apply to such stock in the hands of the  
3           person actually holding such stock but only for  
4           purposes of determining the subsequent treat-  
5           ment under this chapter of the United States  
6           person with respect to such stock, and

7           “(B) similar adjustments shall be made to  
8           the adjusted basis of the property by reason of  
9           which the United States person is treated as  
10          owning such stock.

11       “(c) CHARACTER AND SOURCE RULES.—

12       “(1) ORDINARY TREATMENT.—

13           “(A) GAIN.—Any amount included in gross  
14           income under subsection (a)(1), and any gain  
15           on the sale or other disposition of marketable  
16           stock in a passive foreign investment company  
17           (with respect to which an election under this  
18           section is in effect), shall be treated as ordinary  
19           income.

20           “(B) LOSS.—Any—

21               “(i) amount allowed as a deduction  
22               under subsection (a)(2), and

23               “(ii) loss on the sale or other disposi-  
24               tion of marketable stock in a passive for-  
25               eign investment company (with respect to

1           which an election under this section is in  
2           effect) to the extent that the amount of  
3           such loss does not exceed the unreversed  
4           inclusions with respect to such stock,  
5           shall be treated as an ordinary loss. The  
6           amount so treated shall be treated as a deduc-  
7           tion allowable in computing adjusted gross in-  
8           come.

9           “(2) SOURCE.—The source of any amount in-  
10          cluded in gross income under subsection (a)(1) (or  
11          allowed as a deduction under subsection (a)(2)) shall  
12          be determined in the same manner as if such  
13          amount were gain or loss (as the case may be) from  
14          the sale of stock in the passive foreign investment  
15          company.

16          “(d) UNREVERSED INCLUSIONS.—For purposes of  
17          this section, the term ‘unreversed inclusions’ means, with  
18          respect to any stock in a passive foreign investment com-  
19          pany, the excess (if any) of—

20               “(1) the amount included in gross income of  
21               the taxpayer under subsection (a)(1) with respect to  
22               such stock for prior taxable years, over

23               “(2) the amount allowed as a deduction under  
24               subsection (a)(2) with respect to such stock for prior  
25               taxable years.

1 The amount referred to in paragraph (1) shall include any  
2 amount which would have been included in gross income  
3 under subsection (a)(1) with respect to such stock for any  
4 prior taxable year but for section 1291.

5 “(e) MARKETABLE STOCK.—For purposes of this  
6 section—

7 “(1) IN GENERAL.—The term ‘marketable  
8 stock’ means—

9 “(A) any stock which is regularly traded  
10 on—

11 “(i) a national securities exchange  
12 which is registered with the Securities and  
13 Exchange Commission or the national mar-  
14 ket system established pursuant to section  
15 11A of the Securities and Exchange Act of  
16 1934, or

17 “(ii) any exchange or other market  
18 which the Secretary determines has rules  
19 adequate to carry out the purposes of this  
20 part,

21 “(B) to the extent provided in regulations,  
22 stock in any foreign corporation which is com-  
23 parable to a regulated investment company and  
24 which offers for sale or has outstanding any

1 stock of which it is the issuer and which is re-  
 2 deemable at its net asset value, and

3 “(C) to the extent provided in regulations,  
 4 any option on stock described in subparagraph  
 5 (A) or (B).

6 “(2) SPECIAL RULE FOR REGULATED INVEST-  
 7 MENT COMPANIES.—In the case of any regulated in-  
 8 vestment company which is offering for sale or has  
 9 outstanding any stock of which it is the issuer and  
 10 which is redeemable at its net asset value, all stock  
 11 in a passive foreign investment company which it  
 12 owns directly or indirectly shall be treated as mar-  
 13 ketable stock for purposes of this section. Except as  
 14 provided in regulations, similar treatment as mar-  
 15 ketable stock shall apply in the case of any other  
 16 regulated investment company which publishes net  
 17 asset valuations at least annually.

18 “(f) TREATMENT OF CONTROLLED FOREIGN COR-  
 19 PORATIONS WHICH ARE SHAREHOLDERS IN PASSIVE  
 20 FOREIGN INVESTMENT COMPANIES.—In the case of a for-  
 21 eign corporation which is a controlled foreign corporation  
 22 and which owns (or is treated under subsection (g) as own-  
 23 ing) stock in a passive foreign investment company—

24 “(1) this section (other than subsection (c)(2))  
 25 shall apply to such foreign corporation in the same

1 manner as if such corporation were a United States  
 2 person, and

3 “(2) for purposes of subpart F of part III of  
 4 subchapter N—

5 “(A) any amount included in gross income  
 6 under subsection (a)(1) shall be treated as for-  
 7 eign personal holding company income de-  
 8 scribed in section 954(c)(1)(A), and

9 “(B) any amount allowed as a deduction  
 10 under subsection (a)(2) shall be treated as a de-  
 11 duction allocable to foreign personal holding  
 12 company income so described.

13 “(g) STOCK OWNED THROUGH CERTAIN FOREIGN  
 14 ENTITIES.—Except as provided in regulations—

15 “(1) IN GENERAL.—For purposes of this sec-  
 16 tion, stock owned, directly or indirectly, by or for a  
 17 foreign partnership or foreign trust or foreign estate  
 18 shall be considered as being owned proportionately  
 19 by its partners or beneficiaries. Stock considered to  
 20 be owned by a person by reason of the application  
 21 of the preceding sentence shall, for purposes of ap-  
 22 plying such sentence, be treated as actually owned  
 23 by such person.

24 “(2) TREATMENT OF CERTAIN DISPOSITIONS.—

25 In any case in which a United States person is



1       treated as owning stock in a passive foreign invest-  
2       ment company by reason of paragraph (1)—

3               “(A) any disposition by the United States  
4               person or by any other person which results in  
5               the United States person being treated as no  
6               longer owning such stock, and

7               “(B) any disposition by the person owning  
8               such stock,  
9       shall be treated as a disposition by the United  
10      States person of the stock in the passive foreign in-  
11      vestment company.

12      “(h) COORDINATION WITH SECTION 851(b).—For  
13      purposes of paragraphs (2) and (3) of section 851(b), any  
14      amount included in gross income under subsection (a)  
15      shall be treated as a dividend.

16      “(i) STOCK ACQUIRED FROM A DECEDENT.—In the  
17      case of stock of a passive foreign investment company  
18      which is acquired by bequest, devise, or inheritance (or  
19      by the decedent’s estate) and with respect to which an  
20      election under this section was in effect as of the date of  
21      the decedent’s death, notwithstanding section 1014, the  
22      basis of such stock in the hands of the person so acquiring  
23      it shall be the adjusted basis of such stock in the hands  
24      of the decedent immediately before his death (or, if lesser,

1 the basis which would have been determined under section  
2 1014 without regard to this subsection).

3 “(j) COORDINATION WITH SECTION 1291 FOR FIRST  
4 YEAR OF ELECTION.—

5 “(1) TAXPAYERS OTHER THAN REGULATED IN-  
6 VESTMENT COMPANIES.—

7 “(A) IN GENERAL.—If the taxpayer elects  
8 the application of this section with respect to  
9 any marketable stock in a corporation after the  
10 beginning of the taxpayer’s holding period in  
11 such stock, and if the requirements of subpara-  
12 graph (B) are not satisfied, section 1291 shall  
13 apply to—

14 “(i) any distributions with respect to,  
15 or disposition of, such stock in the first  
16 taxable year of the taxpayer for which such  
17 election is made, and

18 “(ii) any amount which, but for sec-  
19 tion 1291, would have been included in  
20 gross income under subsection (a) with re-  
21 spect to such stock for such taxable year in  
22 the same manner as if such amount were  
23 gain on the disposition of such stock.

24 “(B) REQUIREMENTS.—The requirements  
25 of this subparagraph are met if, with respect to

each of such corporation's taxable years for which such corporation was a passive foreign investment company and which begin after December 31, 1986, and included any portion of the taxpayer's holding period in such stock, such corporation was treated as a qualified electing fund under this part with respect to the taxpayer.

“(2) SPECIAL RULES FOR REGULATED INVESTMENT COMPANIES.—

“(A) IN GENERAL.—If a regulated investment company elects the application of this section with respect to any marketable stock in a corporation after the beginning of the taxpayer's holding period in such stock, then, with respect to such company's first taxable year for which such company elects the application of this section with respect to such stock—

“(i) section 1291 shall not apply to such stock with respect to any distribution or disposition during, or amount included in gross income under this section for, such first taxable year, but

“(ii) such regulated investment company's tax under this chapter for such first

1 taxable year shall be increased by the ag-  
 2 gregate amount of interest which would  
 3 have been determined under section  
 4 1291(c)(3) if section 1291 were applied  
 5 without regard to this subparagraph.

6 Clause (ii) shall not apply if for the preceding  
 7 taxable year the company elected to mark to  
 8 market the stock held by such company as of  
 9 the last day of such preceding taxable year.

10 “(B) DISALLOWANCE OF DEDUCTION.—No  
 11 deduction shall be allowed to any regulated in-  
 12 vestment company for the increase in tax under  
 13 subparagraph (A)(ii).

14 “(k) ELECTION.—This section shall apply to market-  
 15 able stock in a passive foreign investment company which  
 16 is held by a United States person only if such person elects  
 17 to apply this section with respect to such stock. Such an  
 18 election shall apply to the taxable year for which made  
 19 and all subsequent taxable years unless—

20 “(1) such stock ceases to be marketable stock,  
 21 or

22 “(2) the Secretary consents to the revocation of  
 23 such election.

24 “(l) TRANSITION RULE FOR INDIVIDUALS BECOMING  
 25 SUBJECT TO UNITED STATES TAX.—If any individual be-

1 comes a United States person in a taxable year beginning  
 2 after December 31, 1997, solely for purposes of this sec-  
 3 tion, the adjusted basis (before adjustments under sub-  
 4 section (b)) of any marketable stock in a passive foreign  
 5 investment company owned by such individual on the first  
 6 day of such taxable year shall be treated as being the  
 7 greater of its fair market value on such first day or its  
 8 adjusted basis on such first day.”

9 (b) COORDINATION WITH INTEREST CHARGE,  
 10 ETC.—

11 (1) Paragraph (1) of section 1291(d) is amend-  
 12 ed by adding at the end the following new flush sen-  
 13 tence:

14 “Except as provided in section 1296(j), this section  
 15 also shall not apply if an election under section  
 16 1296(k) is in effect for the taxpayer’s taxable year.”

17 (2) The subsection heading for subsection (d) of  
 18 section 1291 is amended by striking “SUBPART B”  
 19 and inserting “SUBPARTS B AND C”.

20 (3) Subparagraph (A) of section 1291(a)(3) is  
 21 amended to read as follows:

22 “(A) HOLDING PERIOD.—The taxpayer’s  
 23 holding period shall be determined under sec-  
 24 tion 1223; except that—

1 “(i) for purposes of applying this sec-  
 2 tion to an excess distribution, such holding  
 3 period shall be treated as ending on the  
 4 date of such distribution, and

5 “(ii) if section 1296 applied to such  
 6 stock with respect to the taxpayer for any  
 7 prior taxable year, such holding period  
 8 shall be treated as beginning on the first  
 9 day of the first taxable year beginning  
 10 after the last taxable year for which sec-  
 11 tion 1296 so applied.”

12 (c) TREATMENT OF MARK-TO-MARKET GAIN UNDER  
 13 SECTION 4982.—

14 (1) Subsection (e) of section 4982 is amended  
 15 by adding at the end thereof the following new para-  
 16 graph:

17 “(6) TREATMENT OF GAIN RECOGNIZED UNDER  
 18 SECTION 1296.—For purposes of determining a regu-  
 19 lated investment company’s ordinary income—

20 “(A) notwithstanding paragraph (1)(C),  
 21 section 1296 shall be applied as if such compa-  
 22 ny’s taxable year ended on October 31, and

23 “(B) any ordinary gain or loss from an ac-  
 24 tual disposition of stock in a passive foreign in-  
 25 vestment company during the portion of the

1           calendar year after October 31 shall be taken  
2           into account in determining such regulated in-  
3           vestment company's ordinary income for the  
4           following calendar year.

5           In the case of a company making an election under  
6           paragraph (4), the preceding sentence shall be ap-  
7           plied by substituting the last day of the company's  
8           taxable year for October 31."

9           (2) Subsection (b) of section 852 is amended by  
10          adding at the end thereof the following new para-  
11          graph:

12               “(10) SPECIAL RULE FOR CERTAIN LOSSES ON  
13          STOCK IN PASSIVE FOREIGN INVESTMENT COM-  
14          PANY.—To the extent provided in regulations, the  
15          taxable income of a regulated investment company  
16          (other than a company to which an election under  
17          section 4982(e)(4) applies) shall be computed with-  
18          out regard to any net reduction in the value of any  
19          stock of a passive foreign investment company with  
20          respect to which an election under section 1296(k)  
21          is in effect occurring after October 31 of the taxable  
22          year, and any such reduction shall be treated as oc-  
23          curring on the first day of the following taxable  
24          year.”

1           (3) Subsection (c) of section 852 is amended by  
 2           inserting after “October 31 of such year” the follow-  
 3           ing: “, without regard to any net reduction in the  
 4           value of any stock of a passive foreign investment  
 5           company with respect to which an election under  
 6           section 1296(k) is in effect occurring after October  
 7           31 of such year,”.

8           (d) CONFORMING AMENDMENTS.—

9           (1) Sections 532(b)(4) and 542(c)(10) are each  
 10          amended by striking “section 1296” and inserting  
 11          “section 1297”.

12          (2) Subsection (f) of section 551 is amended by  
 13          striking “section 1297(b)(5)” and inserting “section  
 14          1298(b)(5)”

15          (3) Subsections (a)(1) and (d) of section 1293  
 16          are each amended by striking “section 1297(a)” and  
 17          inserting “section 1298(a)”.

18          (4) Paragraph (3) of section 1297(b), as redes-  
 19          ignated by subsection (a), is hereby repealed.

20          (5) The table of sections for subpart D of part  
 21          VI of subchapter P of chapter 1, as redesignated by  
 22          subsection (a), is amended to read as follows:

“Sec. 1297. Passive foreign investment company.  
 “Sec. 1298. Special rules.”



1           (6) The table of subparts for part VI of sub-  
 2           chapter P of chapter 1 is amended by striking the  
 3           last item and inserting the following new items:

                  “Subpart C. Election of mark to market for marketable stock.  
                   “Subpart D. General provisions.”

4           (e) CLARIFICATION OF GAIN RECOGNITION ELEC-  
 5           TION.—The last sentence of section 1298(b)(1), as so re-  
 6           designated, is amended by inserting “(determined without  
 7           regard to the preceding sentence)” after “investment com-  
 8           pany”.

9           **SEC. 753. EFFECTIVE DATE.**

10          The amendments made by this part shall apply to—

11               (1) taxable years of United States persons be-  
 12               ginning after December 31, 1997, and

13               (2) taxable years of foreign corporations ending  
 14               with or within such taxable years of United States  
 15               persons.

16           **Subtitle F—Other Provisions**

17           **SEC. 761. TAX-EXEMPT STATUS FOR CERTAIN STATE WORK-**  
 18                       **ER’S COMPENSATION ACT COMPANIES.**

19           (a) IN GENERAL.—Section 501(c)(27) (relating to  
 20           membership organizations under workmen’s compensation  
 21           acts) is amended by adding at the end the following:

22                       “(B) Any organization (including a mutual in-  
 23                       surance company) if—

1           “(i) such organization is created by State  
2 law and is organized and operated under State  
3 law exclusively to—

4           “(I) provide workmen’s compensation  
5 insurance which is required by State law or  
6 with respect to which State law provides  
7 significant disincentives if such insurance  
8 is not purchased by an employer, and

9           “(II) provide related coverage which is  
10 incidental to workmen’s compensation in-  
11 surance,

12          “(ii) such organization must provide work-  
13 men’s compensation insurance to any employer  
14 in the State (for employees in the State or tem-  
15 porarily assigned out-of-State) which seeks such  
16 insurance and meets other reasonable require-  
17 ments relating thereto,

18          “(iii)(I) the State makes a financial com-  
19 mitment with respect to such organization ei-  
20 ther by extending the full faith and credit of  
21 the State to debt of such organization or by  
22 providing the initial operating capital of such  
23 organization and (II) in the case of periods  
24 after the date of enactment of this subpara-

1 graph, the assets of such organization revert to  
 2 the State upon dissolution, and

3 “(iv) the majority of the board of directors  
 4 or oversight body of such organization are ap-  
 5 pointed by the chief executive officer or other  
 6 executive branch official of the State, by the  
 7 State legislature, or by both.”

8 (b) CONFORMING AMENDMENTS.—Section  
 9 501(c)(27) of such Code is amended by inserting “(A)”  
 10 after “(27)”, by redesignating subparagraphs (A), (B),  
 11 and (C) as clauses (i), (ii), and (iii), respectively, and by  
 12 redesignating clauses (i) and (ii) of subparagraphs (B)  
 13 and (C) (before redesignation) as subclauses (I) and (II),  
 14 respectively.

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

18 **SEC. 762. ELECTION TO CONTINUE EXCEPTION FROM**  
 19 **TREATMENT OF PUBLICLY TRADED PART-**  
 20 **NERSHIPS AS CORPORATIONS.**

21 (a) IN GENERAL.—Section 7704 is amended by add-  
 22 ing at the end thereof the following new subsection:

23 “(g) EXCEPTION FOR EXISTING PUBLICLY TRADED  
 24 PARTNERSHIPS.—

1           “(1) IN GENERAL.—Subsection (a) shall not  
2       apply to an existing publicly traded partnership  
3       which elects the application of this subsection and  
4       consents to the application of the tax imposed by  
5       paragraph (3).

6           “(2) EXISTING PUBLICLY TRADED PARTNER-  
7       SHIP.—For purposes of this section, the term ‘exist-  
8       ing publicly traded partnership’ means any publicly  
9       traded partnership to which subsection (a) does not  
10      apply as of the date of the enactment of this para-  
11      graph (other than by reason of subsection (c)(1)).

12          “(3) ADDITIONAL TAX ON ELECTING PUBLICLY  
13      TRADED PARTNERSHIPS.—

14           “(A) IMPOSITION OF TAX.—There is here-  
15       by imposed for each taxable year on the income  
16       of every electing publicly traded partnership a  
17       tax equal to 3.5 percent of the gross income for  
18       such taxable year from the active conduct of  
19       trades and businesses by the partnership.

20           “(B) ELECTING PUBLICLY TRADED PART-  
21      NERSHIP.—For purposes of this paragraph, the  
22      term ‘electing publicly traded partnership’  
23      means any partnership for which the consent  
24      under paragraph (1) is in effect.

1           “(C) ADJUSTMENTS IN THE CASE OF  
2           TIERED PARTNERSHIPS.—For purposes of this  
3           paragraph, if the income of the partnership in-  
4           cludes its distributive share of income from an-  
5           other partnership for any taxable year, the  
6           gross income referred to in subparagraph (A)  
7           shall include the gross income of such other  
8           partnership from the active conduct of trades  
9           and businesses of such other partnership (in  
10          lieu of such distributive share). A similar rule  
11          shall apply in the case of lower-tiered partner-  
12          ships.

13          “(D) TREATMENT OF TAX.—For purposes  
14          of this title, the tax imposed by this paragraph  
15          shall be treated as imposed by chapter 1 other  
16          than for purposes of determining the amount of  
17          any credit allowable under chapter 1.

18          “(4) ELECTION.—An election and consent  
19          under this subsection shall apply to the taxable year  
20          for which made and all subsequent taxable years un-  
21          less revoked by the partnership. Such revocation  
22          may be made without the consent of the Secretary,  
23          but, once so revoked, may not be reinstated.”.

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

4 **SEC. 763. EXCLUSION FROM UNRELATED BUSINESS TAX-**  
 5 **ABLE INCOME FOR CERTAIN SPONSORSHIP**  
 6 **PAYMENTS.**

7 (a) IN GENERAL.—Section 513 (relating to unrelated  
 8 trade or business income) is amended by adding at the  
 9 end the following new subsection:

10 “(i) TREATMENT OF CERTAIN SPONSORSHIP PAY-  
 11 MENTS.—

12 “(1) IN GENERAL.—The term ‘unrelated trade  
 13 or business’ does not include the activity of soliciting  
 14 and receiving qualified sponsorship payments.

15 “(2) QUALIFIED SPONSORSHIP PAYMENTS.—  
 16 For purposes of this subsection—

17 “(A) IN GENERAL.—The term ‘qualified  
 18 sponsorship payment’ means any payment made  
 19 by any person engaged in a trade or business  
 20 with respect to which there is no arrangement  
 21 or expectation that such person will receive any  
 22 substantial return benefit other than the use or  
 23 acknowledgement of the name or logo (or prod-  
 24 uct lines) of such person’s trade or business in  
 25 connection with the activities of the organiza-

tion that receives such payment. Such a use or acknowledgement does not include advertising such person's products or services (including messages containing qualitative or comparative language, price information or other indications of savings or value, an endorsement, or an inducement to purchase, sell, or use such products or services).

“(B) LIMITATIONS.—

“(i) CONTINGENT PAYMENTS.—The term ‘qualified sponsorship payment’ does not include any payment if the amount of such payment is contingent upon the level of attendance at one or more events, broadcast ratings, or other factors indicating the degree of public exposure to one or more events.

“(ii) ACKNOWLEDGEMENTS OR ADVERTISING IN PERIODICALS.—The term ‘qualified sponsorship payment’ does not include any payment which entitles the payor to an acknowledgement or advertising in regularly scheduled and printed material published by or on behalf of the payee organization that is not related to

1 and primarily distributed in connection  
 2 with a specific event conducted by the  
 3 payee organization.

4 “(3) ALLOCATION OF PORTIONS OF SINGLE  
 5 PAYMENT.—For purposes of this subsection, to the  
 6 extent that a portion of a payment would (if made  
 7 as a separate payment) be a qualified sponsorship  
 8 payment, such portion of such payment and the  
 9 other portion of such payment shall be treated as  
 10 separate payments.”.

11 (b) EFFECTIVE DATE.—The amendment made by  
 12 this section shall apply to payments solicited or received  
 13 after December 31, 1997.

14 **SEC. 764. ASSOCIATIONS OF HOLDERS OF TIMESHARE IN-**  
 15 **TERESTS TO BE TAXED LIKE OTHER HOME-**  
 16 **OWNERS ASSOCIATIONS.**

17 (a) TIMESHARE ASSOCIATIONS INCLUDED AS HOME-  
 18 OWNER ASSOCIATIONS.—

19 (1) IN GENERAL.—Paragraph (1) of section  
 20 528(c) (defining homeowners association) is amend-  
 21 ed—

22 (A) by striking “or a residential real estate  
 23 management association” and inserting “, a  
 24 residential real estate management association,



or a timeshare association” in the material preceding subparagraph (A),

(B) by striking “or” at the end of clause (i) of subparagraph (B), by striking the period at the end of clause (ii) of subparagraph (B) and inserting “, or”, and by adding at the end of subparagraph (B) the following new clause:

“(iii) owners of timeshare rights to use, or timeshare ownership interests in, association property in the case of a timeshare association,” and

(C) by inserting “and, in the case of a timeshare association, for activities provided to or on behalf of members of the association” before the comma at the end of subparagraph (C).

(2) **TIMESHARE ASSOCIATION DEFINED.**—Subsection (c) of section 528 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

“(4) **TIMESHARE ASSOCIATION.**—The term ‘timeshare association’ means any organization (other than a condominium management association) meeting the requirement of subparagraph (A) of paragraph (1) if any member thereof holds a timeshare right to use, or a timeshare ownership in-

1       terest in, real property constituting association prop-  
2       erty.”

3       (b) EXEMPT FUNCTION INCOME.—Paragraph (3) of  
4       section 528(d) is amended by striking “or” at the end of  
5       subparagraph (A), by striking the period at the end of  
6       subparagraph (B) and inserting “, or”, and by adding at  
7       the end the following new subparagraph:

8               “(C) owners of timeshare rights to use, or  
9               timeshare ownership interests in, real property  
10              in the case of a timeshare association.”

11       (c) ASSOCIATION PROPERTY.—Paragraph (5) of sec-  
12       tion 528(c), as redesignated by paragraph (2), is amended  
13       by adding at the end the following new flush sentence:

14              “‘In the case of a timeshare association, such term  
15              includes property in which the timeshare association,  
16              or members of the association, have rights arising  
17              out of recorded easements, covenants, or other re-  
18              corded instruments to use property related to the  
19              timeshare project.”

20       (d) RATE OF TAX.—Subsection (b) of section 528  
21       (relating to certain homeowners associations) is amended  
22       by inserting before the period “(32 percent of such income  
23       in the case of a timeshare association)”.

1 (e) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to taxable years beginning after  
 3 December 31, 1996.

4 **SEC. 765. INCREASED DEDUCTIBILITY OF BUSINESS MEAL**  
 5 **EXPENSES FOR INDIVIDUALS SUBJECT TO**  
 6 **FEDERAL HOURS OF SERVICE AND SEAFOOD**  
 7 **PROCESSORS.**

8 (a) IN GENERAL.—Section 274(n) (relating to only  
 9 50 percent of meal and entertainment expenses allowed  
 10 as deduction) is amended by adding at the end the follow-  
 11 ing new paragraph:

12 “(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT  
 13 TO FEDERAL HOURS OF SERVICE AND SEAFOOD  
 14 PROCESSORS.—

15 “(A) IN GENERAL.—In the case of any ex-  
 16 penses for food or beverages consumed—

17 “(i) while away from home (within the  
 18 meaning of section 162(a)(2)) by an indi-  
 19 vidual during, or incident to, the period of  
 20 duty subject to the hours of service limita-  
 21 tions of the Department of Transportation,  
 22 or

23 “(ii) by an individual in connection  
 24 with the individual’s employment at a sea-  
 25 food processing facility located in the Unit-

1                   ed States, North of 53 degrees North lati-  
 2                   tude,  
 3           paragraph (1) shall be applied by substituting  
 4           ‘the applicable percentage’ for ‘50 percent’.

5                   “(B)    APPLICABLE    PERCENTAGE.—For  
 6           purposes of this paragraph, the term ‘applicable  
 7           percentage’ means the percentage determined  
 8           under the following table:

<b>“For taxable years beginning in calendar year—</b>	<b>The applicable percentage is—</b>
1998 or 1999 .....	55
2000 or 2001 .....	60
2002 or 2003 .....	65
2004 or 2005 .....	70
2006 or 2007 .....	75
2008 or thereafter .....	80.”

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

12 **SEC. 766. DEDUCTION IN COMPUTING ADJUSTED GROSS IN-**  
 13 **COME FOR EXPENSES IN CONNECTION WITH**  
 14 **SERVICE PERFORMED BY CERTAIN OFFI-**  
 15 **CIALS.**

16           (a) IN GENERAL.—Paragraph (2) of section 62(a)  
 17 (defining adjusted gross income) is amended by adding at  
 18 the end the following new subparagraph:

19                   “(C) CERTAIN EXPENSES OF OFFICIALS.—  
 20           The deductions allowed by section 162 which  
 21           consist of expenses paid or incurred with re-

1           spect to services performed by an official as an  
 2           employee of a State or a political subdivision  
 3           thereof in a position compensated in whole or in  
 4           part on a fee basis.”.

5           (b) EFFECTIVE DATE.—The amendment made by  
 6 this section shall apply to expenses paid or incurred in  
 7 taxable years beginning after December 31, 1997.

8 **SEC. 767. INCREASE IN STANDARD MILEAGE RATE EX-**  
 9 **PENSE DEDUCTION FOR CHARITABLE USE OF**  
 10 **PASSENGER AUTOMOBILE.**

11           (a) IN GENERAL.—Section 170(i) (relating to stand-  
 12 ard mileage rate for use of passenger automobile) is  
 13 amended to read as follows:

14           “(i) STANDARD MILEAGE RATE FOR USE OF PAS-  
 15 Senger Automobile.—

16           “(1) GENERAL RULE.—Except as provided in  
 17 paragraph (2), for purposes of computing the deduc-  
 18 tion under this section for use of a passenger auto-  
 19 mobile, the standard mileage rate shall be 15 cents  
 20 per mile.

21           “(2) INDEXING AFTER 1998.—In the case of  
 22 taxable years beginning in a calendar year after  
 23 1998, the 15-cent amount under paragraph (1) shall  
 24 be increased by an amount equal to the product of  
 25 such amount and the cost-of-living adjustment deter-

1       mined under section 1(f)(3) for such calendar year,  
 2       except that subparagraph (B) thereof shall be ap-  
 3       plied by substituting ‘1997’ for ‘1992’. If the  
 4       amount as increased under the preceding sentence is  
 5       not a multiple of 1 cent, such amount shall be  
 6       rounded to the next lowest multiple of 1 cent.”

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

10   **SEC. 768. EXPENSING OF ENVIRONMENTAL REMEDIATION**  
 11                   **COSTS.**

12       (a) IN GENERAL.—Part VI of subchapter B of chap-  
 13       ter 1 is amended by adding at the end the following new  
 14       section:

15   **“SEC. 198. EXPENSING OF ENVIRONMENTAL REMEDIATION**  
 16                   **COSTS.**

17       “(a) IN GENERAL.—A taxpayer may elect to treat  
 18       any qualified environmental remediation expenditure  
 19       which is paid or incurred by the taxpayer as an expense  
 20       which is not chargeable to capital account. Any expendi-  
 21       ture which is so treated shall be allowed as a deduction  
 22       for the taxable year in which it is paid or incurred.

23       “(b) QUALIFIED ENVIRONMENTAL REMEDIATION  
 24       EXPENDITURE.—For purposes of this section—

1           “(1) IN GENERAL.—The term ‘qualified envi-  
 2           ronmental remediation expenditure’ means any ex-  
 3           penditure—

4                   “(A) which is otherwise chargeable to cap-  
 5           ital account, and

6                   “(B) which is paid or incurred in connec-  
 7           tion with the abatement or control of hazardous  
 8           substances at a qualified contaminated site.

9           “(2) SPECIAL RULE FOR EXPENDITURES FOR  
 10          DEPRECIABLE PROPERTY.—Such term shall not in-  
 11          clude any expenditure for the acquisition of property  
 12          of a character subject to the allowance for deprecia-  
 13          tion which is used in connection with the abatement  
 14          or control of hazardous substances at a qualified  
 15          contaminated site; except that the portion of the al-  
 16          lowance under section 167 for such property which  
 17          is otherwise allocated to such site shall be treated as  
 18          a qualified environmental remediation expenditure.

19          “(c) QUALIFIED CONTAMINATED SITE.—For pur-  
 20          poses of this section—

21                   “(1) QUALIFIED CONTAMINATED SITE.—

22                           “(A) IN GENERAL.—The term ‘qualified  
 23                   contaminated site’ means any area—

24                                   “(i) which is held by the taxpayer for  
 25                   use in a trade or business or for the pro-

1           duction of income, or which is property de-  
2           scribed in section 1221(1) in the hands of  
3           the taxpayer,

4           “(ii) which is within a targeted area,  
5           and

6           “(iii) at or on which there has been a  
7           release (or threat of release) or disposal of  
8           any hazardous substance.

9           “(B) TAXPAYER MUST RECEIVE STATE-  
10          MENT FROM STATE ENVIRONMENTAL AGEN-  
11          CY.—An area shall be treated as a qualified  
12          contaminated site with respect to expenditures  
13          paid or incurred during any taxable year only  
14          if the taxpayer receives a statement from the  
15          appropriate agency of the State in which such  
16          area is located that such area meets the re-  
17          quirements of clauses (ii) and (iii) of subpara-  
18          graph (A).

19          “(C) APPROPRIATE STATE AGENCY.— For  
20          purposes of subparagraph (B), the appropriate  
21          agency of a State is the agency designated by  
22          the Administrator of the Environmental Protec-  
23          tion Agency for purposes of this section. If no  
24          agency of a State is designated under the pre-  
25          ceding sentence, the appropriate agency for



1 such State shall be the Environmental Protec-  
2 tion Agency.

3 “(2) TARGETED AREA.—

4 “(A) IN GENERAL.—The term ‘targeted  
5 area’ means—

6 “(i) any empowerment zone or enter-  
7 prise community (and any supplemental  
8 zone designated on December 21, 1994),  
9 and

10 “(ii) any site announced before Feb-  
11 ruary 1, 1997, as being included as a  
12 brownfields pilot project of the Environ-  
13 mental Protection Agency.

14 “(B) NATIONAL PRIORITIES LISTED SITES  
15 NOT INCLUDED.—Such term shall not include  
16 any site which is on, or proposed for, the na-  
17 tional priorities list under section 105(a)(8)(B)  
18 of the Comprehensive Environmental Response,  
19 Compensation, and Liability Act of 1980 (as in  
20 effect on the date of the enactment of this sec-  
21 tion).

22 “(C) CERTAIN RULES TO APPLY.—For  
23 purposes of this paragraph the rules of sections  
24 1392(b)(4) and 1393(a)(9) shall apply.

1       “(d) HAZARDOUS SUBSTANCE.—For purposes of this  
2 section—

3               “(1) IN GENERAL.—The term ‘hazardous sub-  
4 stance’ means—

5                       “(A) any substance which is a hazardous  
6 substance as defined in section 101(14) of the  
7 Comprehensive Environmental Response, Com-  
8 pensation, and Liability Act of 1980, and

9                       “(B) any substance which is designated as  
10 a hazardous substance under section 102 of  
11 such Act.

12               “(2) EXCEPTION.—Such term shall not include  
13 any substance with respect to which a removal or re-  
14 medial action is not permitted under section 104 of  
15 such Act by reason of subsection (a)(3) thereof.

16       “(e) DEDUCTION RECAPTURED AS ORDINARY IN-  
17 COME ON SALE, ETC.—Solely for purposes of section  
18 1245, in the case of property to which a qualified environ-  
19 mental remediation expenditure would have been capital-  
20 ized but for this section—

21               “(1) the deduction allowed by this section for  
22 such expenditure shall be treated as a deduction for  
23 depreciation, and

24               “(2) such property (if not otherwise section  
25 1245 property) shall be treated as section 1245

1 property solely for purposes of applying section 1245  
2 to such deduction.

3 “(f) COORDINATION WITH OTHER PROVISIONS.—  
4 Sections 280B and 468 shall not apply to amounts which  
5 are treated as expenses under this section.

6 “(g) REGULATIONS.—The Secretary shall prescribe  
7 such regulations as may be necessary or appropriate to  
8 carry out the purposes of this section.”

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

“Sec. 198. Expensing of environmental remediation costs.”

12 (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to expenditures paid or incurred  
14 after the date of the enactment of this Act, in taxable  
15 years ending after such date.

16 **SEC. 769. COMBINED EMPLOYMENT TAX REPORTING DEM-**  
17 **ONSTRATION PROJECT.**

18 (a) IN GENERAL.—The Secretary of the Treasury  
19 shall provide for a demonstration project to assess the fea-  
20 sibility and desirability of expanding combined Federal  
21 and State tax reporting.

22 (b) DESCRIPTION OF DEMONSTRATION PROJECT.—  
23 The demonstration project under subsection (a) shall be—

24 (1) carried out between the Internal Revenue  
25 Service and the State of Montana for a period end-

1       ing with the date which is 5 years after the date of  
2       the enactment of this Act,

3           (2) limited to the reporting of employment  
4       taxes, and

5           (3) limited to the disclosure of the taxpayer  
6       identity (as defined in section 6103(b)(6) of such  
7       Code) and the signature of the taxpayer.

8       Such identity and signature may be disclosed notwith-  
9       standing section 6103 of the Internal Revenue Code of  
10      1986.

11   **SEC. 770. INCREASED MAXIMUM CAPITAL EXPENDITURE**  
12                   **LIMIT FOR QUALIFIED SMALL ISSUE BONDS.**

13       (a) IN GENERAL.—Subparagraph (A) of section  
14      144(a)(4) (relating to \$10,000,000 limit in certain cases)  
15      is amended by adding at the end the following new flush  
16      sentence:

17           “Capital expenditures which would (but for this  
18           sentence) be taken into account under clause  
19           (ii) shall be taken into account only to the ex-  
20           tent such expenditures exceed \$10,000,000.”

21       (b) EFFECTIVE DATE.—The amendment made by  
22      subsection (a) shall apply to—

23           (1) obligations issued after December 31, 1997,  
24      and

1           (2) capital expenditures made after such date  
 2           with respect to obligations issued on or before such  
 3           date.

4 **SEC. 771. EXTENSION OF CREDIT FOR ELECTRICITY PRO-**  
 5 **DUCED FROM CERTAIN RENEWABLE RE-**  
 6 **SOURCES.**

7           Paragraph (3) of section 45(c) is amended by striking  
 8           “July 1, 1999” and inserting “July 1, 2001”.

9 **SEC. 772. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLE-**  
 10 **TION NOT TO APPLY TO MARGINAL PRODUC-**  
 11 **TION.**

12           (a) IN GENERAL.—Paragraph (6) of section 613A(c)  
 13           is amended by adding at the end the following new sub-  
 14           paragraph:

15                       “(H) EXEMPTION FROM TAXABLE INCOME  
 16                       LIMIT WHERE REFERENCE PRICE BELOW \$14.—  
 17                       The second sentence of subsection (a) of section  
 18                       613 shall not apply to so much of the allowance  
 19                       for depletion as is determined under subpara-  
 20                       graph (A) for any taxable year beginning in a  
 21                       calendar year for which the reference price (as  
 22                       defined in section 29(d)(2)(C)) is below \$14.”

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

1 **SEC. 773. CLARIFICATION OF TREATMENT OF CERTAIN RE-**  
2 **CEIVABLES PURCHASED BY COOPERATIVE**  
3 **HOSPITAL SERVICE ORGANIZATIONS.**

4 (a) IN GENERAL.—Subparagraph (A) of section  
5 501(e)(1) is amended by inserting “(including the pur-  
6 chase of patron accounts receivable on a recourse basis)”  
7 after “billing and collection”.

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

11 **SEC. 774. EXCEPTION FOR BONDS GUARANTEED BY FED-**  
12 **ERAL HOME LOAN BANK BOARD FROM RE-**  
13 **STRICTION ON FEDERAL GUARANTEE OF**  
14 **BONDS.**

15 (a) IN GENERAL.—Clause (i) of section 149(b)(3)(A)  
16 is amended by striking “or the Government National  
17 Mortgage Association” and inserting “the Government  
18 National Mortgage Association, or the Federal Home  
19 Loan Bank Board”.

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

1 **SEC. 775. INCREASED PERIOD FOR DEDUCTION FOR TRAV-**  
 2 **ELING EXPENSES WHILE WORKING AWAY**  
 3 **FROM HOME.**

4 (a) IN GENERAL.—Section 162 (relating to trade or  
 5 business expenses) is amended—

6 (1) in subsection (a)—

7 (A) in paragraph (2), by inserting “subject  
 8 to subsection (o),” before “traveling expenses”,  
 9 and

10 (B) by striking the last sentence, and

11 (2) by redesignating subsection (o) as sub-  
 12 section (p) and by inserting after subsection (n) the  
 13 following new subsection:

14 “(o) EXPENSES WHILE AWAY FROM HOME.—For  
 15 purposes of subsection (a)(2)—

16 “(1) IN GENERAL.—A taxpayer shall not be  
 17 treated as being temporarily away from home during  
 18 any period of employment if such period exceeds 1  
 19 year.

20 “(2) SPECIAL RULES FOR CONSTRUCTION  
 21 PROJECTS.—

22 “(A) 18-MONTH PERIOD FOR CERTAIN  
 23 PROJECTS.—If—

24 “(i) the employment described in  
 25 paragraph (1) is in connection with an  
 26 identifiable construction project with a

1 completion date that is reasonably expected  
2 to occur within 5 years after the starting  
3 date of such project, and

4 “(ii) the taxpayer continues to main-  
5 tain a household as his principal residence  
6 and incur duplicative expenses at such res-  
7 idence,

8 paragraph (1) shall be applied by substituting  
9 ‘18 months’ for ‘1 year’.

10 “(B) 2-YEAR PERIOD FOR PROJECTS IN  
11 AREAS LACKING FAMILY SUPPORT INFRASTRUC-  
12 TURE.—If the employment described in para-  
13 graph (1) is in connection with an identifiable  
14 construction project described in subparagraph  
15 (A) which is located in an area which lacks ade-  
16 quate housing, educational, medical, or other  
17 facilities necessary for families, paragraph (1)  
18 shall be applied by substituting ‘2 years’ for ‘1  
19 year’.”.

20 (b) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to costs paid or incurred in taxable  
22 years beginning after December 31, 1997.



1 **SEC. 776. CHARITABLE CONTRIBUTION DEDUCTION FOR**  
2 **CERTAIN EXPENSES INCURRED IN SUPPORT**  
3 **OF NATIVE ALASKAN SUBSISTENCE WHAL-**  
4 **ING.**

5 (a) IN GENERAL.—Section 170 (relating to chari-  
6 table, etc., contributions and gifts) is amended by redesign-  
7 ating subsection (m) as subsection (n) and by inserting  
8 after subsection (l) the following new subsection:

9 “(m) EXPENSES PAID BY CERTAIN WHALING CAP-  
10 TAINS IN SUPPORT OF NATIVE ALASKAN SUBSISTENCE  
11 WHALING.—

12 “(1) IN GENERAL.—In the case of an individual  
13 who is recognized by the Alaska Eskimo Whaling  
14 Commission as a whaling captain charged with the  
15 responsibility of maintaining and carrying out sanc-  
16 tioned whaling activities and who engages in such  
17 activities during the taxable year, the amount de-  
18 scribed in paragraph (2) (to the extent such amount  
19 does not exceed \$7,500 for the taxable year) shall be  
20 treated for purposes of this section as a charitable  
21 contribution.

22 “(2) AMOUNT DESCRIBED.—The amount de-  
23 scribed in this paragraph is the aggregate of the rea-  
24 sonable and necessary whaling expenses paid by the  
25 taxpayer during the taxable year in carrying out  
26 sanctioned whaling activities. For purposes of the

1 preceding sentence, the term ‘whaling expenses’ in-  
 2 cludes expenses for—

3 “(A) the acquisition and maintenance of  
 4 whaling boats, weapons, and gear used in sanc-  
 5 tioned whaling activities,

6 “(B) the supplying of food for the crew  
 7 and other provisions for carrying out such ac-  
 8 tivities, and

9 “(C) storage and distribution of the catch  
 10 from such activities.

11 “(3) SANCTIONED WHALING ACTIVITIES.—For  
 12 purposes of this subsection, the term ‘sanctioned  
 13 whaling activities’ means subsistence bowhead whale  
 14 hunting activities conducted pursuant to the man-  
 15 agement plan of the Alaska Eskimo Whaling Com-  
 16 mission.”.

17 (b) EFFECTIVE DATE.—The amendment made by  
 18 subsection (a) shall apply to taxable years ending after  
 19 the date of the enactment of this Act.

20 **SEC. 777. MODIFICATION TO ELIGIBILITY CRITERIA FOR**  
 21 **DESIGNATION OF FUTURE ENTERPRISE**  
 22 **ZONES IN ALASKA OR HAWAII.**

23 Section 1392 (relating to eligibility criteria) is  
 24 amended by adding at the end the following new sub-  
 25 section:

1       “(d) SPECIAL ELIGIBILITY FOR NOMINATED AREAS  
 2 LOCATED IN ALASKA OR HAWAII.—A nominated area in  
 3 Alaska or Hawaii shall be treated as meeting the require-  
 4 ments of paragraphs (2), (3), and (4) of subsection (a)  
 5 if for each census tract or block group within such area  
 6 20 percent or more of the families have income which is  
 7 50 percent or less of the statewide median family income  
 8 (as determined under section 143).”

9       **SEC. 778. CLARIFICATION OF DE MINIMIS FRINGE BENEFIT**

10                       **RULES TO NO-CHARGE EMPLOYEE MEALS.**

11       (a) IN GENERAL.—Paragraph (2) of section 132(e)  
 12 (defining de minimis fringe) is amended by adding at the  
 13 end the following new sentence: “For purposes of subpara-  
 14 graph (B), an employee entitled under section 119 to ex-  
 15 clude the value of a meal provided at such facility shall  
 16 be treated as having paid an amount for such meal equal  
 17 to the direct operating costs of the facility attributable to  
 18 such meal.”

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

1 **SEC. 779. CLARIFICATION OF STANDARD TO BE USED IN**  
 2 **DETERMINING EMPLOYMENT TAX STATUS OF**  
 3 **SECURITIES BROKERS.**

4 (a) IN GENERAL.—In determining for purposes of  
 5 chapter 1 of the Internal Revenue Code of 1986 whether  
 6 a registered representative of a securities broker-dealer is  
 7 an employee (as defined in section 3121(d) of the Internal  
 8 Revenue Code of 1986), no weight shall be given to in-  
 9 structions from the service recipient which are imposed  
 10 only in compliance with investor protection standards im-  
 11 posed by the Federal Government, any State government,  
 12 or a governing body pursuant to a delegation by a Federal  
 13 or State agency.

14 (b) EFFECTIVE DATE.—Subsection (a) shall apply to  
 15 services performed after December 31, 1997.

16 **TITLE VIII—REVENUES**  
 17 **Subtitle A—Financial Products**

18 **SEC. 801. CONSTRUCTIVE SALES TREATMENT FOR APPRE-**  
 19 **CIATED FINANCIAL POSITIONS.**

20 (a) IN GENERAL.—Part IV of subchapter P of chap-  
 21 ter 1 is amended by adding at the end the following new  
 22 section:

23 **“SEC. 1259. CONSTRUCTIVE SALES TREATMENT FOR AP-**  
 24 **PRECIATED FINANCIAL POSITIONS.**

25 “(a) IN GENERAL.—If there is a constructive sale of  
 26 an appreciated financial position—

1           “(1) the taxpayer shall recognize gain as if such  
2           position were sold, assigned, or otherwise terminated  
3           at its fair market value on the date of such con-  
4           structive sale (and any gain shall be taken into ac-  
5           count for the taxable year which includes such date),  
6           and

7           “(2) for purposes of applying this title for peri-  
8           ods after the constructive sale—

9                   “(A) proper adjustment shall be made in  
10                  the amount of any gain or loss subsequently re-  
11                  alized with respect to such position for any gain  
12                  taken into account by reason of paragraph (1),  
13                  and

14                   “(B) the holding period of such position  
15                  shall be determined as if such position were  
16                  originally acquired on the date of such con-  
17                  structive sale.

18           “(b) APPRECIATED FINANCIAL POSITION.—For pur-  
19           poses of this section—

20                   “(1) IN GENERAL.—Except as provided in para-  
21                  graph (2), the term ‘appreciated financial position’  
22                  means any position with respect to any stock, debt  
23                  instrument, or partnership interest if there would be  
24                  gain were such position sold, assigned, or otherwise  
25                  terminated at its fair market value.

1           “(2) EXCEPTIONS.—The term ‘appreciated fi-  
2       nancial position’ shall not include—

3           “(A) any position with respect to debt if—

4               “(i) the interest payments (or other  
5               similar amounts) with respect to such debt  
6               meet the requirements of clause (i) of sec-  
7               tion 860G(a)(1)(B), and

8               “(ii) such debt is not convertible (di-  
9               rectly or indirectly) into stock of the issuer  
10              or any related person, and

11           “(B) any position which is marked to mar-  
12       ket under any provision of this title or the regu-  
13       lations thereunder.

14           “(3) POSITION.—The term ‘position’ means an  
15       interest, including a futures or forward contract,  
16       short sale, or option.

17       “(c) CONSTRUCTIVE SALE.—For purposes of this  
18       section—

19           “(1) IN GENERAL.—A taxpayer shall be treated  
20       as having made a constructive sale of an appreciated  
21       financial position if the taxpayer (or a related per-  
22       son)—

23               “(A) enters into a short sale of the same  
24               or substantially identical property,

1           “(B) enters into an offsetting notional  
2           principal contract with respect to the same or  
3           substantially identical property,

4           “(C) enters into a futures or forward con-  
5           tract to deliver the same or substantially iden-  
6           tical property,

7           “(D) in the case of an appreciated finan-  
8           cial position that is a short sale or a contract  
9           described in subparagraph (B) or (C) with re-  
10          spect to any property, acquires the same or  
11          substantially identical property, or

12          “(E) to the extent prescribed by the Sec-  
13          retary in regulations, enters into 1 or more  
14          other transactions (or acquires 1 or more posi-  
15          tions) that have substantially the same effect as  
16          a transaction described in any of the preceding  
17          subparagraphs.

18          “(2) EXCEPTION FOR SALES OF NONPUBLICLY  
19          TRADED PROPERTY.—The term ‘constructive sale’  
20          shall not include any contract for sale of any stock,  
21          debt instrument, or partnership interest which is not  
22          a marketable security (as defined in section 453(f))  
23          if the contract settles within 1 year after the date  
24          such contract is entered into.

1           “(3) EXCEPTION FOR CERTAIN CLOSED TRANS-  
2           ACTIONS.—In applying this section, there shall be  
3           disregarded any transaction (which would otherwise  
4           be treated as a constructive sale) during the taxable  
5           year if—

6                   “(A) such transaction is closed before the  
7                   end of the 30th day after the close of such tax-  
8                   able year, and

9                   “(B) in the case of a transaction which is  
10                  closed during the 90-day period ending on such  
11                  30th day—

12                           “(i) the taxpayer holds the appre-  
13                           ciated financial position throughout the 60-  
14                           day period beginning on the date such  
15                           transaction is closed, and

16                           “(ii) at no time during such 60-day  
17                           period is the taxpayer’s risk of loss with  
18                           respect to such position reduced by reason  
19                           of a circumstance which would be de-  
20                           scribed in section 246(c)(4) if references to  
21                           stock included references to such position.

22           If a position with respect to a transaction which is  
23           closed during the 90-day period as described in sub-  
24           paragraph (B) is reestablished, then such trans-  
25           action shall be disregarded in applying this section



1 if the reestablished position is closed during such  
2 90-day period in a transaction which meets the re-  
3 quirements of subparagraph (B).

4 “(4) RELATED PERSON.—A person is related to  
5 another person with respect to a transaction if—

6 “(A) the relationship is described in sec-  
7 tion 267 or 707(b), and

8 “(B) such transaction is entered into with  
9 a view toward avoiding the purposes of this sec-  
10 tion.

11 “(d) OTHER DEFINITIONS.—For purposes of this  
12 section—

13 “(1) FORWARD CONTRACT.—The term ‘forward  
14 contract’ means a contract to deliver a substantially  
15 fixed amount of property for a substantially fixed  
16 price.

17 “(2) OFFSETTING NOTIONAL PRINCIPAL CON-  
18 TRACT.—The term ‘offsetting notional principal con-  
19 tract’ means, with respect to any property, an agree-  
20 ment which includes—

21 “(A) a requirement to pay (or provide  
22 credit for) all or substantially all of the invest-  
23 ment yield (including appreciation) on such  
24 property for a specified period, and

1           “(B) a right to be reimbursed for (or re-  
 2           ceive credit for) all or substantially all of any  
 3           decline in the value of such property.

4           “(e) SPECIAL RULES.—

5           “(1) TREATMENT OF SUBSEQUENT SALE OF  
 6           POSITION WHICH WAS DEEMED SOLD.—If—

7           “(A) there is a constructive sale of any ap-  
 8           preciated financial position,

9           “(B) such position is subsequently dis-  
 10          posed of, and

11          “(C) at the time of such disposition, the  
 12          transaction resulting in the constructive sale of  
 13          such position is open with respect to the tax-  
 14          payer or any related person,

15          solely for purposes of determining whether the tax-  
 16          payer has entered into a constructive sale of any  
 17          other appreciated financial position held by the tax-  
 18          payer, the taxpayer shall be treated as entering into  
 19          such transaction immediately after such disposition.  
 20          For purposes of the preceding sentence, an assign-  
 21          ment or other termination shall be treated as a dis-  
 22          position.

23          “(2) CERTAIN TRUST INSTRUMENTS TREATED  
 24          AS STOCK.—For purposes of this section, an interest

1 in a trust which is actively traded (within the mean-  
 2 ing of section 1092(d)(1)) shall be treated as stock.

3 “(3) MULTIPLE POSITIONS IN PROPERTY.—If a  
 4 taxpayer holds multiple positions in property, the de-  
 5 termination of whether a specific transaction is a  
 6 constructive sale and, if so, which appreciated finan-  
 7 cial position is deemed sold shall be made in the  
 8 same manner as actual sales.

9 “(f) REGULATIONS.—The Secretary shall prescribe  
 10 such regulations as may be necessary or appropriate to  
 11 carry out the purposes of this section.”

12 (b) ELECTION OF MARK TO MARKET FOR SECURI-  
 13 TIES TRADERS AND FOR TRADERS AND DEALERS IN COM-  
 14 MODITIES.—Subsection (d) of section 475 (relating to  
 15 mark to market accounting method for dealers in securi-  
 16 ties) is amended by adding at the end the following new  
 17 paragraph:

18 “(4) ELECTION OF MARK TO MARKET FOR SE-  
 19 CURITIES TRADERS AND FOR TRADERS AND DEAL-  
 20 ERS IN COMMODITIES.—

21 “(A) IN GENERAL.—In the case of a per-  
 22 son—

23 “(i) who is engaged in a trade or busi-  
 24 ness to which this paragraph applies, and

1                   “(ii) who elects to be treated as a  
2                   dealer in securities for purposes of this  
3                   section with respect to such trade or busi-  
4                   ness,  
5                   subsections (a), (b)(3), (c)(3), and (e) and the  
6                   preceding provisions of this subsection (or, in  
7                   the case of a dealer in commodities, this sec-  
8                   tion) shall apply to all commodities and securi-  
9                   ties held by such person in any trade or busi-  
10                  ness with respect to which such election is in ef-  
11                  fect in the same manner as if such person were  
12                  a dealer in securities and all references to secu-  
13                  rities included references to commodities.

14               “(B) APPLICATION OF PARAGRAPH.—This  
15               paragraph shall apply to any active trade or  
16               business—

17                   “(i) as a trader in securities, or

18                   “(ii) as a trader or dealer in commod-  
19                  ities.

20               “(C) EXCEPTION FOR CERTAIN HOLDINGS  
21               OF TRADERS.—In the case of a trader in securi-  
22               ties or commodities, subsection (a) shall not  
23               apply to any security or commodity (to which  
24               subsection (a) would otherwise apply solely by  
25               reason of this paragraph) if such security or

commodity is clearly identified in the trader's records (before the close of the day applicable under subsection (b)(2)) as being held other than in a trade or business to which the election under subparagraph (A) is in effect. A security or commodity so identified shall be treated as described in subsection (b)(1).

“(D) COMMODITY.—For purposes of this paragraph, the term ‘commodities’ includes only commodities of a kind customarily dealt in on an organized commodity exchange.

“(E) ELECTION.—An election under this paragraph may be made separately for each trade or business and without the consent of the Secretary. Such an election, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.”

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

“Sec. 1259. Constructive sales treatment for appreciated financial positions.”

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by

1       this section shall apply to any constructive sale after  
2       June 8, 1997.

3               (2) EXCEPTION FOR SALES OF POSITIONS, ETC.  
4       HELD BEFORE JUNE 9, 1997.—A constructive sale  
5       before June 9, 1997, and the property to which the  
6       position involved in the transaction relates, shall not  
7       be taken into account in determining whether any  
8       other constructive sale after June 8, 1997, has oc-  
9       curred if, within before the close of the 30-day pe-  
10      riod beginning on the date of the enactment of this  
11      Act, such position and property are clearly identified  
12      in the taxpayer's records as offsetting. The preced-  
13      ing sentence shall cease to apply as of the date the  
14      taxpayer ceases to hold such position or property.

15              (3) SPECIAL RULE.—In the case of a decedent  
16      dying after June 8, 1997, if—

17                      (A) there was a constructive sale on or be-  
18                      fore such date of any appreciated financial posi-  
19                      tion,

20                      (B) the transaction resulting in such con-  
21                      structive sale of such position remains open  
22                      (with respect to the decedent or any related  
23                      person) for not less than 2 years after the date  
24                      of such transaction (whether such period is be-  
25                      fore or after June 8, 1997), and

1 (C) such transaction is not closed within  
2 the 30-day period beginning on the date of the  
3 enactment of this Act,  
4 then, for purposes of such Code, such position (and  
5 any property related thereto, as determined under  
6 the principles of section 1259(d)(1) of such Code (as  
7 so added)) shall be treated as property constituting  
8 rights to receive an item of income in respect of a  
9 decedent under section 691 of such Code.

10 (4) ELECTION OF SECURITIES TRADERS, AND  
11 FOR TRADERS AND DEALERS IN COMMODITIES, TO  
12 BE TREATED AS DEALERS IN SECURITIES.—

13 (A) IN GENERAL.—The amendment made  
14 by subsection (b) shall apply to taxable years  
15 ending after the date of the enactment of this  
16 Act.

17 (B) 4-YEAR SPREAD OF ADJUSTMENTS.—  
18 In the case of a taxpayer who elects under sec-  
19 tion 475(d)(4) of the Internal Revenue Code of  
20 1986 (as added by this section) to change its  
21 method of accounting for its first taxable year  
22 ending after the date of the enactment of this  
23 Act, the net amount of the adjustments re-  
24 quired to be taken into account by the taxpayer  
25 under section 481 of the Internal Revenue Code

1 of 1986 shall be taken into account ratably over  
2 the 4-taxable year period beginning with such  
3 first taxable year.

4 **SEC. 802. LIMITATION ON EXCEPTION FOR INVESTMENT**  
5 **COMPANIES UNDER SECTION 351.**

6 (a) IN GENERAL.—Paragraph (1) of section 351(e)  
7 (relating to exceptions) is amended by adding at the end  
8 the following: “For purposes of the preceding sentence,  
9 the determination of whether a company is an investment  
10 company shall be made—

11 “(A) by taking into account all stock and  
12 securities held by the company, and

13 “(B) by treating as securities—

14 “(i) money,

15 “(ii) stocks and other equity interests  
16 in a corporation, evidences of indebtedness,  
17 options, forward or futures contracts, no-  
18 tional principal contracts and derivatives,

19 “(iii) any foreign currency,

20 “(iv) any interest in a real estate in-  
21 vestment trust, a common trust fund, a  
22 regulated investment company, a publicly-  
23 traded partnership (as defined in section  
24 7704(b)) or any other equity interest  
25 (other than in a corporation) which pursu-



1 ant to its terms or any other arrangement  
2 is readily convertible into, or exchangeable  
3 for, any asset described in any preceding  
4 clause, this clause or clause (v) or (viii),

5 “(v) except to the extent provided in  
6 regulations prescribed by the Secretary,  
7 any interest in a precious metal, unless  
8 such metal is used or held in the active  
9 conduct of a trade or business after the  
10 contribution,

11 “(vi) except as otherwise provided in  
12 regulations prescribed by the Secretary, in-  
13 terests in any entity if substantially all of  
14 the assets of such entity consist (directly  
15 or indirectly) of any assets described in  
16 any preceding clause or clause (viii),

17 “(vii) to the extent provided in regula-  
18 tions prescribed by the Secretary, any in-  
19 terest in any entity not described in clause  
20 (vi), but only to the extent of the value of  
21 such interest that is attributable to assets  
22 listed in clauses (i) through (v) or clause  
23 (viii), or

24 “(viii) any other asset specified in reg-  
25 ulations prescribed by the Secretary.

1       The Secretary may prescribe regulations that, under  
 2       appropriate circumstances, treat any asset described  
 3       in clauses (i) through (v) as not so listed.”

4       (b) EFFECTIVE DATE.—

5           (1) IN GENERAL.—The amendment made by  
 6       subsection (a) shall apply to transfers after June 8,  
 7       1997, in taxable years ending after such date.

8           (2) BINDING CONTRACTS.—The amendment  
 9       made by subsection (a) shall not apply to any trans-  
 10      fer pursuant to a written binding contract in effect  
 11      on June 8, 1997, that provides for the transfer of  
 12      a fixed amount of property, and at all times there-  
 13      after before such transfer.

14   **SEC. 803. GAINS AND LOSSES FROM CERTAIN TERMI-**  
 15                           **NATIONS WITH RESPECT TO PROPERTY.**

16       (a) APPLICATION OF CAPITAL TREATMENT TO PROP-  
 17      PERTY OTHER THAN PERSONAL PROPERTY.—

18           (1) IN GENERAL.—Paragraph (1) of section  
 19      1234A (relating to gains and losses from certain ter-  
 20      minations) is amended by striking “personal prop-  
 21      erty (as defined in section 1092(d)(1))” and insert-  
 22      ing “property”.

23           (2) EFFECTIVE DATE.—The amendment made  
 24      by paragraph (1) shall apply to terminations more

1       than 30 days after the date of the enactment of this  
2       Act.

3       (b) APPLICATION OF CAPITAL TREATMENT, ETC. TO  
4 OBLIGATIONS ISSUED BY NATURAL PERSONS.—

5           (1) IN GENERAL.—Section 1271(b) is amended  
6       to read as follows:

7       “(b) EXCEPTION FOR CERTAIN OBLIGATIONS.—

8           “(1) IN GENERAL.—This section shall not apply  
9       to—

10           “(A) any obligation issued by a natural  
11       person before June 9, 1997, and

12           “(B) any obligation issued before July 2,  
13       1982, by an issuer which is not a corporation  
14       and is not a government or political subdivision  
15       thereof.

16           “(2) TERMINATION.—Paragraph (1) shall not  
17       apply to any obligation acquired after June 8, 1997,  
18       unless the basis of the obligation in the hands of the  
19       acquirer is determined solely by reference to the ad-  
20       justed basis of the obligation in the hands of the  
21       person from whom acquired.”

22           (2) EFFECTIVE DATE.—The amendment made  
23       by paragraph (1) shall take effect on the date of en-  
24       actment of this Act.

1                   **Subtitle B—Corporate**  
2                   **Organizations and Reorganizations**

3                   **SEC. 811. 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           curring 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. 812. APPLICATION OF SECTION 355 TO DISTRIBUTIONS**  
4                   **FOLLOWED BY ACQUISITIONS AND TO**  
5                   **INTRAGROUP TRANSACTIONS.**

6       (a) DISTRIBUTIONS FOLLOWED BY ACQUISITIONS.—  
7   Section 355 (relating to distribution of stock and securi-  
8   ties of a controlled corporation) is amended by adding at  
9   the end the following new subsection:

10       “(e) RECOGNITION OF GAIN WHERE CERTAIN DIS-  
11   TRIBUTIONS OF STOCK OR SECURITIES ARE FOLLOWED  
12   BY ACQUISITION.—

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 COR-  
17       PORATION.—If there is an acquisition described  
18       in paragraph (2)(A)(ii) with respect to any con-  
19       trolled corporation, any stock or securities in  
20       the controlled corporation shall not be treated  
21       as qualified property for purposes of subsection  
22       (c)(2) of this section or section 361(c)(2).

23               “(B) ACQUISITION OF DISTRIBUTING COR-  
24       PORATION.—If there is an acquisition described  
25       in paragraph (2)(A)(ii) with respect to the dis-

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 or securities in the  
4 distributing 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 or  
9 securities in such distributing or controlled  
10 corporation.

11           “(iv) The acquisition of stock in a cor-  
12 poration if shareholders owning directly or  
13 indirectly stock possessing—

14               “(I) more than 50 percent of the  
15 total combined voting power of all  
16 classes of stock entitled to vote, and

17               “(II) more than 50 percent of  
18 the total value of shares of all classes  
19 of stock,

20 in the distributing corporation or any con-  
21 trolled corporation before such acquisition  
22 own indirectly stock possessing such vote  
23 and value in such distributing or controlled  
24 corporation after such acquisition.

1 This subparagraph shall not apply to any acqui-  
2 sition if the stock held before the acquisition  
3 was acquired pursuant to a plan (or series of  
4 related transactions) described in subparagraph  
5 (A)(ii).

6 “(B) ASSET ACQUISITIONS.—Except as  
7 provided in regulations, for purposes of this  
8 subsection, if the assets of the distributing cor-  
9 poration or any controlled corporation are ac-  
10 quired by a successor corporation in a trans-  
11 action described in subparagraph (A), (C), or  
12 (D) of section 368(a)(1) or any other trans-  
13 action specified in regulations by the Secretary,  
14 the shareholders (immediately before the acqui-  
15 sition) of the corporation acquiring such assets  
16 shall be treated as acquiring stock in the cor-  
17 poration from which the assets were acquired.

18 “(4) DEFINITION AND SPECIAL RULES.—For  
19 purposes of this subsection—

20 “(A) 50-PERCENT OR GREATER INTER-  
21 EST.—The term ‘50-percent or greater interest’  
22 has the meaning given such term by subsection  
23 (d)(4).

24 “(B) DISTRIBUTIONS IN TITLE 11 OR SIMI-  
25 LAR CASE.—Paragraph (1) shall not apply to

any distribution made in a title 11 or similar case (as defined in section 368(a)(3)).

“(C) AGGREGATION AND ATTRIBUTION RULES.—

“(i) AGGREGATION.—The rules of paragraph (7)(A) of subsection (d) shall apply.

“(ii) ATTRIBUTION.—Section 355(d)(8)(A) shall apply in determining whether a person holds stock or securities in any corporation.

“(D) SUCCESSORS AND PREDECESSORS.—For purposes of this subsection, any reference to a controlled corporation or a distributing corporation shall include a reference to any predecessor or successor of such corporation.

“(E) STATUTE OF LIMITATIONS.—If there is an acquisition to which paragraph (1) (A) or (B) applies—

“(i) the statutory period for the assessment of any deficiency attributable to any part of the gain recognized under this subsection by reason of such acquisition shall not expire before the expiration of 3 years from the date the Secretary is noti-

1           fied by the taxpayer (in such manner as  
 2           the Secretary may by regulations pre-  
 3           scribe) that such acquisition occurred, and  
 4           “(ii) such deficiency may be assessed  
 5           before the expiration of such 3-year period  
 6           notwithstanding the provisions of any  
 7           other law or rule of law which would other-  
 8           wise prevent such assessment.

9           “(5) REGULATIONS.—The Secretary shall pre-  
 10          scribe such regulations as may be necessary to carry  
 11          out the purposes of this subsection, including regula-  
 12          tions—

13               “(A) providing for the application of this  
 14          subsection where there is more than 1 con-  
 15          trolled corporation,

16               “(B) treating 2 or more distributions as 1  
 17          distribution where necessary to prevent the  
 18          avoidance of such purposes, and

19               “(C) providing for the application of rules  
 20          similar to the rules of subsection (d)(6) where  
 21          appropriate for purposes of paragraph (2)(B).”

22          (b) SPECIAL RULES FOR CERTAIN INTRAGROUP  
 23          TRANSACTIONS.—

1           (1) SECTION 355 NOT TO APPLY.—Section 355,  
2           as amended by subsection (a), is amended by adding  
3           at the end the following new subsection:

4           “(f) SECTION NOT TO APPLY TO CERTAIN  
5 INTRAGROUP DISTRIBUTIONS.—Except as provided in  
6 regulations, this section (or so much of section 356 as re-  
7 lates to this section) shall not apply to the distribution  
8 of stock from 1 member of an affiliated group (as defined  
9 in section 1504(a)) to another member of such group if  
10 such distribution is part of a plan (or series of related  
11 transactions) described in subsection (e)(2)(A)(ii).”

12           (2) ADJUSTMENTS TO BASIS.—Section 358 (re-  
13 lating to basis to distributees) is amended by adding  
14 at the end the following new subsection:

15           “(g) ADJUSTMENTS IN INTRAGROUP TRANSACTIONS  
16 INVOLVING SECTION 355.—In the case of an exchange to  
17 which section 355 (or so much of section 356 as relates  
18 to section 355) applies and which involves the distribution  
19 of stock from 1 member of an affiliated group (as defined  
20 in section 1504(a)) to another member of such group, the  
21 Secretary may, notwithstanding any other provision of this  
22 section, provide adjustments to the adjusted basis of any  
23 stock which—

24           “(1) is in a corporation which is a member of  
25 such group, and

1           “(2) is held by another member of such group,  
2 to appropriately reflect the proper treatment of such dis-  
3 tribution.”

4           (c) DETERMINATION OF CONTROL IN CERTAIN DIVI-  
5 SIVE TRANSACTIONS.—

6           (1) SECTION 351 TRANSACTIONS.—Section  
7 351(c) (relating to special rule) is amended to read  
8 as follows:

9           “(c) SPECIAL RULES WHERE DISTRIBUTION TO  
10 SHAREHOLDERS.—In determining control for purposes of  
11 this section—

12           “(1) the fact that any corporate transferor dis-  
13 tributes part or all of the stock in the corporation  
14 which it receives in the exchange to its shareholders  
15 shall not be taken into account, and

16           “(2) if the requirements of section 355 are met  
17 with respect to such distribution, the shareholders  
18 shall be treated as in control of such corporation im-  
19 mediately after the exchange if the shareholders hold  
20 (immediately after the distribution) stock possess-  
21 ing—

22           “(A) more than 50 percent of the total  
23 combined voting power of all classes of stock of  
24 such corporation entitled to vote, and

1           “(B) more than 50 percent of the total  
2           value of shares of all classes of stock of such  
3           corporation.”

4           (2)           D           REORGANIZATIONS.—Section  
5           368(a)(2)(H) (relating to special rule for determin-  
6           ing whether certain transactions are qualified under  
7           paragraph (1)(D)) is amended to read as follows:

8           “(H) SPECIAL RULES FOR DETERMINING  
9           WHETHER CERTAIN TRANSACTIONS ARE QUALI-  
10          FIED UNDER PARAGRAPH (1)(D).—For purposes  
11          of determining whether a transaction qualifies  
12          under paragraph (1)(D)—

13               “(i) in the case of a transaction with  
14               respect to which the requirements of sub-  
15               paragraphs (A) and (B) of section  
16               354(b)(1) are met, the term ‘control’ has  
17               the meaning given such term by section  
18               304(c), and

19               “(ii) in the case of a transaction with  
20               respect to which the requirements of sec-  
21               tion 355 are met, the shareholders de-  
22               scribed in paragraph (1)(D) shall be treat-  
23               ed as having control of the corporation to  
24               which the assets are transferred if such



shareholders hold (immediately after the transfer) stock possessing—

“(I) more than 50 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, and

“(II) more than 50 percent of the total value of shares of all classes of stock of such corporation.”

(d) EFFECTIVE DATES.—

(1) SECTION 355 RULES.—The amendments made by subsections (a) and (b) shall apply to distributions after April 16, 1997.

(2) DIVISIVE TRANSACTIONS.—The amendments made by subsection (c) shall apply to transfers after the date of the enactment of this Act.

(3) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution pursuant to an acquisition described in section 355(e)(2)(A)(ii) of the Internal Revenue Code of 1986 (or, in the case of the amendments made by subsection (c), any transfer) after April 16, 1997, if such acquisition or transfer is—

(A) made pursuant to a written agreement which was (subject to customary conditions)

1 binding on such date and at all times there-  
2 after,

3 (B) described in a ruling request submitted  
4 to the Internal Revenue Service on or before  
5 such date, or

6 (C) described on or before such date in a  
7 public announcement or in a filing with the Se-  
8 curities and Exchange Commission required  
9 solely by reason of the distribution.

10 This paragraph shall not apply to any written agree-  
11 ment, ruling request, or public announcement or fil-  
12 ing unless it identifies the acquirer of the distribut-  
13 ing corporation or any controlled corporation, or the  
14 transfer or transferee, whichever is applicable.

15 **SEC. 813. TAX TREATMENT OF REDEMPTIONS INVOLVING**  
16 **RELATED CORPORATIONS.**

17 (a) STOCK PURCHASES BY RELATED CORPORA-  
18 TIONS.—The last sentence of section 304(a)(1) (relating  
19 to acquisition by related corporation other than subsidi-  
20 ary) is amended to read as follows: “To the extent that  
21 such distribution is treated as a distribution to which sec-  
22 tion 301 applies, the transferor and the acquiring corpora-  
23 tion shall be treated in the same manner as if the trans-  
24 feror had transferred the stock so acquired to the acquir-  
25 ing corporation in exchange for stock of the acquiring cor-

1 poration in a transaction to which section 351(a) applies,  
 2 and then the acquiring corporation had redeemed the  
 3 stock it was treated as issuing in such transaction.”

4 (b) COORDINATION WITH SECTION 1059.—Clause  
 5 (iii) of section 1059(e)(1)(A), as amended by this title, is  
 6 amended to read as follows:

7 “(iii) which would not have been  
 8 treated (in whole or in part) as a dividend  
 9 if—

10 “(I) any options had not been  
 11 taken into account under section  
 12 318(a)(4), or

13 “(II) section 304(a) had not ap-  
 14 plied,”.

15 (c) SPECIAL RULE FOR ACQUISITIONS BY FOREIGN  
 16 CORPORATIONS.—Section 304(b) (relating to special rules  
 17 for application of subsection (a)) is amended by adding  
 18 at the end the following new paragraph:

19 “(5) ACQUISITIONS BY FOREIGN CORPORA-  
 20 TIONS.—

21 “(A) IN GENERAL.—In the case of any ac-  
 22 quisition to which subsection (a) applies in  
 23 which the acquiring corporation is a foreign  
 24 corporation, the only earnings and profits taken

1 into account under paragraph (2)(A) shall be  
2 those earnings and profits—

3 “(i) which are attributable (under reg-  
4 ulations prescribed by the Secretary) to  
5 stock of the acquiring corporation owned  
6 (within the meaning of section 958(a)) by  
7 a corporation or individual which is—

8 “(I) a United States shareholder  
9 (within the meaning of section  
10 951(b)) of the acquiring corporation,  
11 and

12 “(II) the transferor or a person  
13 who bears a relationship to the trans-  
14 feror described in section 267(b) or  
15 707(b), and

16 “(ii) which were accumulated during  
17 the period or periods such stock was owned  
18 by such person while the acquiring cor-  
19 poration was a controlled foreign corpora-  
20 tion.

21 “(B) APPLICATION OF SECTION 1248.—For  
22 purposes of subparagraph (A), the rules of sec-  
23 tion 1248(d) shall apply except to the extent  
24 otherwise provided by the Secretary.

1           “(C) REGULATIONS.—The Secretary shall  
 2           prescribe such regulations as are appropriate to  
 3           carry out the purposes of this paragraph.”

4           (d) EFFECTIVE DATE.—

5           (1) IN GENERAL.—The amendments made by  
 6           this section shall apply to distributions and acqui-  
 7           sitions after June 8, 1997.

8           (2) TRANSITION RULE.—The amendments  
 9           made by this section shall not apply to any distribu-  
 10          tion or acquisition after June 8, 1997, if such dis-  
 11          tribution or acquisition is—

12                 (A) made pursuant to a written agreement  
 13                 which was binding on such date and at all times  
 14                 thereafter,

15                 (B) described in a ruling request submitted  
 16                 to the Internal Revenue Service on or before  
 17                 such date, or

18                 (C) described in a public announcement or  
 19                 filing with the Securities and Exchange Com-  
 20                 mission on or before such date.

21 **SEC. 814. MODIFICATION OF HOLDING PERIOD APPLICA-**  
 22 **BLE TO DIVIDENDS RECEIVED DEDUCTION.**

23           (a) IN GENERAL.—Subparagraph (A) of section  
 24 246(c)(1) is amended to read as follows:

1           “(A) which is held by the taxpayer for 45  
2           days or less during the 90-day period beginning  
3           on the date which is 45 days before the date on  
4           which such share becomes ex-dividend with re-  
5           spect to such dividend, or”.

6           (b) CONFORMING AMENDMENTS.—

7           (1) Paragraph (2) of section 246(c) is amended  
8           to read as follows:

9           “(2) 90-DAY RULE IN THE CASE OF CERTAIN  
10          PREFERENCE DIVIDENDS.—In the case of stock hav-  
11          ing preference in dividends, if the taxpayer receives  
12          dividends with respect to such stock which are at-  
13          tributable to a period or periods aggregating in ex-  
14          cess of 366 days, paragraph (1)(A) shall be ap-  
15          plied—

16                 “(A) by substituting ‘90 days’ for ‘45  
17                 days’ each place it appears, and

18                 “(B) by substituting ‘180-day period’ for  
19                 ‘90-day period’.”

20          (2) Paragraph (3) of section 246(c) is amended  
21          by adding “and” at the end of subparagraph (A), by  
22          striking subparagraph (B), and by redesignating  
23          subparagraph (C) as subparagraph (B).

24          (c) EFFECTIVE DATE.—

1           (1) IN GENERAL.—The amendments made by  
2           this section shall apply to dividends received or ac-  
3           crued after the 30th day after the date of the enact-  
4           ment of this Act.

5           (2) TRANSITIONAL RULE.—The amendments  
6           made by this section shall not apply to dividends re-  
7           ceived or accrued during the 2-year period beginning  
8           on the date of the enactment of this Act if—

9                   (A) the dividend is paid with respect to  
10                  stock held by the taxpayer on June 8, 1997,  
11                  and all times thereafter until the dividend is re-  
12                  ceived,

13                  (B) such stock is continuously subject to a  
14                  position described in section 246(c)(4) of the  
15                  Internal Revenue Code of 1986 on June 8,  
16                  1997, and all times thereafter until the dividend  
17                  is received, and

18                  (C) such stock and position are clearly  
19                  identified in the taxpayer's records within 30  
20                  days after the date of the enactment of this  
21                  Act.

22           Stock shall not be treated as meeting the require-  
23           ment of subparagraph (B) if the position is sold,  
24           closed, or otherwise terminated and reestablished.

**Subtitle C—Other Corporate  
Provisions**

**SEC. 821. REGISTRATION AND OTHER PROVISIONS RELAT-  
ING TO CONFIDENTIAL CORPORATE TAX  
SHELTERS.**

(a) IN GENERAL.—Section 6111 (relating to registra-  
tion of tax shelters) is amended by redesignating sub-  
sections (d) and (e) as subsections (e) and (f), respectively,  
and by inserting after subsection (c) the following new  
subsection:

“(d) CERTAIN CONFIDENTIAL ARRANGEMENTS  
TREATED AS TAX SHELTERS.—

“(1) IN GENERAL.—For purposes of this sec-  
tion, the term ‘tax shelter’ includes any entity, plan,  
arrangement, or transaction—

“(A) a significant purpose of the structure  
of which is the avoidance or evasion of Federal  
income tax for a direct or indirect participant  
which is a corporation,

“(B) which is offered to any potential par-  
ticipant under conditions of confidentiality, and

“(C) for which the tax shelter promoters  
may receive fees in excess of \$100,000 in the  
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. 822. 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 recapitalization under section 368(a)(1)(E)  
8 of a family-owned corporation.

9 “(II) FAMILY-OWNED CORPORATION.—For purposes of this clause,  
10 except as provided in regulations, the  
11 term ‘family-owned corporation’  
12 means any corporation which is described in clause (i) of section  
13 447(d)(2)(C) throughout the 8-year  
14 period beginning on the date which is  
15 5 years before the date of the recapitalization. For purposes of the preceding  
16 sentence, stock shall not be treated  
17 as owned by a family member during  
18 any period described in section  
19 355(d)(6)(B).”  
20  
21  
22  
23

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 redes-  
 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 transaction.

## 11 **Subtitle D—Administrative** 12 **Provisions**

### 13 **SEC. 831. DECREASE OF THRESHOLD FOR REPORTING PAY-** 14 **MENTS TO CORPORATIONS PERFORMING** 15 **SERVICES FOR FEDERAL AGENCIES.**

16 (a) IN GENERAL.—Subsection (d) of section 6041A  
 17 (relating to returns regarding payments of remuneration  
 18 for services and direct sales) is amended by adding at the  
 19 end the following new paragraph:

20 “(3) PAYMENTS TO CORPORATIONS BY FED-  
 21 ERAL EXECUTIVE AGENCIES.—

22 “(A) IN GENERAL.—Notwithstanding any  
 23 regulation prescribed by the Secretary before  
 24 the date of the enactment of this paragraph,  
 25 subsection (a) shall apply to remuneration paid

1 to a corporation by any Federal executive agen-  
 2 cy (as defined in section 6050M(b)).

3 “(B) EXCEPTION.—Subparagraph (A)  
 4 shall not apply to—

5 “(i) services under contracts described  
 6 in section 6050M(e)(3) with respect to  
 7 which the requirements of section  
 8 6050M(e)(2) are met, and

9 “(ii) such other services as the Sec-  
 10 retary may specify in regulations pre-  
 11 scribed after the date of the enactment of  
 12 this paragraph.”

13 (b) EFFECTIVE DATE.—The amendment made by  
 14 this section shall apply to returns the due date for which  
 15 (determined without regard to any extension) is more than  
 16 90 days after the date of the enactment of this Act.

17 **SEC. 832. DISCLOSURE OF RETURN INFORMATION FOR AD-**  
 18 **MINISTRATION OF CERTAIN VETERANS PRO-**  
 19 **GRAMS.**

20 (a) GENERAL RULE.—Subparagraph (D) of section  
 21 6103(l)(7) (relating to disclosure of return information to  
 22 Federal, State, and local agencies administering certain  
 23 programs) is amended by striking “Clause (viii) shall not  
 24 apply after September 30, 1998.”

1 (b) EFFECTIVE DATE.—The amendment made by  
 2 subsection (a) shall take effect on the date of the enact-  
 3 ment of this Act.

4 **SEC. 833. RETURNS OF BENEFICIARIES OF ESTATES AND**  
 5 **TRUSTS REQUIRED TO FILE RETURNS CON-**  
 6 **SISTENT WITH ESTATE OR TRUST RETURN**  
 7 **OR TO NOTIFY SECRETARY OF INCONSIST-**  
 8 **ENCY.**

9 (a) DOMESTIC ESTATES AND TRUSTS.—Section  
 10 6034A (relating to information to beneficiaries of estates  
 11 and trusts) is amended by adding at the end the following  
 12 new subsection:

13 “(c) BENEFICIARY’S RETURN MUST BE CONSISTENT  
 14 WITH ESTATE OR TRUST RETURN OR SECRETARY NOTI-  
 15 FIED OF INCONSISTENCY.—

16 “(1) IN GENERAL.—A beneficiary of any estate  
 17 or trust to which subsection (a) applies shall, on  
 18 such beneficiary’s return, treat any reported item in  
 19 a manner which is consistent with the treatment of  
 20 such item on the applicable entity’s return.

21 “(2) NOTIFICATION OF INCONSISTENT TREAT-  
 22 MENT.—

23 “(A) IN GENERAL.—In the case of any re-  
 24 ported item, if—

1 “(i)(I) the applicable entity has filed a  
2 return but the beneficiary’s treatment on  
3 such beneficiary’s return is (or may be) in-  
4 consistent with the treatment of the item  
5 on the applicable entity’s return, or

6 “(II) the applicable entity has not  
7 filed a return, and

8 “(ii) the beneficiary files with the Sec-  
9 retary a statement identifying the incon-  
10 sistency,

11 paragraph (1) shall not apply to such item.

12 “(B) BENEFICIARY RECEIVING INCORRECT  
13 INFORMATION.—A beneficiary shall be treated  
14 as having complied with clause (ii) of subpara-  
15 graph (A) with respect to a reported item if the  
16 beneficiary—

17 “(i) demonstrates to the satisfaction  
18 of the Secretary that the treatment of the  
19 reported item on the beneficiary’s return is  
20 consistent with the treatment of the item  
21 on the statement furnished under sub-  
22 section (a) to the beneficiary by the appli-  
23 cable entity, and

24 “(ii) elects to have this paragraph  
25 apply with respect to that item.



1           “(3) EFFECT OF FAILURE TO NOTIFY.—In any  
2 case—

3           “(A) described in subparagraph (A)(i)(I)  
4 of paragraph (2), and

5           “(B) in which the beneficiary does not  
6 comply with subparagraph (A)(ii) of paragraph  
7 (2),

8 any adjustment required to make the treatment of  
9 the items by such beneficiary consistent with the  
10 treatment of the items on the applicable entity’s re-  
11 turn shall be treated as arising out of mathematical  
12 or clerical errors and assessed according to section  
13 6213(b)(1). Paragraph (2) of section 6213(b) shall  
14 not apply to any assessment referred to in the pre-  
15 ceding sentence.

16           “(4) DEFINITIONS.—For purposes of this sub-  
17 section—

18           “(A) REPORTED ITEM.—The term ‘re-  
19 ported item’ means any item for which informa-  
20 tion is required to be furnished under sub-  
21 section (a).

22           “(B) APPLICABLE ENTITY.—The term ‘ap-  
23 plicable entity’ means the estate or trust of  
24 which the taxpayer is the beneficiary.

1           “(5) ADDITION TO TAX FOR FAILURE TO COM-  
 2           PLY WITH SECTION.—For addition to tax in the case  
 3           of a beneficiary’s negligence in connection with, or  
 4           disregard of, the requirements of this section, see  
 5           part II of subchapter A of chapter 68.”

6           (b) FOREIGN TRUSTS.—Subsection (d) of section  
 7           6048 (relating to information with respect to certain for-  
 8           eign trusts) is amended by adding at the end the following  
 9           new paragraph:

10           “(5) UNITED STATES PERSON’S RETURN MUST  
 11           BE CONSISTENT WITH TRUST RETURN OR SEC-  
 12           RETARY NOTIFIED OF INCONSISTENCY.—Rules simi-  
 13           lar to the rules of section 6034A(c) shall apply to  
 14           items reported by a trust under subsection (b)(1)(B)  
 15           and to United States persons referred to in such  
 16           subsection.”

17           (c) EFFECTIVE DATE.—The amendments made by  
 18           this section shall apply to returns of beneficiaries and own-  
 19           ers filed after the date of the enactment of this Act.

20           **SEC. 834. CONTINUOUS LEVY ON CERTAIN PAYMENTS.**

21           (a) IN GENERAL.—Section 6331 (relating to levy and  
 22           distrain) is amended—

23                   (1) by redesignating subsection (h) as sub-  
 24                   section (i), and

1           (2) by inserting after subsection (g) the follow-  
 2           ing new subsection:

3           “(h) CONTINUING LEVY ON CERTAIN PAYMENTS.—

4           “(1) IN GENERAL.—The effect of a levy on  
 5           specified payments to or received by a taxpayer shall  
 6           be continuous from the date such levy is first made  
 7           until such levy is released. Notwithstanding section  
 8           6334, such continuous levy shall attach to up to 15  
 9           percent of any specified payment due to the tax-  
 10          payer.

11          “(2) SPECIFIED PAYMENT.—For the purposes  
 12          of paragraph (1), the term ‘specified payment’  
 13          means—

14               “(A) any Federal payment other than a  
 15               payment for which eligibility is based on the in-  
 16               come or assets (or both) of a payee, and

17               “(B) any payment described in paragraph  
 18               (4), (7), (9), or (11) of section 6334(a).”

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

22      **SEC. 835. MODIFICATION OF LEVY EXEMPTION.**

23          (a) IN GENERAL.—Section 6334 (relating to property  
 24          exempt from levy) is amended by redesignating subsection

1 (f) as subsection (g) and by inserting after subsection (e)  
 2 the following new subsection:

3 “(f) LEVY ALLOWED ON CERTAIN SPECIFIED PAY-  
 4 MENTS.—Any payment described in subparagraph (B) of  
 5 section 6331(h)(2) shall not be exempt from levy if the  
 6 Secretary approves the levy thereon under section  
 7 6331(h).”

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

11 **SEC. 836. CONFIDENTIALITY AND DISCLOSURE OF RE-**  
 12 **TURNS AND RETURN INFORMATION.**

13 (a) IN GENERAL.—Subsection (k) of section 6103 is  
 14 amended by adding at the end the following new para-  
 15 graph:

16 “(8) LEVIES ON CERTAIN GOVERNMENT PAY-  
 17 MENTS.—

18 “(A) DISCLOSURE OF RETURN INFORMA-  
 19 TION IN LEVIES ON FINANCIAL MANAGEMENT  
 20 SERVICE.—In serving a notice of levy, or release  
 21 of such levy, with respect to any applicable gov-  
 22 ernment payment, the Secretary may disclose to  
 23 officers and employees of the Financial Man-  
 24 agement Service—

1 “(i) return information, including tax-  
 2 payer identity information,

3 “(ii) the amount of any unpaid liabil-  
 4 ity under this title (including penalties and  
 5 interest), and

6 “(iii) the type of tax and tax period to  
 7 which such unpaid liability relates.

8 “(B) RESTRICTION ON USE OF DISCLOSED  
 9 INFORMATION.—Return information disclosed  
 10 under subparagraph (A) may be used by offi-  
 11 cers and employees of the Financial Manage-  
 12 ment Service only for the purpose of, and to the  
 13 extent necessary in, transferring levied funds in  
 14 satisfaction of the levy, maintaining appropriate  
 15 agency records in regard to such levy or the re-  
 16 lease thereof, notifying the taxpayer and the  
 17 agency certifying such payment that the levy  
 18 has been honored, or in the defense of any liti-  
 19 gation ensuing from the honor of such levy.

20 “(C) APPLICABLE GOVERNMENT PAY-  
 21 MENT.—For purposes of this paragraph, the  
 22 term ‘applicable government payment’ means—

23 “(i) any Federal payment (other than  
 24 a payment for which eligibility is based on  
 25 the income or assets (or both) of a payee)

1                   certified to the Financial Management  
 2                   Service for disbursement, and  
 3                   “(ii) any other payment which is cer-  
 4                   tified to the Financial Management Service  
 5                   for disbursement and which the Secretary  
 6                   designates by published notice.”.

7           (b) CONFORMING AMENDMENTS.—

8           (1) Section 6301(p) is amended—

9                   (A) in paragraph (3)(A), by striking “(2),  
 10                   or (6)” and inserting “(2), (6), or (8)”, and

11                   (B) in paragraph (4), by inserting  
 12                   “(k)(8),” after “(j) (1) or (2),” each place it  
 13                   appears.

14           (2) Section 552a(a)(8)(B) of title 5, United  
 15           States Code, is amended by striking “or” at the end  
 16           of clause (v), by adding “or” at the end of clause  
 17           (vi), and by adding at the end the following new  
 18           clause:

19                   “(vii) matches performed incident to a  
 20                   levy described in section 6103(k)(8) of the  
 21                   Internal Revenue Code of 1986;”.

22           (c) EFFECTIVE DATE.—The amendments made by  
 23           this section shall apply to levies issued after the date of  
 24           the enactment of this Act.

# 1     **Subtitle E—Excise Tax Provisions**

## 2     **SEC. 841. EXTENSION AND MODIFICATION OF AIRPORT AND** 3                 **AIRWAY TRUST FUND TAXES.**

### 4             (a) FUEL TAXES.—

5                 (1) AVIATION FUEL.—Clause (ii) of section  
6                 4091(b)(3)(A) is amended by striking “September  
7                 30, 1997” and inserting “September 30, 2007”.

8                 (2) AVIATION GASOLINE.—Subparagraph (B) of  
9                 section 4081(d)(2) is amended by striking “Septem-  
10                ber 30, 1997” and inserting “September 30, 2007”.

11                (3) NONCOMMERCIAL AVIATION.—Subpara-  
12                graph (B) of section 4041(c)(3) is amended by strik-  
13                ing “September 30, 1997” and inserting “September  
14                30, 2007”.

### 15            (b) TICKET TAXES.—

16                (1) PERSONS.—Clause (ii) of section  
17                4261(g)(1)(A) is amended by striking “September  
18                30, 1997” and inserting “September 30, 2007”.

19                (2) PROPERTY.—Clause (ii) of section  
20                4271(d)(1)(A) is amended by striking “September  
21                30, 1997” and inserting “September 30, 2007”.

### 22            (c) MODIFICATIONS.—

23                (1) USE OF INTERNATIONAL TRAVEL FACILI-  
24                TIES.—Subsection (c) of section 4261 is amended to  
25                read as follows:

1 “(c) USE OF INTERNATIONAL TRAVEL FACILITIES.—

2 “(1) IN GENERAL.—There is hereby imposed a  
3 tax of \$8 on any amount paid (whether within or  
4 without the United States) for any transportation of  
5 any person by air, if such transportation begins or  
6 ends in the United States.

7 “(2) EXCEPTION FOR TRANSPORTATION EN-  
8 TIRELY TAXABLE UNDER SUBSECTION (a).—This  
9 subsection shall not apply to any transportation all  
10 of which is taxable under subsection (a) (determined  
11 without regard to sections 4281 and 4282).

12 “(3) SPECIAL RULE FOR ALASKA AND HA-  
13 WAI.—In any case in which the tax imposed by  
14 paragraph (1) applies to a segment between the con-  
15 tinental United States and Alaska or Hawaii or be-  
16 tween Alaska and Hawaii, such tax shall apply only  
17 to departures and shall be at the rate of \$6.”

18 (2) SPECIAL RULES.—Section 4261 is amended  
19 by redesignating subsections (e), (f), and (g), as sub-  
20 sections (f), (g), and (h), respectively, and by insert-  
21 ing after subsection (d) the following new sub-  
22 section:

23 “(e) SPECIAL RULES.—



1           “(1) APPLICATION OF SUBSECTION (a) TO DO-  
2           MESTIC SEGMENTS OF INTERNATIONAL TRANSPOR-  
3           TATION.—

4                   “(A) IN GENERAL.—In the case of taxable  
5           transportation described in section 4262(a)(2),  
6           the tax imposed by subsection (a) shall be ap-  
7           plied by taking into account only an amount  
8           which bears the same ratio to the amount paid  
9           for such transportation as the number of speci-  
10          fied miles in the domestic segments of such  
11          transportation bears to the total number of  
12          specified miles in such transportation.

13                   “(B) SPECIFIED MILES.—For purposes of  
14          subparagraph (A), the term ‘specified miles’  
15          means the great circle miles (as specified by the  
16          Secretary) between the 2 points of each seg-  
17          ment. The Secretary may specify mileage which  
18          shall apply in lieu of the mileage determined  
19          under the preceding sentence with respect to  
20          any 2 points if the Secretary determines that  
21          the mileage on the route customarily traveled  
22          by air between such points is different from the  
23          mileage determined under the preceding sen-  
24          tence.

1           “(C) DOMESTIC SEGMENT.—For purposes  
 2           of this section, the term ‘domestic segment’  
 3           means any segment which is taxable transpor-  
 4           tation described in section 4262(a)(1).

5           “(2) REDUCED RATE OF TAX FOR SEGMENTS  
 6           TO AND FROM RURAL AIRPORTS.—

7           “(A) IN GENERAL.—Subsections (a) and  
 8           (b) shall be applied by substituting ‘7.5 percent’  
 9           for ‘10 percent’ in the case of any segment be-  
 10          ginning or ending at an airport which is a rural  
 11          airport for the calendar year in which such seg-  
 12          ment begins or ends (as the case may be).

13          “(B) RURAL AIRPORT.—For purposes of  
 14          subparagraph (A), the term ‘rural airport’  
 15          means, with respect to any calendar year, any  
 16          airport if—

17               “(i) there were fewer than 100,000  
 18               commercial passengers departing by air  
 19               during the second preceding calendar year  
 20               from such airport, and

21               “(ii) such airport—

22                       “(I) is not located within 75  
 23                       miles of another airport which is not  
 24                       described in clause (i), or

1                   “(II) is receiving essential air  
2                   service subsidies as of the date of the  
3                   enactment of this paragraph.

4                   “(C) TRANSPORTATION INVOLVING MUL-  
5                   TIPLE SEGMENTS.—In the case of transpor-  
6                   tation involving more than 1 segment at least  
7                   1 of which does not begin or end at a rural air-  
8                   port, subparagraph (A) shall be applied by tak-  
9                   ing into account only an amount which bears  
10                  the same ratio to the amount paid for such  
11                  transportation as the number of specified miles  
12                  in segments which begin or end at a rural air-  
13                  port bears to the total number of specified miles  
14                  in such transportation.

15               “(3) AMOUNTS PAID FOR RIGHT TO AWARD  
16               FREE OR REDUCED RATE AIR TRANSPORTATION.—  
17               Any amount paid (or other benefit provided) to an  
18               air carrier (or any related person) for the right to  
19               provide mileage awards for (or other reductions in  
20               the cost of) any transportation of persons by air  
21               shall be treated for purposes of subsection (a) as an  
22               amount paid for taxable transportation, and such  
23               amount shall be taxable under subsection (a) with-  
24               out regard to any other provision of this subchapter.  
25               The Secretary shall prescribe rules which reallocate

1 items of income, deduction, credit, exclusion, or  
 2 other allowance to the extent necessary to prevent  
 3 the avoidance of tax imposed by reason of this para-  
 4 graph.”

5 (3) SECONDARY LIABILITY OF CARRIER FOR  
 6 UNPAID TAX.—Subsection (c) of section 4263 is  
 7 amended by striking “subchapter—” and all that  
 8 follows and inserting “subchapter, such tax shall be  
 9 paid by the carrier providing the initial segment of  
 10 such transportation which begins or ends in the  
 11 United States.”

12 (4) TECHNICAL AMENDMENTS.—

13 (A) Paragraph (2) of section 4262(a) is  
 14 amended by striking “United States, but” and  
 15 all that follows and inserting “United States.”.

16 (B) Subsection (c) of section 4262 is  
 17 amended by striking paragraph (3).

18 (d) EFFECTIVE DATES.—

19 (1) FUEL TAXES.—The amendments made by  
 20 subsection (a) shall apply take effect on October 1,  
 21 1997.

22 (2) TICKET TAXES.—

23 (A) IN GENERAL.—Except as otherwise  
 24 provided in this paragraph, the amendments  
 25 made by subsections (b) and (c) shall apply to

1 transportation beginning on or after October 1,  
2 1997.

3 (B) TREATMENT OF AMOUNTS PAID FOR  
4 TICKETS PURCHASED BEFORE DATE OF ENACT-  
5 MENT.—The amendments made by subsection  
6 (c) shall not apply to amounts paid for a ticket  
7 purchased before the date of the enactment of  
8 this Act for a specified flight beginning on or  
9 after October 1, 1997.

10 (C) AMOUNTS PAID FOR RIGHT TO AWARD  
11 MILEAGE AWARDS.—

12 (i) IN GENERAL.—Paragraph (2) of  
13 section 4261(e) of the Internal Revenue  
14 Code of 1986 (as added by the amendment  
15 made by subsection (c)) shall apply to  
16 amounts paid after September 30, 1997.

17 (ii) PAYMENTS WITHIN CONTROLLED  
18 GROUP.—For purposes of clause (i), any  
19 amount paid after June 16, 1997, and be-  
20 fore October 1, 1997, by 1 member of a  
21 controlled group for a right which is de-  
22 scribed in such section 4261(e)(2) and is  
23 furnished by another member of such  
24 group after September 30, 1997, shall be  
25 treated as paid after September 30, 1997.

1           For purposes of the preceding sentence, all  
 2           persons treated as a single employer under  
 3           subsection (a) or (b) of section 52 of such  
 4           Code shall be treated as members of a con-  
 5           trolled group.

6           (e) **DELAYED DEPOSITS OF AIRLINE TICKET TAX**  
 7 **REVENUES.**—In the case of deposits of taxes imposed by  
 8 section 4261 of the Internal Revenue Code of 1986, the  
 9 due date for any such deposit which would (but for this  
 10 subsection) be required to be made—

11           (1) after August 14, 1997, and before October  
 12           1, 1997, shall be October 10, 1997, and

13           (2) after July 1, 2001, and before October 1,  
 14           2001, shall be October 10, 2001.

15 **SEC. 842. RESTORATION OF LEAKING UNDERGROUND**  
 16 **STORAGE TANK TRUST FUND TAXES.**

17           Paragraph (3) of section 4081(d) is amended by  
 18 striking “shall not apply after December 31, 1995” and  
 19 inserting “shall apply after September 30, 1997, and be-  
 20 fore October 1, 2007”.

21 **SEC. 843. APPLICATION OF COMMUNICATIONS TAX TO**  
 22 **LONG-DISTANCE PREPAID TELEPHONE**  
 23 **CARDS.**

24           (a) **IN GENERAL.**—Section 4251 is amended by add-  
 25 ing at the end the following new subsection:

1       “(d) TREATMENT OF PREPAID TELEPHONE  
2 CARDS.—

3               “(1) IN GENERAL.—For purposes of this sub-  
4 chapter, in the case of communications services ac-  
5 quired by means of a prepaid telephone card—

6                       “(A) the purchase of such card shall not  
7 be treated as an amount paid for communica-  
8 tions services, but

9                       “(B) the amount paid to any telephone  
10 carrier from any person who is not such a pro-  
11 vider on account of the use of such a card to  
12 acquire communications services shall be treat-  
13 ed as an amount paid for such communications  
14 services.

15               “(2) PREPAID TELEPHONE CARD.—For pur-  
16 poses of paragraph (1), the term ‘prepaid telephone  
17 card’ means any card or other similar arrangement  
18 which permits its holder to obtain communications  
19 services and pay for such services in advance.”

20       (b) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to amounts paid on or after the  
22 date of the enactment of this Act.

23 **SEC. 844. UNIFORM RATE OF TAX ON VACCINES.**

24       (a) IN GENERAL.—Subsection (b) of section 4131 is  
25 amended to read as follows:

1 “(b) AMOUNT OF TAX.—

2 “(1) IN GENERAL.—The amount of the tax im-  
3 posed by subsection (a) shall be 84 cents per dose  
4 of any taxable vaccine.

5 “(2) COMBINATIONS OF VACCINES.—If any tax-  
6 able vaccine is described in more than 1 subpara-  
7 graph of section 4132(a)(1), the amount of the tax  
8 imposed by subsection (a) on such vaccine shall be  
9 the sum of the amounts for the vaccines which are  
10 so included.”

11 (b) TAXABLE VACCINES.—Paragraph (1) of section  
12 4132(a) is amended to read as follows:

13 “(1) TAXABLE VACCINE.—The term ‘taxable  
14 vaccine’ means any of the following vaccines which  
15 are manufactured or produced in the United States  
16 or entered into the United States for consumption,  
17 use, or warehousing:

18 “(A) Any vaccine containing diphtheria  
19 toxoid.

20 “(B) Any vaccine containing tetanus tox-  
21 oid.

22 “(C) Any vaccine containing pertussis bac-  
23 teria, extracted or partial cell bacteria, or spe-  
24 cific pertussis antigens.

25 “(D) Any vaccine against measles.



1 “(E) Any vaccine against mumps.

2 “(F) Any vaccine against rubella.

3 “(G) Any vaccine containing polio virus.

4 “(H) Any HIB vaccine.

5 “(I) Any vaccine against hepatitis B.

6 “(J) Any vaccine against chicken pox.”

7 (c) CONFORMING AMENDMENT.—Subsection (a) of  
8 section 4132 is amended by striking paragraphs (2), (3),  
9 and (4) and by redesignating paragraphs (5) through (8)  
10 as paragraphs (2) through (5), respectively.

11 (d) EFFECTIVE DATE.—The amendments made by  
12 this section shall take effect on October 1, 1997.

13 (e) LIMITATION ON CERTAIN CREDITS OR RE-  
14 FUNDS.—For purposes of applying section 4132(b) of the  
15 Internal Revenue Code of 1986 with respect to any claim  
16 for credit or refund filed before April 1, 1998, the amount  
17 of tax taken into account shall not exceed the tax com-  
18 puted under the rate in effect on October 1, 1997.

19 **SEC. 845. CREDIT FOR TIRE TAX IN LIEU OF EXCLUSION OF**  
20 **VALUE OF TIRES IN COMPUTING PRICE.**

21 (a) IN GENERAL.—Subsection (e) of section 4051 is  
22 amended to read as follows:

23 “(e) CREDIT AGAINST TAX FOR TIRE TAX.—If—

24 “(1) tires are sold on or in connection with the  
25 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 **SEC. 846. INCREASE IN EXCISE TAXES ON TOBACCO PROD-**  
 13 **UCTS.**

14          (a) CIGARETTES.—Subsection (b) of section 5701 is  
 15 amended—

16           (1) by striking “\$12 per thousand (\$10 per  
 17 thousand on cigarettes removed during 1991 or  
 18 1992)” in paragraph (1) and inserting “\$22 per  
 19 thousand”, and

20           (2) by striking “\$25.20 per thousand (\$21 per  
 21 thousand on cigarettes removed during 1991 or  
 22 1992)” in paragraph (2) and inserting “\$46.20 per  
 23 thousand”.

24          (b) CIGARS.—Subsection (a) of section 5701 is  
 25 amended—

1           (1) by striking “\$1.125 cents per thousand  
2           (93.75 cents per thousand on cigars removed during  
3           1991 or 1992)” in paragraph (1) and inserting  
4           “\$2.063 cents per thousand”, and

5           (2) by striking “equal to” and all that follows  
6           in paragraph (2) and inserting “equal to 23.375 per-  
7           cent of the price for which sold but not more than  
8           \$55 per thousand.”

9           (c) CIGARETTE PAPERS.—Subsection (c) of section  
10          5701 is amended by striking “0.75 cent (0.625 cent on  
11          cigarette papers removed during 1991 or 1992)” and in-  
12          serting “1.38 cents”.

13          (d) CIGARETTE TUBES.—Subsection (d) of section  
14          5701 is amended by striking “1.5 cents (1.25 cents on  
15          cigarette tubes removed during 1991 or 1992)” and in-  
16          serting “2.75 cents”.

17          (e) SMOKELESS TOBACCO.—Subsection (e) of section  
18          5701 is amended—

19               (1) by striking “36 cents (30 cents on snuff re-  
20               moved during 1991 or 1992)” in paragraph (1) and  
21               inserting “66 cents”, and

22               (2) by striking “12 cents (10 cents on chewing  
23               tobacco removed during 1991 or 1992)” in para-  
24               graph (2) and inserting “22 cents”.

1       (f) PIPE TOBACCO.—Subsection (f) of section 5701  
 2 is amended by striking “67.5 cents (56.25 cents on pipe  
 3 tobacco removed during 1991 or 1992)” and inserting  
 4 “\$1.2375 cents”.

5       (g) IMPOSITION OF EXCISE TAX ON MANUFACTURE  
 6 OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.—

7           (1) IN GENERAL.—Section 5701 (relating to  
 8 rate of tax) is amended by redesignating subsection  
 9 (g) as subsection (h) and by inserting after sub-  
 10 section (f) the following new subsection:

11       “(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own  
 12 tobacco, manufactured in or imported into the United  
 13 States, there shall be imposed a tax of 66 cents per pound  
 14 (and a proportionate tax at the like rate on all fractional  
 15 parts of a pound).”

16           (2) ROLL-YOUR-OWN TOBACCO.—Section 5702  
 17 (relating to definitions) is amended by adding at the  
 18 end the following new subsection:

19       “(p) ROLL-YOUR-OWN TOBACCO.—The term ‘roll-  
 20 your-own tobacco’ means any tobacco which, because of  
 21 its appearance, type, packaging, or labeling, is suitable for  
 22 use and likely to be offered to, or purchased by, consumers  
 23 as tobacco for making cigarettes.”

24           (3) TECHNICAL AMENDMENTS.—

1 (A) Subsection (c) of section 5702 is  
 2 amended by striking “and pipe tobacco” and in-  
 3 serting “pipe tobacco, and roll-your-own to-  
 4 bacco”.

5 (B) Subsection (d) of section 5702 is  
 6 amended—

7 (i) in the material preceding para-  
 8 graph (1), by striking “or pipe tobacco”  
 9 and inserting “pipe tobacco, or roll-your-  
 10 own tobacco”, and

11 (ii) by striking paragraph (1) and in-  
 12 serting the following new paragraph:

13 “(1) a person who produces cigars, cigarettes,  
 14 smokeless tobacco, pipe tobacco, or roll-your-own to-  
 15 bacco solely for the person’s own personal consump-  
 16 tion or use, and”.

17 (C) The chapter heading for chapter 52 is  
 18 amended to read as follows:

19 **“CHAPTER 52—TOBACCO PRODUCTS AND**  
 20 **CIGARETTE PAPERS AND TUBES”.**

21 (D) The table of chapters for subtitle E is  
 22 amended by striking the item relating to chap-  
 23 ter 52 and inserting the following new item:

“CHAPTER 52. Tobacco products and cigarette papers and tubes.”

24 (h) MODIFICATIONS OF CERTAIN TOBACCO TAX  
 25 PROVISIONS.—

1           (1) EXEMPTION FOR EXPORTED TOBACCO  
2           PRODUCTS AND CIGARETTE PAPERS AND TUBES TO  
3           APPLY ONLY TO ARTICLES MARKED FOR EXPORT.—

4           (A) Subsection (b) of section 5704 is  
5           amended by adding at the end the following  
6           new sentence: “Tobacco products and cigarette  
7           papers and tubes may not be transferred or re-  
8           moved under this subsection unless such prod-  
9           ucts or papers and tubes bear such marks, la-  
10          bels, or notices as the Secretary shall by regula-  
11          tions prescribe.”

12          (B) Section 5761 is amended by redesignig-  
13          nating subsections (c) and (d) as subsections  
14          (d) and (e), respectively, and by inserting after  
15          subsection (b) the following new subsection:

16          “(c) SALE OF TOBACCO PRODUCTS AND CIGARETTE  
17          PAPERS AND TUBES FOR EXPORT.—Except as provided  
18          in subsections (b) and (d) of section 5704—

19               “(1) every person who sells, relands, or receives  
20               within the jurisdiction of the United States any to-  
21               bacco products or cigarette papers or tubes which  
22               have been labeled or shipped for exportation under  
23               this chapter,

1           “(2) every person who sells or receives such re-  
 2           landed tobacco products or cigarette papers or tubes,  
 3           and

4           “(3) every person who aids or abets in such  
 5           selling, relanding, or receiving,

6 shall, in addition to the tax and any other penalty provided  
 7 in this title, be liable for a penalty equal to the greater  
 8 of \$1,000 or 5 times the amount of the tax imposed by  
 9 this chapter. All tobacco products and cigarette papers  
 10 and tubes relanded within the jurisdiction of the United  
 11 States, and all vessels, vehicles, and aircraft used in such  
 12 relanding or in removing such products, papers, and tubes  
 13 from the place where relanded, shall be forfeited to the  
 14 United States.”

15           (C) Subsection (a) of section 5761 is  
 16           amended by striking “subsection (b)” and in-  
 17           serting “subsection (b) or (c)”.

18           (D) Subsection (d) of section 5761, as re-  
 19           designated by subparagraph (B), is amended by  
 20           striking “The penalty imposed by subsection  
 21           (b)” and inserting “The penalties imposed by  
 22           subsections (b) and (c)”.

23           (E)(i) Subpart F of chapter 52 is amended  
 24           by adding at the end the following new section:

1 **“SEC. 5754. RESTRICTION ON IMPORTATION OF PRE-**  
 2 **VIOUSLY EXPORTED TOBACCO PRODUCTS.**

3 “(a) IN GENERAL.—Tobacco products and cigarette  
 4 papers and tubes previously exported from the United  
 5 States may be imported or brought into the United States  
 6 only as provided in section 5704(d). For purposes of this  
 7 section, section 5704(d), section 5761, and such other pro-  
 8 visions as the Secretary may specify by regulations, ref-  
 9 erences to exportation shall be treated as including a ref-  
 10 erence to shipment to the Commonwealth of Puerto Rico.

11 “(b) CROSS REFERENCE.—

**“For penalty for the sale of tobacco products and  
 cigarette papers and tubes in the United States  
 which are labeled for export, see section 5761(c).”**

12 (ii) The table of sections for subpart F of  
 13 chapter 52 is amended by adding at the end the  
 14 following new item:

“Sec. 5754. Restriction on importation of previously exported to-  
 bacco products.”

15 (2) IMPORTERS REQUIRED TO BE QUALIFIED.—

16 (A) Sections 5712, 5713(a), 5721, 5722,  
 17 5762(a)(1), and 5763 (b) and (c) are each  
 18 amended by inserting “or importer” after  
 19 “manufacturer”.

20 (B) The heading of subsection (b) of sec-  
 21 tion 5763 is amended by inserting “QUALIFIED  
 22 IMPORTERS,” after “MANUFACTURERS,”.



1 (C) The heading for subchapter B of chap-  
2 ter 52 is amended by inserting “**and Import-**  
3 **ers**” after “**Manufacturers**”.

4 (D) The item relating to subchapter B in  
5 the table of subchapters for chapter 52 is  
6 amended by inserting “and importers” after  
7 “manufacturers”.

8 (3) BOOKS OF 25 OR FEWER CIGARETTE PA-  
9 PERS SUBJECT TO TAX.—Subsection (c) of section  
10 5701 is amended by striking “On each book or set  
11 of cigarette papers containing more than 25 pa-  
12 pers,” and inserting “On cigarette papers,”.

13 (4) STORAGE OF TOBACCO PRODUCTS.—Sub-  
14 section (k) of section 5702 is amended by inserting  
15 “under section 5704” after “internal revenue bond”.

16 (5) AUTHORITY TO PRESCRIBE MINIMUM MANU-  
17 FACTURING ACTIVITY REQUIREMENTS.—Section  
18 5712 is amended by striking “or” at the end of  
19 paragraph (1), by redesignating paragraph (2) as  
20 paragraph (3), and by inserting after paragraph (1)  
21 the following new paragraph:

22 “(2) the activity proposed to be carried out at  
23 such premises does not meet such minimum capacity  
24 or activity requirements as the Secretary may pre-  
25 scribe, or”.

1 (i) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendments made by  
3 this section shall apply to articles removed (as de-  
4 fined in section 5702(k) of the Internal Revenue  
5 Code of 1986, as amended by this section) after  
6 September 30, 1997.

7 (2) TRANSITIONAL RULE.—Any person who—

8 (A) on the date of the enactment of this  
9 Act is engaged in business as a manufacturer of  
10 roll-your-own tobacco or as an importer of to-  
11 bacco products or cigarette papers and tubes,  
12 and

13 (B) before October 1, 1997, submits an  
14 application under subchapter B of chapter 52  
15 of such Code to engage in such business,

16 may, notwithstanding such subchapter B, continue  
17 to engage in such business pending final action on  
18 such application. Pending such final action, all pro-  
19 visions of such chapter 52 shall apply to such appli-  
20 cant in the same manner and to the same extent as  
21 if such applicant were a holder of a permit under  
22 such chapter 52 to engage in such business.

23 (j) FLOOR STOCKS TAXES.—

24 (1) IMPOSITION OF TAX.—On tobacco products  
25 and cigarette papers and tubes manufactured in or

1 imported into the United States which are removed  
2 before October 1, 1997, and held on such date for  
3 sale by any person, there is hereby imposed a tax in  
4 an amount equal to the excess of—

5 (A) the tax which would be imposed under  
6 section 5701 of the Internal Revenue Code of  
7 1986 on the article if the article had been re-  
8 moved on such date, over

9 (B) the prior tax (if any) imposed under  
10 section 5701 of such Code on such article.

11 (2) AUTHORITY TO EXEMPT CIGARETTES HELD  
12 IN VENDING MACHINES.—To the extent provided in  
13 regulations prescribed by the Secretary, no tax shall  
14 be imposed by paragraph (1) on cigarettes held for  
15 retail sale on October 1, 1997, by any person in any  
16 vending machine. If the Secretary provides such a  
17 benefit with respect to any person, the Secretary  
18 may reduce the \$500 amount in paragraph (3) with  
19 respect to such person.

20 (3) CREDIT AGAINST TAX.—Each person shall  
21 be allowed as a credit against the taxes imposed by  
22 paragraph (1) an amount equal to \$500. Such credit  
23 shall not exceed the amount of taxes imposed by  
24 paragraph (1) on October 1, 1997, for which such  
25 person is liable.

1           (4) LIABILITY FOR TAX AND METHOD OF PAY-  
2           MENT.—

3           (A) LIABILITY FOR TAX.—A person hold-  
4           ing cigarettes on October 1, 1997, to which any  
5           tax imposed by paragraph (1) applies shall be  
6           liable for such tax.

7           (B) METHOD OF PAYMENT.—The tax im-  
8           posed by paragraph (1) shall be paid in such  
9           manner as the Secretary shall prescribe by reg-  
10          ulations.

11          (C) TIME FOR PAYMENT.—The tax im-  
12          posed by paragraph (1) shall be paid on or be-  
13          fore January 2, 1998.

14          (5) ARTICLES IN FOREIGN TRADE ZONES.—  
15          Notwithstanding the Act of June 18, 1934 (48 Stat.  
16          998, 19 U.S.C. 81a) and any other provision of law,  
17          any article which is located in a foreign trade zone  
18          on October 1, 1997, shall be subject to the tax im-  
19          posed by paragraph (1) if—

20                (A) internal revenue taxes have been deter-  
21                mined, or customs duties liquidated, with re-  
22                spect to such article before such date pursuant  
23                to a request made under the 1st proviso of sec-  
24                tion 3(a) of such Act, or

1 (B) such article is held on such date under  
2 the supervision of a customs officer pursuant to  
3 the 2d proviso of such section 3(a).

4 (6) DEFINITIONS.—For purposes of this sub-  
5 section—

6 (A) IN GENERAL.—Terms used in this sub-  
7 section which are also used in section 5702 of  
8 the Internal Revenue Code of 1986 shall have  
9 the respective meanings such terms have in  
10 such section, as amended by this Act.

11 (B) SECRETARY.—The term “Secretary”  
12 means the Secretary of the Treasury or the  
13 Secretary’s delegate.

14 (7) CONTROLLED GROUPS.—Rules similar to  
15 the rules of section 5061(e)(3) of such Code shall  
16 apply for purposes of this subsection.

17 (8) OTHER LAWS APPLICABLE.—All provisions  
18 of law, including penalties, applicable with respect to  
19 the taxes imposed by section 5701 of such Code  
20 shall, insofar as applicable and not inconsistent with  
21 the provisions of this subsection, apply to the floor  
22 stocks taxes imposed by paragraph (1), to the same  
23 extent as if such taxes were imposed by such section  
24 5701. The Secretary may treat any person who bore  
25 the ultimate burden of the tax imposed by para-

graph (1) as the person to whom a credit or refund under such provisions may be allowed or made.

## **Subtitle F—Provisions Relating to Tax-Exempt Entities**

### **SEC. 851. EXPANSION OF LOOK-THRU RULE FOR INTEREST, ANNUITIES, ROYALTIES, AND RENTS DE- RIVED BY SUBSIDIARIES OF TAX-EXEMPT OR- GANIZATIONS.**

(a) IN GENERAL.—Paragraph (13) of section 512(b) is amended to read as follows:

“(13) SPECIAL RULES FOR CERTAIN AMOUNTS  
RECEIVED FROM CONTROLLED ENTITIES.—

“(A) IN GENERAL.—If an organization (in this paragraph referred to as the ‘controlling organization’) receives (directly or indirectly) a specified payment from another entity which it controls (in this paragraph referred to as the ‘controlled entity’), notwithstanding paragraphs (1), (2), and (3), the controlling organization shall include such payment as an item of gross income derived from an unrelated trade or business to the extent such payment reduces the net unrelated income of the controlled entity (or increases any net unrelated loss of the controlled entity). There shall be allowed all deductions of

the controlling organization directly connected with amounts treated as derived from an unrelated trade or business under the preceding sentence.

“(B) NET UNRELATED INCOME OR LOSS.—For purposes of this paragraph—

“(i) NET UNRELATED INCOME.—The term ‘net unrelated income’ means—

“(I) in the case of a controlled entity which is not exempt from tax under section 501(a), the portion of such entity’s taxable income which would be unrelated business taxable income if such entity were exempt from tax under section 501(a) and had the same exempt purposes (as defined in section 513A(a)(5)(A)) as the controlling organization, or

“(II) in the case of a controlled entity which is exempt from tax under section 501(a), the amount of the unrelated business taxable income of the controlled entity.

“(ii) NET UNRELATED LOSS.—The term ‘net unrelated loss’ means the net op-

erating loss adjusted under rules similar to  
the rules of clause (i).

“(C) SPECIFIED PAYMENT.—For purposes  
of this paragraph, the term ‘specified payment’  
means any interest, annuity, royalty, or rent.

“(D) DEFINITION OF CONTROL.—For pur-  
poses of this paragraph—

“(i) CONTROL.—The term ‘control’  
means—

“(I) in the case of a corporation,  
ownership (by vote or value) of more  
than 50 percent of the stock in such  
corporation,

“(II) in the case of a partner-  
ship, ownership of more than 50 per-  
cent of the profits interests or capital  
interests in such partnership, or

“(III) in any other case, owner-  
ship of more than 50 percent of the  
beneficial interests in the entity.

“(ii) CONSTRUCTIVE OWNERSHIP.—  
Section 318 (relating to constructive own-  
ership of stock) shall apply for purposes of  
determining ownership of stock in a cor-  
poration. Similar principles shall apply for



1 purposes of determining ownership of in-  
2 terests in any other entity.

3 “(E) RELATED PERSONS.—The Secretary  
4 shall prescribe such rules as may be necessary  
5 or appropriate to prevent avoidance of the pur-  
6 poses of this paragraph through the use of re-  
7 lated persons.”

8 (b) EFFECTIVE DATE.—

9 (1) IN GENERAL.—Except as provided in para-  
10 graph (2), the amendments made by this section  
11 shall apply to taxable years beginning after the date  
12 of the enactment of this Act.

13 (2) CONTROL TEST.—In the case of taxable  
14 years beginning before January 1, 1999, an organi-  
15 zation shall be treated as controlling another organi-  
16 zation for purposes of section 512(b)(13) of the In-  
17 ternal Revenue Code of 1986 (as amended by this  
18 section) only if it controls such organization within  
19 the meaning of such section, determined by sub-  
20 stituting “80 percent” for “50 percent” each place  
21 it appears in subparagraph (D) thereof.

1 **SEC. 852. LIMITATION ON INCREASE IN BASIS OF PROP-**  
 2 **ERTY RESULTING FROM SALE BY TAX-EX-**  
 3 **EMPT ENTITY TO A RELATED PERSON.**

4 (a) IN GENERAL.—Part IV of subchapter O of chap-  
 5 ter 1 (relating to special rules for gain or loss on disposi-  
 6 tion of property) is amended by redesignating section  
 7 1061 as section 1062 and by inserting after section 1060  
 8 the following new section:

9 **“SEC. 1061. BASIS LIMITATION FOR SALE OR EXCHANGE OF**  
 10 **PROPERTY BY TAX-EXEMPT ENTITY TO RE-**  
 11 **LATED PERSON.**

12 “(a) GENERAL RULE.—In the case of a sale or ex-  
 13 change of property directly or indirectly between a tax-  
 14 exempt entity and a related person, the basis of the related  
 15 person in the property acquired shall not exceed the ad-  
 16 justed basis of such property (immediately before the ex-  
 17 change) in the hands of the tax-exempt entity, increased  
 18 by the amount of gain recognized to the tax-exempt entity  
 19 on the transfer which is subject to tax under section 511.

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

21 “(1) TAX-EXEMPT ENTITY.—The term ‘tax-ex-  
 22 empt entity’ has the meaning given such term by  
 23 section 168(h)(2) determined without regard to sub-  
 24 paragraph (A)(iii) thereof.

25 “(2) RELATED PERSON.—The term ‘related  
 26 person’ means any person bearing a relationship to

1 the tax-exempt entity which is described in section  
 2 267(b) or 707(b)(1). For purposes of applying sec-  
 3 tion 267(b)(2) under the preceding sentence, such  
 4 an entity shall be treated as if it were an individ-  
 5 ual.”

6 (b) CLERICAL AMENDMENT.—The table of sections  
 7 for part IV of subchapter O of chapter 1 is amended by  
 8 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.”

9 (c) EFFECTIVE DATE.—

10 (1) IN GENERAL.—The amendments made by  
 11 this section shall apply to sales and exchanges after  
 12 June 8, 1997.

13 (2) BINDING CONTRACTS.—The amendments  
 14 made by this section shall not apply to any sale or  
 15 exchange pursuant to a written contract which was  
 16 binding on June 8, 1997, and at all times thereafter  
 17 before the sale or exchange.

18 **SEC. 853. TERMINATION OF EXCEPTION FROM RULES RE-**  
 19 **LATING TO EXEMPT ORGANIZATIONS WHICH**  
 20 **PROVIDE COMMERCIAL-TYPE INSURANCE.**

21 (a) IN GENERAL.—Subparagraph (A) of section  
 22 1012(c)(4) of the Tax Reform Act of 1986 shall not apply  
 23 to any taxable year beginning after December 31, 1997.

1 (b) SPECIAL RULES.—In the case of an organization  
2 to which section 501(m) of the Internal Revenue Code of  
3 1986 applies solely by reason of the amendment made by  
4 subsection (a)—

5 (1) no adjustment shall be made under section  
6 481 (or any other provision) of such Code on ac-  
7 count of a change in its method of accounting for its  
8 first taxable year beginning after December 31,  
9 1997, and

10 (2) for purposes of determining gain or loss, the  
11 adjusted basis of any asset held on the 1st day of  
12 such taxable year shall be treated as equal to its fair  
13 market value as of such day.

14 (c) RESERVE WEAKENING AFTER JUNE 8, 1997.—  
15 Any reserve weakening after June 8, 1997, by an organi-  
16 zation described in subsection (b) shall be treated as oc-  
17 ccurring in such organizations 1st taxable year beginning  
18 after December 31, 1997.

19 (d) REGULATIONS.—The Secretary of the Treasury  
20 or his delegate may prescribe rules for providing proper  
21 adjustments for organizations described in subsection (b)  
22 with respect to short taxable years which begin during  
23 1998 by reason of section 843 of the Internal Revenue  
24 Code of 1986.

# 1       **Subtitle G—Foreign Provisions**

## 2       **SEC. 861. DEFINITION OF FOREIGN PERSONAL HOLDING**

### 3               **COMPANY INCOME.**

4           (a) INCOME FROM NOTIONAL PRINCIPAL CON-  
5 TRACTS AND PAYMENTS IN LIEU OF DIVIDENDS.—

6               (1) IN GENERAL.—Paragraph (1) of section  
7 954(c) (defining foreign personal holding company  
8 income) is amended by adding at the end the follow-  
9 ing new subparagraphs:

10               “(F) INCOME FROM NOTIONAL PRINCIPAL  
11 CONTRACTS.—Net income from notional prin-  
12 cipal contracts. Any item of income, gain, de-  
13 duction, or loss from a notional principal con-  
14 tract entered into for purposes of hedging any  
15 item described in any preceding subparagraph  
16 shall not be taken into account for purposes of  
17 this subparagraph but shall be taken into ac-  
18 count under such other subparagraph.

19               “(G) PAYMENTS IN LIEU OF DIVIDENDS.—  
20 Payments in lieu of dividends which are made  
21 pursuant to an agreement to which section  
22 1058 applies.”

23               (2) CONFORMING AMENDMENT.—Subparagraph  
24 (B) of section 954(c)(1) is amended—

25               (A) by striking the second sentence, and

1 (B) by striking “also” in the last sentence.

2 (b) EXCEPTION FOR DEALERS.—Paragraph (2) of  
3 section 954(c) is amended by adding at the end the follow-  
4 ing new subparagraph:

5 “(C) EXCEPTION FOR DEALERS.—Except  
6 as provided in subparagraph (A), (E), or (G) of  
7 paragraph (1) or by regulations, in the case of  
8 a regular dealer in property (within the mean-  
9 ing of paragraph (1)(B)), forward contracts,  
10 option contracts, or similar financial instru-  
11 ments (including notional principal contracts  
12 and all instruments referenced to commodities),  
13 there shall not be taken into account in comput-  
14 ing foreign personal holding income any item of  
15 income, gain, deduction, or loss from any trans-  
16 action (including hedging transactions) entered  
17 into in the ordinary course of such dealer’s  
18 trade or business as such a dealer.”

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

1 **SEC. 862. PERSONAL PROPERTY USED PREDOMINANTLY IN**  
 2 **THE UNITED STATES TREATED AS NOT PROP-**  
 3 **ERTY OF A LIKE KIND WITH RESPECT TO**  
 4 **PROPERTY USED PREDOMINANTLY OUTSIDE**  
 5 **THE UNITED STATES.**

6 (a) IN GENERAL.—Subsection (h) of section 1031  
 7 (relating to exchange of property held for productive use  
 8 or investment) is amended to read as follows:

9 “(h) SPECIAL RULES FOR FOREIGN REAL AND PER-  
 10 SONAL PROPERTY.—For purposes of this section—

11 “(1) REAL PROPERTY.—Real property located  
 12 in the United States and real property located out-  
 13 side the United States are not property of a like  
 14 kind.

15 “(2) PERSONAL PROPERTY.—

16 “(A) IN GENERAL.—Personal property  
 17 used predominantly within the United States  
 18 and personal property used predominantly out-  
 19 side the United States are not property of a like  
 20 kind.

21 “(B) PREDOMINANT USE.—Except as pro-  
 22 vided in subparagraph (C) and (D), the pre-  
 23 dominant use of any property shall be deter-  
 24 mined based on—

25 “(i) in the case of the property relin-  
 26 quished in the exchange, the 2-year period

1 ending on the date of such relinquishment,  
2 and

3 “(ii) in the case of the property ac-  
4 quired in the exchange, the 2-year period  
5 beginning on the date of such acquisition.

6 “(C) PROPERTY HELD FOR LESS THAN 2  
7 YEARS.—Except in the case of an exchange  
8 which is part of a transaction (or series of  
9 transactions) structured to avoid the purposes  
10 of this subsection—

11 “(i) only the periods the property was  
12 held by the person relinquishing the prop-  
13 erty (or any related person) shall be taken  
14 into account under subparagraph (B)(i),  
15 and

16 “(ii) only the periods the property was  
17 held by the person acquiring the property  
18 (or any related person) shall be taken into  
19 account under subparagraph (B)(ii).

20 “(D) SPECIAL RULE FOR CERTAIN PROP-  
21 erty.—Property described in any subpara-  
22 graph of section 168(g)(4) shall be treated as  
23 used predominantly in the United States.”

24 (b) EFFECTIVE DATE.—



1           (1) IN GENERAL.—The amendment made by  
2           this section shall apply to transfers after June 8,  
3           1997, in taxable years ending after such date.

4           (2) BINDING CONTRACTS.—The amendment  
5           made by this section shall not apply to any transfer  
6           pursuant to a written binding contract in effect on  
7           June 8, 1997, and at all times thereafter before the  
8           disposition of property. A contract shall not fail to  
9           meet the requirements of the preceding sentence  
10          solely because—

11                   (A) it provides for a sale in lieu of an ex-  
12                   change, or

13                   (B) the property to be acquired as replace-  
14                   ment property was not identified under such  
15                   contract before June 9, 1997.

16 **SEC. 863. HOLDING PERIOD REQUIREMENT FOR CERTAIN**  
17 **FOREIGN TAXES.**

18          (a) IN GENERAL.—Section 901 is amended by redes-  
19          ignating subsection (k) as subsection (l) and by inserting  
20          after subsection (j) the following new subsection:

21          “(k) MINIMUM HOLDING PERIOD FOR CERTAIN  
22          TAXES.—

23                   “(1) WITHHOLDING TAXES.—

24                           “(A) IN GENERAL.—In no event shall a  
25                           credit be allowed under subsection (a) for any

1 withholding tax on a dividend with respect to  
2 stock in a corporation if—

3 “(i) such stock is held by the recipient  
4 of the dividend for 15 days or less during  
5 the 30-day period beginning on the date  
6 which is 15 days before the date on which  
7 such share becomes ex-dividend with re-  
8 spect to such dividend, or

9 “(ii) to the extent that the recipient of  
10 the dividend is under an obligation (wheth-  
11 er pursuant to a short sale or otherwise) to  
12 make related payments with respect to po-  
13 sitions in substantially similar or related  
14 property.

15 “(B) WITHHOLDING TAX.—For purposes  
16 of this paragraph, the term ‘withholding tax’ in-  
17 cludes any tax determined on a gross basis; but  
18 does not include any tax which is in the nature  
19 of a prepayment of a tax imposed on a net  
20 basis.

21 “(2) DEEMED PAID TAXES.—In the case of in-  
22 come, war profits, or excess profits taxes deemed  
23 paid under section 853, 902, or 960 through a chain  
24 of ownership of stock in 1 or more corporations, no

1 credit shall be allowed under subsection (a) for such  
2 taxes if—

3 “(A) any stock of any corporation in such  
4 chain (the ownership of which is required to ob-  
5 tain credit under subsection (a) for such taxes)  
6 is held for less than the period described in  
7 paragraph (1)(A)(i), or

8 “(B) the corporation holding the stock is  
9 under an obligation referred to in paragraph  
10 (1)(A)(ii).

11 “(3) 45-DAY RULE IN THE CASE OF CERTAIN  
12 PREFERENCE DIVIDENDS.—In the case of stock hav-  
13 ing preference in dividends and dividends with re-  
14 spect to such stock which are attributable to a pe-  
15 riod or periods aggregating in excess of 366 days,  
16 paragraph (1)(A)(i) shall be applied—

17 “(A) by substituting ‘45 days’ for ‘15  
18 days’ each place it appears, and

19 “(B) by substituting ‘90-day period’ for  
20 ‘30-day period’.

21 “(4) EXCEPTION FOR CERTAIN TAXES PAID BY  
22 SECURITIES DEALERS.—

23 “(A) IN GENERAL.—Paragraphs (1) and  
24 (2) shall not apply to any qualified tax with re-  
25 spect to any security held in the active conduct

1 in a foreign country of a securities business of  
2 any person—

3 “(i) who is registered as a securities  
4 broker or dealer under section 15(a) of the  
5 Securities Exchange Act of 1934,

6 “(ii) who is registered as a Govern-  
7 ment securities broker or dealer under sec-  
8 tion 15C(a) of such Act, or

9 “(iii) who is licensed or authorized in  
10 such foreign country to conduct securities  
11 activities in such country and is subject to  
12 bona fide regulation by a securities regu-  
13 lating authority of such country.

14 “(B) QUALIFIED TAX.—For purposes of  
15 subparagraph (A), the term ‘qualified tax’  
16 means a tax paid to a foreign country (other  
17 than the foreign country referred to in subpara-  
18 graph (A)) if—

19 “(i) the dividend to which such tax is  
20 attributable is subject to taxation on a net  
21 basis by the country referred to in sub-  
22 paragraph (A), and

23 “(ii) such country allows a credit  
24 against its net basis tax for the full

1 amount of the tax paid to such other for-  
2 eign country.

3 “(C) REGULATIONS.—The Secretary may  
4 prescribe such regulations as may be appro-  
5 priate to prevent the abuse of the exception  
6 provided by this paragraph.

7 “(5) CERTAIN RULES TO APPLY.—For purposes  
8 of this subsection, the rules of paragraphs (3) and  
9 (4) of section 246(c) shall apply.

10 “(6) TREATMENT OF BONA FIDE SALES.—If a  
11 person’s holding period is reduced by reason of the  
12 application of the rules of section 246(c)(4) to any  
13 contract for the bona fide sale of stock, the deter-  
14 mination of whether such person’s holding period  
15 meets the requirements of paragraph (2) with re-  
16 spect to taxes deemed paid under section 902 or 960  
17 shall be made as of the date such contract is entered  
18 into.

19 “(7) TAXES ALLOWED AS DEDUCTION, ETC.—  
20 Sections 275 and 78 shall not apply to any tax  
21 which is not allowable as a credit under subsection  
22 (a) by reason of this subsection.”

23 (b) NOTICE OF WITHHOLDING TAXES PAID BY REG-  
24 ULATED INVESTMENT COMPANY.—Subsection (c) of sec-  
25 tion 853 (relating to foreign tax credit allowed to share-

1 holders) is amended by adding at the end the following  
 2 new sentence: “Such notice shall also include the amount  
 3 of such taxes which (without regard to the election under  
 4 this section) would not be allowable as a credit under sec-  
 5 tion 901(a) to the regulated investment company by rea-  
 6 son of section 901(k).”

7 (c) EFFECTIVE DATE.—The amendments made by  
 8 this section shall apply to dividends paid or accrued more  
 9 than 30 days after the date of the enactment of this Act.

10 **SEC. 864. SOURCE RULES FOR INVENTORY PROPERTY.**

11 (a) IN GENERAL.—Section 865(b) is amended by  
 12 adding at the end the following new paragraph:

13 “(2) CERTAIN SALES FOR USE IN UNITED  
 14 STATES.—If—

15 “(A) a United States resident sells (di-  
 16 rectly or indirectly) inventory property to an-  
 17 other United States resident for use, consump-  
 18 tion, or disposition in the United States, and

19 “(B) such sale is not attributable to an of-  
 20 fice or other fixed place of business maintained  
 21 by the seller outside the United States,  
 22 any income of such United States resident (or any  
 23 related person) from such sale shall be sourced in  
 24 the United States.”

1 (b) CONFORMING AMENDMENTS.—Section 865(b) is  
2 amended—

3 (1) by striking “In the case of” and inserting:

4 “(1) IN GENERAL.—In the case of”, and

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

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

10 **SEC. 865. 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  
22 attributable to a net operating loss carryback or a  
23 capital loss carryback from a subsequent taxable  
24 year, such overpayment shall be deemed not to have



1       been made before the filing date for such subsequent  
2       taxable 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. 866. 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. 867. MODIFICATION TO FOREIGN TAX CREDIT**  
6 **CARRYBACK AND CARRYOVER PERIODS.**

7 (a) IN GENERAL.—Subsection (c) of section 904 (re-  
8 lating to limitation on credit) is amended—

9 (1) by striking “in the second preceding taxable  
10 year,” and

11 (2) by striking “or fifth” and inserting “fifth,  
12 sixth, or seventh”.

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

16 **SEC. 868. REPEAL OF EXCEPTION TO ALTERNATIVE MINI-**  
17 **MUM FOREIGN TAX CREDIT LIMIT.**

18 (a) IN GENERAL.—Section 59(a)(2) (relating to limi-  
19 tation to 90 percent of tax) is amended by striking sub-  
20 paragraph (C).

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

## **Subtitle H—Other Revenue Provisions**

### **SEC. 871. TERMINATION OF SUSPENSE ACCOUNTS FOR FAMILY CORPORATIONS REQUIRED TO USE ACCRUAL METHOD OF ACCOUNTING.**

(a) IN GENERAL.—Subsection (i) of section 447 (relating to method of accounting for corporations engaged in farming) is amended by striking paragraph (3), by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively, and by adding at the end the following new paragraph:

“(6) TERMINATION.—

“(A) IN GENERAL.—No suspense account may be established under this subsection by any corporation required by this section to change its method of accounting for any taxable year ending after June 8, 1997.

“(B) PHASEOUT OF EXISTING SUSPENSE ACCOUNTS.—

“(i) IN GENERAL.—Each suspense account under this subsection shall be reduced (but not below zero) for each taxable year beginning after June 8, 1997, by an amount equal to the lesser of—

1                   “(I) the applicable portion of  
2                   such account, or

3                   “(II) 50 percent of the taxable  
4                   income of the corporation for the tax-  
5                   able year, or, if the corporation has no  
6                   taxable income for such year, the  
7                   amount of any net operating loss (as  
8                   defined in section 172(c)) for such  
9                   taxable year.

10                  For purposes of the preceding sentence,  
11                  the amount of taxable income and net op-  
12                  erating loss shall be determined without re-  
13                  gard to this paragraph.

14                  “(ii) COORDINATION WITH OTHER RE-  
15                  DUCTIONS.—The amount of the applicable  
16                  portion for any taxable year shall be re-  
17                  duced (but not below zero) by the amount  
18                  of any reduction required for such taxable  
19                  year under any other provision of this sub-  
20                  section.

21                  “(iv) INCLUSION IN INCOME.—Any re-  
22                  duction in a suspense account under this  
23                  paragraph shall be included in gross in-  
24                  come for the taxable year of the reduction.

“(C) APPLICABLE PORTION.—For purposes of subparagraph (B), the term ‘applicable portion’ means, for any taxable year, the amount which would ratably reduce the amount in the account (after taking into account prior reductions) to zero over the period consisting of such taxable year and the remaining taxable years in such first 20 taxable years.

“(D) AMOUNTS AFTER 20TH YEAR.—Any amount in the account as of the close of the 20th year referred to in subparagraph (C) shall be treated as the applicable portion for each succeeding year thereafter to the extent not reduced under this paragraph for any prior taxable year after such 20th year.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 8, 1997.

**SEC. 872. MODIFICATION OF TAXABLE YEARS TO WHICH  
NET OPERATING LOSSES MAY BE CARRIED.**

(a) IN GENERAL.—Subparagraph (A) of section 172(b)(1) (relating to years to which loss may be carried) is amended—

(1) by striking “3” in clause (i) and inserting “2”, and

1           (2) by striking “15” in clause (ii) and inserting  
2           “20”.

3           (b) RETENTION OF 3-YEAR CARRYBACK FOR CAS-  
4 UALTY LOSSES OF INDIVIDUALS.—Paragraph (1) of sec-  
5 tion 172(b) is amended by adding at the end the following  
6 new subparagraph:

7                       “(F) RETENTION OF 3-YEAR CARRYBACK  
8           IN CERTAIN CASES.—

9                       “(i) IN GENERAL.—Subparagraph  
10           (A)(i) shall be applied by substituting ‘3  
11           years’ for ‘2 years’ with respect to the por-  
12           tion of the net operating loss for the tax-  
13           able year which is an eligible loss with re-  
14           spect to the taxpayer.

15                      “(ii) ELIGIBLE LOSS.—For purposes  
16           of clause (i), the term ‘eligible loss’  
17           means—

18                      “(I) in the case of an individual,  
19                      losses of property arising from fire,  
20                      storm, shipwreck, or other casualty, or  
21                      from theft,

22                      “(II) in the case of a taxpayer  
23                      which is a small business, losses at-  
24                      tributable to Presidentially declared

1 disasters (as defined in section  
2 1033(h)(3)), and

3 “(III) in the case of a taxpayer  
4 engaged in the trade or business of  
5 farming (as defined in section  
6 263A(e)(4)), losses attributable to  
7 such Presidentially declared disasters.

8 “(iii) SMALL BUSINESS.—For pur-  
9 poses of this subparagraph, the term ‘small  
10 business’ means a corporation or partner-  
11 ship which meets the gross receipts test of  
12 section 448(c) for the taxable year in  
13 which the loss arose (or, in the case of a  
14 sole proprietorship, which would meet such  
15 test if such proprietorship were a corpora-  
16 tion).”

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. 873. EXPANSION OF DENIAL OF DEDUCTION FOR CER-**  
22 **TAIN AMOUNTS PAID IN CONNECTION WITH**  
23 **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  
18           is 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  
21           be 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. 874. 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. 875. 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. 876. LIMITATION ON PROPERTY FOR WHICH INCOME**  
 10           **FORECAST METHOD MAY BE USED.**

11     (a) LIMITATION.—Subsection (g) of section 167 is  
 12     amended by adding at the end the following new para-  
 13     graph:

14           “(6) LIMITATION ON PROPERTY FOR WHICH IN-  
 15     COME FORECAST METHOD MAY BE USED.—The de-  
 16     preciation deduction allowable under this section  
 17     may be determined under the income forecast meth-  
 18     od or any similar method only with respect to—

19           “(A) property described in paragraph (3)  
 20     or (4) of section 168(f),

21           “(B) copyrights,

22           “(C) books,

23           “(D) patents, and

24           “(E) other property specified in regula-  
 25     tions.

1 Such methods may not be used with respect to any  
 2 amortizable section 197 intangible (as defined in  
 3 section 197(c)).”

4 (b) DEPRECIATION PERIOD FOR RENT-TO-OWN  
 5 PROPERTY.—

6 (1) IN GENERAL.—Subparagraph (A) of section  
 7 168(e)(3) (relating to 3-year property) is amended  
 8 by striking “and” at the end of clause (i), by strik-  
 9 ing the period at the end of clause (ii) and inserting  
 10 “, and”, and by adding at the end the following new  
 11 clause:

12 “(iii) any qualified rent-to-own prop-  
 13 erty.”

14 (2) 4-YEAR CLASS LIFE.—The table contained  
 15 in section 168(g)(3)(B) is amended by inserting be-  
 16 fore the first item the following new item:

“(A)(iii) ..... 4”

17 (3) DEFINITION OF QUALIFIED RENT-TO-OWN  
 18 PROPERTY.—Subsection (i) of section 168 is amend-  
 19 ed by adding at the end the following new para-  
 20 graph:

21 “(14) QUALIFIED RENT-TO-OWN PROPERTY.—

22 “(A) IN GENERAL.—The term ‘qualified  
 23 rent-to-own property’ means property held by a  
 24 rent-to-own dealer for purposes of being subject  
 25 to a rent-to-own contract.

1           “(B) RENT-TO-OWN DEALER.—The term  
2           ‘rent-to-own dealer’ means a person that, in the  
3           ordinary course of business, regularly enters  
4           into rent-to-own contracts with customers for  
5           the use of consumer property, if a substantial  
6           portion of those contracts terminate and the  
7           property is returned to such person before the  
8           receipt of all payments required to transfer  
9           ownership of the property from such person to  
10          the customer.

11          “(C) CONSUMER PROPERTY.—The term  
12          ‘consumer property’ means tangible personal  
13          property of a type generally used within the  
14          home. Such term shall not include cellular tele-  
15          phones and any computer or peripheral equip-  
16          ment (as defined in section 168(i)).

17          “(D) RENT-TO-OWN CONTRACT.—The  
18          term ‘rent-to-own contract’ means any lease for  
19          the use of consumer property between a rent-to-  
20          own dealer and a customer who is an individual  
21          which—

22                 “(i) is titled ‘Rent-to-Own Agreement’  
23                 or ‘Lease Agreement with Ownership Op-  
24                 tion,’ or uses other similar language,

1           “(ii) provides for level, regular peri-  
2           odic payments (for a payment period which  
3           is a week or month),

4           “(iii) provides that legal title to such  
5           property remains with the rent-to-own  
6           dealer until the customer makes all the  
7           payments described in clause (ii) or early  
8           purchase payments required under the con-  
9           tract to acquire legal title to the item of  
10          property,

11          “(iv) provides a beginning date and a  
12          maximum period of time for which the con-  
13          tract may be in effect that does not exceed  
14          156 weeks or 36 months from such begin-  
15          ning date (including renewals or options to  
16          extend),

17          “(v) provides for level payments with-  
18          in the 156-week or 36-month period that,  
19          in the aggregate, generally exceed the nor-  
20          mal retail price of the consumer property  
21          plus interest,

22          “(vi) provides for payments under the  
23          contract that, in the aggregate, do not ex-  
24          ceed \$10,000 per item of consumer prop-  
25          erty,

1           “(vii) provides that the customer does  
2           not have any legal obligation to make all  
3           the payments referred to in clause (ii) set  
4           forth under the contract, and that at the  
5           end of each payment period the customer  
6           may either continue to use the consumer  
7           property by making the payment for the  
8           next payment period or return such prop-  
9           erty to the rent-to-own dealer in good  
10          working order, in which case the customer  
11          does not incur any further obligations  
12          under the contract and is not entitled to a  
13          return of any payments previously made  
14          under the contract, and

15          “(viii) provides that the customer has  
16          no right to sell, sublease, mortgage, pawn,  
17          pledge, encumber, or otherwise dispose of  
18          the consumer property until all the pay-  
19          ments stated in the contract have been  
20          made.”

21          (c) EFFECTIVE DATE.—The amendment made by  
22          this section shall apply to property placed in service after  
23          the date of the enactment of this Act.



1 **SEC. 877. EXPANSION OF REQUIREMENT THAT INVOLUN-**  
 2 **TARILY CONVERTED PROPERTY BE RE-**  
 3 **PLACED WITH PROPERTY ACQUIRED FROM**  
 4 **AN UNRELATED PERSON.**

5 (a) IN GENERAL.—Subsection (i) of section 1033 is  
 6 amended to read as follows:

7 “(i) REPLACEMENT PROPERTY MUST BE ACQUIRED  
 8 FROM UNRELATED PERSON IN CERTAIN CASES.—

9 “(1) IN GENERAL.—If the property which is in-  
 10 voluntarily converted is held by a taxpayer to which  
 11 this subsection applies, subsection (a) shall not apply  
 12 if the replacement property or stock is acquired from  
 13 a related person. The preceding sentence shall not  
 14 apply to the extent that the related person acquired  
 15 the replacement property or stock from an unrelated  
 16 person during the period applicable under subsection  
 17 (a)(2)(B).

18 “(2) TAXPAYERS TO WHICH SUBSECTION AP-  
 19 PLIES.—This subsection shall apply to—

20 “(A) a C corporation,

21 “(B) a partnership in which 1 or more C  
 22 corporations own, directly or indirectly (deter-  
 23 mined in accordance with section 707(b)(3)),  
 24 more than 50 percent of the capital interest, or  
 25 profits interest, in such partnership at the time  
 26 of the involuntary conversion, and

1           “(C) any other taxpayer if, with respect to  
 2           property which is involuntarily converted during  
 3           the taxable year, the aggregate of the amount  
 4           of realized gain on such property on which  
 5           there is realized gain exceeds \$100,000.

6           In the case of a partnership, subparagraph (C) shall  
 7           apply with respect to the partnership and with re-  
 8           spect to each partner. A similar rule shall apply in  
 9           the case of an S corporation and its shareholders.

10           “(3) RELATED PERSON.—For purposes of this  
 11           subsection, a person is related to another person if  
 12           the person bears a relationship to the other person  
 13           described in section 267(b) or 707(b)(1).”

14           (b) EFFECTIVE DATE.—The amendment made by  
 15           this section shall apply to involuntary conversions occur-  
 16           ring after June 8, 1997.

17   **SEC. 878. TREATMENT OF EXCEPTION FROM INSTALLMENT**  
 18                           **SALES RULES FOR SALES OF PROPERTY BY A**  
 19                           **MANUFACTURER TO A DEALER.**

20           (a) IN GENERAL.—Paragraph (2) of section 811(c)  
 21           of the Tax Reform Act of 1986 is hereby repealed.

22           (b) EFFECTIVE DATE.—

23           (1) IN GENERAL.—The amendment made by  
 24           this section shall apply to taxable years beginning

1 more than 1 year after the date of the enactment of  
2 this Act.

3 (2) COORDINATION WITH SECTION 481.—In the  
4 case of any taxpayer required by this section to  
5 change its method of accounting for any taxable  
6 year—

7 (A) such changes shall be treated as initi-  
8 ated by the taxpayer,

9 (B) such changes shall be treated as made  
10 with the consent of the Secretary, and

11 (C) the net amount of the adjustments re-  
12 quired to be taken into account under section  
13 481(a) of the Internal Revenue Code of 1986  
14 shall be taken into account ratably over the 4  
15 taxable year period beginning with the first tax-  
16 able year beginning after the date of the enact-  
17 ment of this Act.

18 **SEC. 879. MINIMUM PENSION ACCRUED BENEFIT DISTRIB-**  
19 **UTABLE WITHOUT CONSENT INCREASED TO**  
20 **\$5,000.**

21 (a) AMENDMENT TO 1986 CODE.—

22 (1) IN GENERAL.—Subparagraph (A) of section  
23 411(a)(11) (relating to restrictions on certain man-  
24 datory distributions) is amended by striking  
25 “\$3,500” and inserting “the applicable limit”.

(2) APPLICABLE LIMIT.—Paragraph (11) of section 411(a) is amended by adding at the end the following new subparagraph:

“(D) APPLICABLE LIMIT.—

“(i) IN GENERAL.—For purposes of subparagraph (A), the applicable limit is \$5,000.

“(ii) INFLATION ADJUSTMENT.—In the case of plan years beginning in a calendar year after 1997, the dollar amount contained in clause (i) shall be increased by an amount equal to—

“(I) such dollar amount, multiplied by

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

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

(3) CONFORMING AMENDMENTS.—

1 (A) Section 411(a)(7)(B), paragraphs (1)  
 2 and (2) of section 417(e), and section 457(e)(9)  
 3 are each amended by striking “\$3,500” each  
 4 place it appears (other than the headings) and  
 5 inserting “the applicable limit under section  
 6 411(a)(11)(D)”.

7 (B) The headings for paragraphs (1) and  
 8 (2) of section 417(e) and subparagraph (A) of  
 9 section 457(e)(9) are each amended by striking  
 10 “\$3,500” and inserting “APPLICABLE LIMIT”.

11 (b) AMENDMENTS TO ERISA.—

12 (1) IN GENERAL.—Section 203(e)(1) of the  
 13 Employee Retirement Income Security Act of 1974  
 14 (29 U.S.C. 1053(e)(1)) is amended by striking  
 15 “\$3,500” and inserting “the applicable limit under  
 16 section 411(a)(11) of the Internal Revenue Code of  
 17 1986 for the plan year”.

18 (2) CONFORMING AMENDMENTS.—Sections  
 19 204(d)(1) and 205(g) (1) and (2) (29 U.S.C.  
 20 1054(d)(1) and 1055(g) (1) and (2)) are each  
 21 amended by striking “\$3,500” and inserting “the  
 22 applicable limit under section 411(a)(11) of the In-  
 23 ternal Revenue Code of 1986 for the plan year”.

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

4 **SEC. 880. ELECTION TO RECEIVE TAXABLE CASH COM-**  
5 **PENSATION IN LIEU OF NONTAXABLE PARK-**  
6 **ING BENEFITS.**

7 (a) IN GENERAL.—Section 132(f)(4) (relating to ben-  
8 efits not in lieu of compensation) is amended by adding  
9 at the end the following new sentence: “This paragraph  
10 shall not apply to any qualified parking provided in lieu  
11 of compensation which otherwise would have been includ-  
12 ible in gross income of the employee, and no amount shall  
13 be included in the gross income of the employee solely be-  
14 cause the employee may choose between the qualified  
15 parking and compensation.”

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

19 **SEC. 881. EXTENSION OF TEMPORARY UNEMPLOYMENT**  
20 **TAX.**

21 Section 3301 (relating to rate of unemployment tax)  
22 is amended—

23 (1) by striking “1998” in paragraph (1) and in-  
24 serting “2007”, and

1           (2) by striking “1999” in paragraph (2) and in-  
2           serting “2008”.

3 **SEC. 882. REPEAL OF EXCESS DISTRIBUTION AND EXCESS**  
4 **RETIREMENT ACCUMULATION TAX.**

5           (a) REPEAL OF EXCESS DISTRIBUTION AND EXCESS  
6 RETIREMENT ACCUMULATION TAX.—Section 4980A (re-  
7 lating to excess distributions from qualified retirement  
8 plans) is repealed.

9           (b) CONFORMING AMENDMENTS.—

10           (1) Section 691(c)(1) is amended by striking  
11 subparagraph (C).

12           (2) Section 2013 is amended by striking sub-  
13 section (g).

14           (3) Section 2053(c)(1)(B) is amended by strik-  
15 ing the last sentence.

16           (4) Section 6018(a) is amended by striking  
17 paragraph (4).

18           (c) EFFECTIVE DATES.—

19           (1) EXCESS DISTRIBUTION TAX REPEAL.—Ex-  
20 cept as provided in paragraph (2), the repeal made  
21 by subsection (a) shall apply to excess distributions  
22 received after December 31, 1996.

23           (2) EXCESS RETIREMENT ACCUMULATION TAX  
24 REPEAL.—The repeal made by subsection (a) with  
25 respect to section 4980A(d) of the Internal Revenue

1 Code of 1986 and the amendments made by sub-  
2 section (b) shall apply to estates of decedents dying  
3 after December 31, 1996.

4 **SEC. 883. LIMITATION ON CHARITABLE REMAINDER TRUST**  
5 **ELIGIBILITY FOR CERTAIN TRUSTS.**

6 (a) IN GENERAL.—Paragraphs (1)(A) and (2)(A) of  
7 section 664(d) (relating to charitable remainder annuity  
8 trust) are each amended by inserting “nor more than 50  
9 percent” after “not less than 5 percent”.

10 (b) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to transfers in trust after June  
12 18, 1997.

13 **SEC. 884. INCREASE IN TAX ON PROHIBITED TRANS-**  
14 **ACTIONS.**

15 (a) IN GENERAL.—Section 4975(a) is amended by  
16 striking “10 percent” and inserting “15 percent”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 this section shall apply to prohibited transactions occur-  
19 ring after the date of the enactment of this Act.

20 **SEC. 885. BASIS RECOVERY RULES FOR ANNUITIES OVER**  
21 **MORE THAN ONE LIFE.**

22 (a) IN GENERAL.—Section 72(d)(1)(B) is amended  
23 by adding at the end the following new clause:

24 “(iv) NUMBER OF ANTICIPATED PAY-  
25 MENTS WHERE MORE THAN ONE LIFE.—If



1 the annuity is payable over the lives of  
 2 more than 1 individual, the number of an-  
 3 ticipated payments shall be determined as  
 4 follows:

**“If the combined ages of an- The number is:  
 nuitants are:**

Not more than 110 .....	410
More than 110 but not more than 120 .....	360
More than 120 but not more than 130 .....	310
More than 130 but not more than 140 .....	260
More than 140 .....	210.”

5 (b) CONFORMING AMENDMENT.—Section  
 6 72(d)(1)(B)(iii) is amended—

7 (1) by inserting “If the annuity is payable over  
 8 the life of a single individual, the number of antici-  
 9 pated payments shall be determined as follows:”  
 10 after the heading and before the table, and  
 11 (2) by striking “primary” in the table.

12 (c) EFFECTIVE DATE.—The amendments made by  
 13 this section shall apply with respect to annuity starting  
 14 dates beginning after December 31, 1997.

15 **TITLE IX—FOREIGN-RELATED**  
 16 **SIMPLIFICATION PROVISIONS**  
 17 **Subtitle A—General Provisions**

18 **SEC. 901. CERTAIN INDIVIDUALS EXEMPT FROM FOREIGN**  
 19 **TAX CREDIT LIMITATION.**

20 (a) GENERAL RULE.—Section 904 (relating to limi-  
 21 tations on foreign tax credit) is amended by redesignating

1 subsection (j) as subsection (k) and by inserting after sub-  
2 section (i) the following new subsection:

3 “(j) CERTAIN INDIVIDUALS EXEMPT.—

4 “(1) IN GENERAL.—In the case of an individual  
5 to whom this subsection applies for any taxable  
6 year—

7 “(A) the limitation of subsection (a) shall  
8 not apply,

9 “(B) no taxes paid or accrued by the indi-  
10 vidual during such taxable year may be deemed  
11 paid or accrued under subsection (c) in any  
12 other taxable year, and

13 “(C) no taxes paid or accrued by the indi-  
14 vidual during any other taxable year may be  
15 deemed paid or accrued under subsection (c) in  
16 such taxable year.

17 “(2) INDIVIDUALS TO WHOM SUBSECTION AP-  
18 PLIES.—This subsection shall apply to an individual  
19 for any taxable year if—

20 “(A) the entire amount of such individual’s  
21 gross income for the taxable year from sources  
22 without the United States consists of qualified  
23 passive income,

24 “(B) the amount of the creditable foreign  
25 taxes paid or accrued by the individual during

1 the taxable year does not exceed \$300 (\$600 in  
2 the case of a joint return), and

3 “(C) such individual elects to have this  
4 subsection apply for the taxable year.

5 “(3) DEFINITIONS.—For purposes of this sub-  
6 section—

7 “(A) QUALIFIED PASSIVE INCOME.—The  
8 term ‘qualified passive income’ means any item  
9 of gross income if—

10 “(i) such item of income is passive in-  
11 come (as defined in subsection (d)(2)(A)  
12 without regard to clause (iii) thereof), and

13 “(ii) such item of income is shown on  
14 a payee statement furnished to the individ-  
15 ual.

16 “(B) CREDITABLE FOREIGN TAXES.—The  
17 term ‘creditable foreign taxes’ means any taxes  
18 for which a credit is allowable under section  
19 901; except that such term shall not include  
20 any tax unless such tax is shown on a payee  
21 statement furnished to such individual.

22 “(C) PAYEE STATEMENT.—The term  
23 ‘payee statement’ has the meaning given to  
24 such term by section 6724(d)(2).

1           “(D) ESTATES AND TRUSTS NOT ELIGI-  
 2           BLE.—This subsection shall not apply to any  
 3           estate or trust.”

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

7   **SEC. 902. EXCHANGE RATE USED IN TRANSLATING FOR-**  
 8           **EIGN TAXES.**

9           (a) ACCRUED TAXES TRANSLATED BY USING AVER-  
 10          AGE RATE FOR YEAR TO WHICH TAXES RELATE.—

11           (1) IN GENERAL.—Subsection (a) of section  
 12          986 (relating to translation of foreign taxes) is  
 13          amended to read as follows:

14          “(a) FOREIGN INCOME TAXES.—

15           “(1) TRANSLATION OF ACCRUED TAXES.—

16           “(A) IN GENERAL.—For purposes of deter-  
 17           mining the amount of the foreign tax credit, in  
 18           the case of a taxpayer who takes foreign income  
 19           taxes into account when accrued, the amount of  
 20           any foreign income taxes (and any adjustment  
 21           thereto) shall be translated into dollars by using  
 22           the average exchange rate for the taxable year  
 23           to which such taxes relate.

1           “(B) EXCEPTION FOR CERTAIN TAXES.—  
 2           Subparagraph (A) shall not apply to any for-  
 3           eign income taxes—

4                   “(i) paid after the date 2 years after  
 5                   the close of the taxable year to which such  
 6                   taxes relate, or

7                   “(ii) paid before the beginning of the  
 8                   taxable year to which such taxes relate.

9           “(C) EXCEPTION FOR INFLATIONARY CUR-  
 10           RENCIES.—Subparagraph (A) shall not apply to  
 11           any foreign income taxes the liability for which  
 12           is denominated in any inflationary currency (as  
 13           determined under regulations).

14           “(D) CROSS REFERENCE.—

**“For adjustments where tax is not paid within 2  
 years, see section 905(c).”**

15           “(2) TRANSLATION OF TAXES TO WHICH PARA-  
 16           GRAPH (1) DOES NOT APPLY.—For purposes of de-  
 17           termining the amount of the foreign tax credit, in  
 18           the case of any foreign income taxes to which sub-  
 19           paragraph (A) of paragraph (1) does not apply—

20                   “(A) such taxes shall be translated into  
 21                   dollars using the exchange rates as of the time  
 22                   such taxes were paid to the foreign country or  
 23                   possession of the United States, and

1           “(B) any adjustment to the amount of  
2           such taxes shall be translated into dollars  
3           using—

4                   “(i) except as provided in clause (ii),  
5                   the exchange rate as of the time when such  
6                   adjustment is paid to the foreign country  
7                   or possession, or

8                   “(ii) in the case of any refund or cred-  
9                   it of foreign income taxes, using the ex-  
10                  change rate as of the time of the original  
11                  payment of such foreign income taxes.

12           “(3) FOREIGN INCOME TAXES.—For purposes  
13           of this subsection, the term ‘foreign income taxes’  
14           means any income, war profits, or excess profits  
15           taxes paid or accrued to any foreign country or to  
16           any possession of the United States.”

17           (2) ADJUSTMENT WHEN NOT PAID WITHIN 2  
18           YEARS AFTER YEAR TO WHICH TAXES RELATE.—  
19           Subsection (c) of section 905 is amended to read as  
20           follows:

21           “(c) ADJUSTMENTS TO ACCRUED TAXES.—

22                   “(1) IN GENERAL.—If—

23                           “(A) accrued taxes when paid differ from  
24                   the amounts claimed as credits by the taxpayer,

1           “(B) accrued taxes are not paid before the  
 2           date 2 years after the close of the taxable year  
 3           to which such taxes relate, or

4           “(C) any tax paid is refunded in whole or  
 5           in part,  
 6           the taxpayer shall notify the Secretary, who shall re-  
 7           determine the amount of the tax for the year or  
 8           years affected. The Secretary may prescribe adjust-  
 9           ments to the pools of post-1986 foreign income taxes  
 10          under sections 902 and 960 in lieu of the redeter-  
 11          mination under the preceding sentence.

12           “(2) SPECIAL RULE FOR TAXES NOT PAID  
 13          WITHIN 2 YEARS.—

14           “(A) IN GENERAL.—Except as provided in  
 15          subparagraph (B), in making the redetermina-  
 16          tion under paragraph (1), no credit shall be al-  
 17          lowed for accrued taxes not paid before the date  
 18          referred to in subparagraph (B) of paragraph  
 19          (1).

20           “(B) TAXES SUBSEQUENTLY PAID.—Any  
 21          such taxes if subsequently paid—

22           “(i) shall be taken into account—

23           “(I) in the case of taxes deemed  
 24          paid under section 902 or section 960,  
 25          for the taxable year in which paid

1 (and no redetermination shall be made  
2 under this section by reason of such  
3 payment), and

4 “(II) in any other case, for the  
5 taxable year to which such taxes re-  
6 late, and

7 “(ii) shall be translated as provided in  
8 section 986(a)(2)(A).

9 “(3) ADJUSTMENTS.—The amount of tax (if  
10 any) due on any redetermination under paragraph  
11 (1) shall be paid by the taxpayer on notice and de-  
12 mand by the Secretary, and the amount of tax over-  
13 paid (if any) shall be credited or refunded to the  
14 taxpayer in accordance with subchapter B of chapter  
15 66 (section 6511 et seq.).

16 “(4) BOND REQUIREMENTS.—In the case of  
17 any tax accrued but not paid, the Secretary, as a  
18 condition precedent to the allowance of the credit  
19 provided in this subpart, may require the taxpayer  
20 to give a bond, with sureties satisfactory to and ap-  
21 proved by the Secretary, in such sum as the Sec-  
22 retary may require, conditioned on the payment by  
23 the taxpayer of any amount of tax found due on any  
24 such redetermination. Any such bond shall contain



1       such further conditions as the Secretary may re-  
2       quire.

3               “(5) OTHER SPECIAL RULES.—In any redeter-  
4       mination under paragraph (1) by the Secretary of  
5       the amount of tax due from the taxpayer for the  
6       year or years affected by a refund, the amount of  
7       the taxes refunded for which credit has been allowed  
8       under this section shall be reduced by the amount of  
9       any tax described in section 901 imposed by the for-  
10      eign country or possession of the United States with  
11      respect to such refund; but no credit under this sub-  
12      part, or deduction under section 164, shall be al-  
13      lowed for any taxable year with respect to any such  
14      tax imposed on the refund. No interest shall be as-  
15      sessed or collected on any amount of tax due on any  
16      redetermination by the Secretary, resulting from a  
17      refund to the taxpayer, for any period before the re-  
18      ceipt of such refund, except to the extent interest  
19      was paid by the foreign country or possession of the  
20      United States on such refund for such period.”

21      (b) AUTHORITY TO USE AVERAGE RATES.—

22              (1) IN GENERAL.—Subsection (a) of section  
23      986 (as amended by subsection (a)) is amended by  
24      redesignating paragraph (3) as paragraph (4) and

1 inserting after paragraph (2) the following new  
2 paragraph:

3 “(3) AUTHORITY TO PERMIT USE OF AVERAGE  
4 RATES.—To the extent prescribed in regulations, the  
5 average exchange rate for the period (specified in  
6 such regulations) during which the taxes or adjust-  
7 ment is paid may be used instead of the exchange  
8 rate as of the time of such payment.”

9 (2) DETERMINATION OF AVERAGE RATES.—  
10 Subsection (c) of section 989 is amended by striking  
11 “and” at the end of paragraph (4), by striking the  
12 period at the end of paragraph (5) and inserting “,  
13 and”, and by adding at the end thereof the following  
14 new paragraph:

15 “(6) setting forth procedures for determining  
16 the average exchange rate for any period.”

17 (3) CONFORMING AMENDMENTS.—Subsection  
18 (b) of section 989 is amended by striking “weight-  
19 ed” each place it appears.

20 (c) EFFECTIVE DATES.—

21 (1) IN GENERAL.—The amendments made by  
22 subsections (a)(1) and (b) shall apply to taxes paid  
23 or accrued in taxable years beginning after Decem-  
24 ber 31, 1997.

1           (2) SUBSECTION (a)(2).—The amendment made  
 2           by subsection (a)(2) shall apply to taxes which relate  
 3           to taxable years beginning after December 31, 1997.

4   **SEC. 903. ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION FOR ALTERNATIVE MINIMUM TAX.**

6           (a) GENERAL RULE.—Subsection (a) of section 59  
 7           (relating to alternative minimum tax foreign tax credit)  
 8           is amended by adding at the end thereof the following new  
 9           paragraph:

10           “(3) ELECTION TO USE SIMPLIFIED SECTION  
 11           904 LIMITATION.—

12           “(A) IN GENERAL.—In determining the al-  
 13           ternative minimum tax foreign tax credit for  
 14           any taxable year to which an election under this  
 15           paragraph applies—

16           “(i) subparagraph (B) of paragraph  
 17           (1) shall not apply, and

18           “(ii) the limitation of section 904  
 19           shall be based on the proportion which—

20           “(I) the taxpayer’s taxable in-  
 21           come (as determined for purposes of  
 22           the regular tax) from sources without  
 23           the United States (but not in excess  
 24           of the taxpayer’s entire alternative  
 25           minimum taxable income), bears to

1                   “(II) the taxpayer’s entire alter-  
 2                   native minimum taxable income for  
 3                   the taxable year.

4                   “(B) ELECTION.—

5                   “(i) IN GENERAL.—An election under  
 6                   this paragraph may be made only for the  
 7                   taxpayer’s first taxable year which begins  
 8                   after December 31, 1997, and for which  
 9                   the taxpayer claims an alternative mini-  
 10                  mum tax foreign tax credit.

11                  “(ii) ELECTION REVOCABLE ONLY  
 12                  WITH CONSENT.—An election under this  
 13                  paragraph, once made, shall apply to the  
 14                  taxable year for which made and all subse-  
 15                  quent taxable years unless revoked with  
 16                  the consent of the Secretary.”

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

20       **SEC. 904. TREATMENT OF PERSONAL TRANSACTIONS BY IN-**  
 21                               **DIVIDUALS UNDER FOREIGN CURRENCY**  
 22                               **RULES.**

23                  (a) GENERAL RULE.—Subsection (e) of section 988  
 24                  (relating to application to individuals) is amended to read  
 25                  as follows:

1 “(e) APPLICATION TO INDIVIDUALS.—

2 “(1) IN GENERAL.—The preceding provisions of  
3 this section shall not apply to any section 988 trans-  
4 action entered into by an individual which is a per-  
5 sonal transaction.

6 “(2) EXCLUSION FOR CERTAIN PERSONAL  
7 TRANSACTIONS.—If—

8 “(A) nonfunctional currency is disposed of  
9 by an individual in any transaction, and

10 “(B) such transaction is a personal trans-  
11 action,

12 no gain shall be recognized for purposes of this sub-  
13 title by reason of changes in exchange rates after  
14 such currency was acquired by such individual and  
15 before such disposition. The preceding sentence shall  
16 not apply if the gain which would otherwise be rec-  
17 ognized on the transaction exceeds \$200.

18 “(3) PERSONAL TRANSACTIONS.—For purposes  
19 of this subsection, the term ‘personal transaction’  
20 means any transaction entered into by an individual,  
21 except that such term shall not include any trans-  
22 action to the extent that expenses properly allocable  
23 to such transaction meet the requirements of section  
24 162 or 212 (other than that part of section 212

1 dealing with expenses incurred in connection with  
2 taxes).”

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

## 6 **Subtitle B—Treatment of** 7 **Controlled Foreign Corporations**

### 8 **SEC. 911. GAIN ON CERTAIN STOCK SALES BY CONTROLLED** 9 **FOREIGN CORPORATIONS TREATED AS DIVI-** 10 **DENDS.**

11 (a) GENERAL RULE.—Section 964 (relating to mis-  
12 cellaneous provisions) is amended by adding at the end  
13 thereof the following new subsection:

14 “(e) GAIN ON CERTAIN STOCK SALES BY CON-  
15 TROLLED FOREIGN CORPORATIONS TREATED AS DIVI-  
16 DENDS.—

17 “(1) IN GENERAL.—If a controlled foreign cor-  
18 poration sells or exchanges stock in any other for-  
19 eign corporation, gain recognized on such sale or ex-  
20 change shall be included in the gross income of such  
21 controlled foreign corporation as a dividend to the  
22 same extent that it would have been so included  
23 under section 1248(a) if such controlled foreign cor-  
24 poration were a United States person. For purposes  
25 of determining the amount which would have been so

1 includible, the determination of whether such other  
2 foreign corporation was a controlled foreign corpora-  
3 tion shall be made without regard to the preceding  
4 sentence.

5 “(2) SAME COUNTRY EXCEPTION NOT APPLICA-  
6 BLE.—Clause (i) of section 954(c)(3)(A) shall not  
7 apply to any amount treated as a dividend by reason  
8 of paragraph (1).

9 “(3) CLARIFICATION OF DEEMED SALES.—For  
10 purposes of this subsection, a controlled foreign cor-  
11 poration shall be treated as having sold or ex-  
12 changed any stock if, under any provision of this  
13 subtitle, such controlled foreign corporation is treat-  
14 ed as having gain from the sale or exchange of such  
15 stock.”

16 (b) AMENDMENT OF SECTION 904(d).—Clause (i) of  
17 section 904(d)(2)(E) is amended by striking “and except  
18 as provided in regulations, the taxpayer was a United  
19 States shareholder in such corporation”.

20 (c) EFFECTIVE DATES.—

21 (1) The amendment made by subsection (a)  
22 shall apply to gain recognized on transactions occur-  
23 ring after the date of the enactment of this Act.

1           (2) The amendment made by subsection (b)  
 2           shall apply to distributions after the date of the en-  
 3           actment of this Act.

4 **SEC. 912. MISCELLANEOUS MODIFICATIONS TO SUBPART F.**

5           (a) SECTION 1248 GAIN TAKEN INTO ACCOUNT IN  
 6 DETERMINING PRO RATA SHARE.—

7           (1) IN GENERAL.—Paragraph (2) of section  
 8 951(a) (defining pro rata share of subpart F in-  
 9 come) is amended by adding at the end thereof the  
 10 following new sentence: “For purposes of subpara-  
 11 graph (B), any gain included in the gross income of  
 12 any person as a dividend under section 1248 shall  
 13 be treated as a distribution received by such person  
 14 with respect to the stock involved.”

15           (2) EFFECTIVE DATE.—The amendment made  
 16 by paragraph (1) shall apply to dispositions after the  
 17 date of the enactment of this Act.

18           (b) BASIS ADJUSTMENTS IN STOCK HELD BY FOR-  
 19 EIGN CORPORATION.—

20           (1) IN GENERAL.—Section 961 (relating to ad-  
 21 justments to basis of stock in controlled foreign cor-  
 22 porations and of other property) is amended by add-  
 23 ing at the end thereof the following new subsection:  
 24           “(c) BASIS ADJUSTMENTS IN STOCK HELD BY FOR-  
 25 EIGN CORPORATION.—Under regulations prescribed by



1 the Secretary, if a United States shareholder is treated  
 2 under section 958(a)(2) as owning any stock in a con-  
 3 trolled foreign corporation which is actually owned by an-  
 4 other controlled foreign corporation, adjustments similar  
 5 to the adjustments provided by subsections (a) and (b)  
 6 shall be made to the basis of such stock in the hands of  
 7 such other controlled foreign corporation, but only for the  
 8 purposes of determining the amount included under sec-  
 9 tion 951 in the gross income of such United States share-  
 10 holder (or any other United States shareholder who ac-  
 11 quires from any person any portion of the interest of such  
 12 United States shareholder by reason of which such share-  
 13 holder was treated as owning such stock, but only to the  
 14 extent of such portion, and subject to such proof of iden-  
 15 tity of such interest as the Secretary may prescribe by reg-  
 16 ulations).”

17 (2) EFFECTIVE DATE.—The amendment made  
 18 by paragraph (1) shall apply for purposes of deter-  
 19 mining inclusions for taxable years of United States  
 20 shareholders beginning after December 31, 1997.

21 (c) CLARIFICATION OF TREATMENT OF BRANCH TAX  
 22 EXEMPTIONS OR REDUCTIONS.—

23 (1) IN GENERAL.—Subsection (b) of section  
 24 952 is amended by adding at the end thereof the fol-  
 25 lowing new sentence: “For purposes of this sub-

1 section, any exemption (or reduction) with respect to  
 2 the tax imposed by section 884 shall not be taken  
 3 into account.”.

4 (2) EFFECTIVE DATE.—The amendment made  
 5 by paragraph (1) shall apply to taxable years begin-  
 6 ning after December 31, 1986.

7 **SEC. 913. INDIRECT FOREIGN TAX CREDIT ALLOWED FOR**  
 8 **CERTAIN LOWER TIER COMPANIES.**

9 (a) SECTION 902 CREDIT.—

10 (1) IN GENERAL.—Subsection (b) of section  
 11 902 (relating to deemed taxes increased in case of  
 12 certain 2nd and 3rd tier foreign corporations) is  
 13 amended to read as follows:

14 “(b) DEEMED TAXES INCREASED IN CASE OF CER-  
 15 TAIN LOWER TIER CORPORATIONS.—

16 “(1) IN GENERAL.—If—

17 “(A) any foreign corporation is a member  
 18 of a qualified group, and

19 “(B) such foreign corporation owns 10 per-  
 20 cent or more of the voting stock of another  
 21 member of such group from which it receives  
 22 dividends in any taxable year,

23 such foreign corporation shall be deemed to have  
 24 paid the same proportion of such other member’s  
 25 post-1986 foreign income taxes as would be deter-

1       mined under subsection (a) if such foreign corpora-  
 2       tion were a domestic corporation.

3               “(2) QUALIFIED GROUP.—For purposes of  
 4       paragraph (1), the term ‘qualified group’ means—

5               “(A) the foreign corporation described in  
 6       subsection (a), and

7               “(B) any other foreign corporation if—

8               “(i) the domestic corporation owns at  
 9       least 5 percent of the voting stock of such  
 10      other foreign corporation indirectly  
 11      through a chain of foreign corporations  
 12      connected through stock ownership of at  
 13      least 10 percent of their voting stock,

14              “(ii) the foreign corporation described  
 15      in subsection (a) is the first tier corpora-  
 16      tion in such chain, and

17              “(iii) such other corporation is not  
 18      below the sixth tier in such chain.

19      The term ‘qualified group’ shall not include any for-  
 20      eign corporation below the third tier in the chain re-  
 21      ferred to in clause (i) unless such foreign corpora-  
 22      tion is a controlled foreign corporation (as defined in  
 23      section 957) and the domestic corporation is a Unit-  
 24      ed States shareholder (as defined in section 951(b))  
 25      in such foreign corporation. Paragraph (1) shall

1       apply to those taxes paid by a member of the quali-  
2       fied group below the third tier only with respect to  
3       periods during which it was a controlled foreign cor-  
4       poration.”

5               (2) CONFORMING AMENDMENTS.—

6               (A) Subparagraph (B) of section 902(c)(3)  
7       is amended by adding “or” at the end of clause  
8       (i) and by striking clauses (ii) and (iii) and in-  
9       serting the following new clause:

10              “(ii) the requirements of subsection  
11              (b)(2) are met with respect to such foreign  
12              corporation.”

13              (B) Subparagraph (B) of section 902(c)(4)  
14       is amended by striking “3rd foreign corpora-  
15       tion” and inserting “sixth tier foreign corpora-  
16       tion”.

17              (C) The heading for paragraph (3) of sec-  
18       tion 902(c) is amended by striking “WHERE DO-  
19       MESTIC CORPORATION ACQUIRES 10 PERCENT  
20       OF FOREIGN CORPORATION” and inserting  
21       “WHERE FOREIGN CORPORATION FIRST QUALI-  
22       FIES”.

23              (D) Paragraph (3) of section 902(c) is  
24       amended by striking “ownership” each place it  
25       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—Repeal of Excise Tax**  
 8 **on Transfers to Foreign Entities**

9 **SEC. 921. REPEAL OF EXCISE TAX ON TRANSFERS TO FOR-**  
 10 **EIGN ENTITIES; RECOGNITION OF GAIN ON**  
 11 **CERTAIN TRANSFERS TO FOREIGN TRUSTS**  
 12 **AND ESTATES.**

13 (a) REPEAL OF EXCISE TAX.—Chapter 5 (relating  
 14 to transfers to avoid income tax) is hereby repealed.

15 (b) RECOGNITION OF GAIN ON CERTAIN TRANSFERS  
 16 TO FOREIGN TRUSTS AND ESTATES.—Subpart F of part  
 17 I of subchapter J of chapter 1 is amended by adding at  
 18 the end the following new section:

19 **“SEC. 684. RECOGNITION OF GAIN ON CERTAIN TRANSFERS**  
 20 **TO CERTAIN FOREIGN TRUSTS AND ESTATES.**

21 “(a) IN GENERAL.—Except as provided in regula-  
 22 tions, in the case of any transfer of property by a United  
 23 States person to a foreign estate or trust, for purposes  
 24 of this subtitle, such transfer shall be treated as a sale  
 25 or exchange for an amount equal to the fair market value

1 of the property transferred, and the transferor shall recog-  
2 nize as gain the excess of—

3 “(1) the fair market value of the property so  
4 transferred, over

5 “(2) the adjusted basis (for purposes of deter-  
6 mining gain) of such property in the hands of the  
7 transferor.

8 “(b) EXCEPTION.—Subsection (a) shall not apply to  
9 a transfer to a trust by a United States person to the  
10 extent that any person is treated as the owner of such  
11 trust under section 671.”

12 (b) OTHER ANTI-AVOIDANCE PROVISIONS REPLAC-  
13 ING REPEALED EXCISE TAX.—

14 (1) GAIN RECOGNITION ON EXCHANGES IN-  
15 VOLVING FOREIGN PERSONS.—Section 1035 is  
16 amended by redesignating subsection (c) as sub-  
17 section (d) and by inserting after subsection (b) the  
18 following new subsection:

19 “(c) EXCHANGES INVOLVING FOREIGN PERSONS.—  
20 To the extent provided in regulations, subsection (a) shall  
21 not apply to any exchange having the effect of transferring  
22 property to any person other than a United States per-  
23 son.”

1           (2) TRANSFERS TO FOREIGN CORPORATIONS.—

2           Section 367 is amended by adding at the end the  
3           following new subsection:

4           “(f) OTHER TRANSFERS.—To the extent provided in  
5           regulations, if a United States person transfers property  
6           to a foreign corporation as paid-in surplus or as a con-  
7           tribution to capital (in a transaction not otherwise de-  
8           scribed in this section), such foreign corporation shall not,  
9           for purposes of determining the extent to which gain shall  
10          be recognized on such transfer, be considered to be a cor-  
11          poration.”

12           (3) CERTAIN TRANSFERS TO PARTNERSHIPS.—

13          Section 721 is amended by adding at the end the  
14          following new subsection:

15          “(c) REGULATIONS RELATING TO CERTAIN TRANS-  
16          FERS TO PARTNERSHIPS.—The Secretary may provide by  
17          regulations that subsection (a) shall not apply to gain real-  
18          ized on the transfer of property to a partnership if such  
19          gain, when recognized, will be includible in the gross in-  
20          come of a person other than a United States person.”

21           (4) REPEAL OF UNITED STATES SOURCE  
22          TREATMENT OF DEEMED ROYALTIES.—Subpara-  
23          graph (C) of section 367(d)(2) is amended to read  
24          as follows:



1           “(C) AMOUNTS RECEIVED TREATED AS OR-  
 2           DINARY INCOME.—For purposes of this chapter,  
 3           any amount included in gross income by reason  
 4           of this subsection shall be treated as ordinary  
 5           income.”

6           (5) TRANSFERS OF INTANGIBLES TO PARTNER-  
 7           SHIPS.—

8           (A) Subsection (d) of section 367 is  
 9           amended by adding at the end the following  
 10          new paragraph:

11          “(3) REGULATIONS RELATING TO TRANSFERS  
 12          OF INTANGIBLES TO PARTNERSHIPS.—The Sec-  
 13          retary may provide by regulations that the rules of  
 14          paragraph (2) also apply to the transfer of intangi-  
 15          ble property by a United States person to a partner-  
 16          ship in circumstances consistent with the purposes  
 17          of this subsection.”

18          (B) Section 721 is amended by adding at  
 19          the end the following new subsection:

20          “(d) TRANSFERS OF INTANGIBLES.—

**“For regulatory authority to treat intangibles  
 transferred to a partnership as sold, see section  
 367(d)(3).”**

21          (c) TECHNICAL AND CONFORMING AMENDMENTS.—

22          (1) Subsection (h) of section 814 is amended by  
 23          striking “or 1491”.

1           (2) Section 1057 (relating to election to treat  
2           transfer to foreign trust, etc., as taxable exchange)  
3           is hereby repealed.

4           (3) Section 6422 is amended by striking para-  
5           graph (5) and by redesignating paragraphs (6)  
6           through (13) as paragraphs (5) through (12), re-  
7           spectively.

8           (4) The table of chapters for subtitle A is  
9           amended by striking the item relating to chapter 5.

10          (5) The table of sections for part IV of sub-  
11          chapter O of chapter 1 is amended by striking the  
12          item relating to section 1057.

13          (6) The table of sections for subpart F of part  
14          I of subchapter J of chapter 1 is amended by adding  
15          at the end the following new item:

“Sec. 684. Recognition of gain on certain transfers to certain for-  
  foreign trusts and estates.”

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

## 19       **Subtitle D—Information Reporting**

### 20       **SEC. 931. CLARIFICATION OF APPLICATION OF RETURN RE-** 21       **QUIREMENT TO FOREIGN PARTNERSHIPS.**

22          (a) IN GENERAL.—Section 6031 (relating to return  
23          of partnership income) is amended by adding at the end  
24          the following new subsection:

1 “(e) FOREIGN PARTNERSHIPS.—

2 “(1) EXCEPTION FOR FOREIGN PARTNER-  
3 SHIP.—Except as provided in paragraph (2), the  
4 preceding provisions of this section shall not apply  
5 to a foreign partnership.

6 “(2) CERTAIN FOREIGN PARTNERSHIPS RE-  
7 QUIRED TO FILE RETURN.—Except as provided in  
8 regulations prescribed by the Secretary, this section  
9 shall apply to a foreign partnership for any taxable  
10 year if for such year, such partnership has—

11 “(A) gross income derived from sources  
12 within the United States, or

13 “(B) gross income which is effectively con-  
14 nected with the conduct of a trade or business  
15 within the United States.

16 The Secretary may provide simplified filing proce-  
17 dures for foreign partnerships to which this section  
18 applies.”

19 (b) SANCTION FOR FAILURE BY FOREIGN PARTNER-  
20 SHIP TO COMPLY WITH SECTION 6031 TO INCLUDE DE-  
21 NIAL OF DEDUCTIONS.—Subsection (f) of section 6231 is  
22 amended—

23 (1) by striking “LOSSES AND” in the heading  
24 and inserting “DEDUCTIONS, LOSSES, AND”, and

1           (2) by striking “loss or” each place it appears  
2           and inserting “deduction, loss, or”.

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

6 **SEC. 932. CONTROLLED FOREIGN PARTNERSHIPS SUBJECT**  
7 **TO INFORMATION REPORTING COMPARABLE**  
8 **TO INFORMATION REPORTING FOR CON-**  
9 **TROLLED FOREIGN CORPORATIONS.**

10          (a) IN GENERAL.—So much of section 6038 (relating  
11 to information with respect to certain foreign corpora-  
12 tions) as precedes paragraph (2) of subsection (a) is  
13 amended to read as follows:

14 **“SEC. 6038. INFORMATION REPORTING WITH RESPECT TO**  
15 **CERTAIN FOREIGN CORPORATIONS AND**  
16 **PARTNERSHIPS.**

17          “(a) REQUIREMENT.—

18               “(1) IN GENERAL.—Every United States person  
19 shall furnish, with respect to any foreign business  
20 entity which such person controls, such information  
21 as the Secretary may prescribe relating to—

22                   “(A) the name, the principal place of busi-  
23 ness, and the nature of business of such entity,  
24 and the country under whose laws such entity

1 is incorporated (or organized in the case of a  
2 partnership);

3 “(B) in the case of a foreign corporation,  
4 its post-1986 undistributed earnings (as defined  
5 in section 902(c));

6 “(C) a balance sheet for such entity listing  
7 assets, liabilities, and capital;

8 “(D) transactions between such entity  
9 and—

10 “(i) such person,

11 “(ii) any corporation or partnership  
12 which such person controls, and

13 “(iii) any United States person own-  
14 ing, at the time the transaction takes  
15 place—

16 “(I) in the case of a foreign cor-  
17 poration, 10 percent or more of the  
18 value of any class of stock outstand-  
19 ing of such corporation, and

20 “(II) in the case of a foreign  
21 partnership, at least a 10-percent in-  
22 terest in such partnership; and

23 “(E)(i) in the case of a foreign corpora-  
24 tion, a description of the various classes of  
25 stock outstanding, and a list showing the name

and address of, and number of shares held by,  
 each United States person who is a shareholder  
 of record owning at any time during the annual  
 accounting period 5 percent or more in value of  
 any class of stock outstanding of such foreign  
 corporation, and

“(ii) information comparable to the infor-  
 mation described in clause (i) in the case of a  
 foreign partnership.

The Secretary may also require the furnishing of  
 any other information which is similar or related in  
 nature to that specified in the preceding sentence or  
 which the Secretary determines to be appropriate to  
 carry out the provisions of this title.”

(b) DEFINITIONS.—

(1) IN GENERAL.—Subsection (e) of section  
 6038 (relating to definitions) is amended—

(A) by redesignating paragraphs (1) and  
 (2) as paragraphs (2) and (4), respectively,

(B) by inserting before paragraph (2) (as  
 so redesignated) the following new paragraph:

“(1) FOREIGN BUSINESS ENTITY.—The term  
 ‘foreign business entity’ means a foreign corporation  
 and a foreign partnership.”, and

(C) by inserting after paragraph (2) (as so redesignated) the following new paragraph:

“(3) PARTNERSHIP-RELATED DEFINITIONS.—

“(A) CONTROL.—A person is in control of a partnership if such person owns directly or indirectly more than a 50 percent interest in such partnership.

“(B) 50-PERCENT INTEREST.—For purposes of subparagraph (A), a 50-percent interest in a partnership is—

“(i) an interest equal to 50 percent of the capital interest, or 50 percent of the profits interest, in such partnership, or

“(ii) to the extent provided in regulations, an interest to which 50 percent of the deductions or losses of such partnership are allocated.

For purposes of the preceding sentence, rules similar to the rules of section 267(c) (other than paragraph (3)) shall apply, except so as to consider a United States person as owning such an interest which is owned by a person which is not a United States person.

“(C) 10-PERCENT INTEREST.—A 10-percent interest in a partnership is an interest

1           which would be described in subparagraph (B)  
 2           if ‘10 percent’ were substituted for ‘50 percent’  
 3           each place it appears.”

4           (2) CLERICAL AMENDMENT.—The paragraph  
 5           heading for paragraph (2) of section 6038(e) (as so  
 6           redesignated) is amended by inserting “OF COR-  
 7           PORATION” after “CONTROL”.

8           (c) MODIFICATION OF SANCTIONS ON PARTNERSHIPS  
 9           AND CORPORATIONS FOR FAILURE TO FURNISH INFOR-  
 10          MATION.—

11           (1) IN GENERAL.—Subsection (b) of section  
 12          6038 is amended—

13                   (A) by striking “\$1,000” each place it ap-  
 14                   pears and inserting “\$10,000”, and

15                   (B) by striking “\$24,000” in paragraph  
 16                   (2) and inserting “\$50,000”.

17          (d) REPORTING BY 10-PERCENT PARTNERS.—Sub-  
 18          section (a) of section 6038 is amended by adding at the  
 19          end the following new paragraph:

20                   “(5) INFORMATION REQUIRED FROM 10-PER-  
 21          CENT PARTNER OF CONTROLLED FOREIGN PART-  
 22          NERSHIP.—In the case of a foreign partnership  
 23          which is controlled by United States persons holding  
 24          at least 10-percent interests (but not by any one  
 25          United States person), the Secretary may require



1 each United States person who holds a 10-percent  
 2 interest in such partnership to furnish information  
 3 relating to such partnership, including information  
 4 relating to such partner's ownership interests in the  
 5 partnership and allocations to such partner of part-  
 6 nership items.”

7 (e) TECHNICAL AMENDMENTS.—

8 (1) The following provisions of section 6038 are  
 9 each amended by striking “foreign corporation” each  
 10 place it appears and inserting “foreign business en-  
 11 tity”:

12 (A) Paragraphs (2) and (3) of subsection  
 13 (a).

14 (B) Subsection (b).

15 (C) Subsection (c) other than paragraph  
 16 (1)(B) thereof.

17 (D) Subsection (d).

18 (E) Subsection (e)(4) (as redesignated by  
 19 subsection (b)).

20 (2) Subparagraph (B) of section 6038(c)(1) is  
 21 amended by inserting “in the case of a foreign busi-  
 22 ness entity which is a foreign corporation,” after  
 23 “(B)”.

1           (3) Paragraph (8) of section 318(b) is amended  
 2       by striking “6038(d)(1)” and inserting  
 3       “6038(d)(2)”.

4           (4) Paragraph (4) of section 901(k) is amended  
 5       by striking “foreign corporation” and inserting “for-  
 6       eign corporation or partnership”.

7           (5) The table of sections for subpart A of part  
 8       III of subchapter A of chapter 61 is amended by  
 9       striking the item relating to section 6038 and insert-  
 10      ing the following new item:

“Sec. 6038. Information reporting with respect to certain foreign  
 corporations and partnerships.”

11       (f) EFFECTIVE DATE.—The amendments made by  
 12      this section shall apply to annual accounting periods of  
 13      foreign partnerships beginning after the date of the enact-  
 14      ment of this Act.

15      **SEC. 933. MODIFICATIONS RELATING TO RETURNS RE-**  
 16                                   **QUIRED TO BE FILED BY REASON OF**  
 17                                   **CHANGES IN OWNERSHIP INTERESTS IN FOR-**  
 18                                   **EIGN PARTNERSHIP.**

19       (a) NO RETURN REQUIRED UNLESS CHANGES IN-  
 20      VOLVE 10-PERCENT INTEREST IN PARTNERSHIP.—

21           (1) IN GENERAL.—Subsection (a) of section  
 22      6046A (relating to returns as to interests in foreign  
 23      partnerships) is amended by adding at the end the  
 24      following new sentence: “Paragraphs (1) and (2)

1 shall apply to any acquisition or disposition only if  
 2 the United States person directly or indirectly holds  
 3 at least a 10-percent interest in such partnership ei-  
 4 ther before or after such acquisition or disposition,  
 5 and paragraph (3) shall apply to any change only  
 6 if the change is equivalent to at least a 10-percent  
 7 interest in such partnership.”

8 (2) 10-PERCENT INTEREST.—Section 6046A is  
 9 amended by redesignating subsection (d) as sub-  
 10 section (e) and by inserting after subsection (c) the  
 11 following new subsection:

12 “(d) 10-PERCENT INTEREST.—For purposes of sub-  
 13 section (a), a 10-percent interest in a partnership is an  
 14 interest described in section 6038(e)(3)(C).”

15 (b) MODIFICATION OF PENALTY ON FAILURE TO RE-  
 16 PORT CHANGES IN OWNERSHIP INTERESTS IN FOREIGN  
 17 CORPORATIONS AND PARTNERSHIPS.—Subsection (a) of  
 18 section 6679 (relating to failure to file returns, etc., with  
 19 respect to foreign corporations or foreign partnerships) is  
 20 amended to read as follows:

21 “(a) CIVIL PENALTY.—

22 “(1) IN GENERAL.—In addition to any criminal  
 23 penalty provided by law, any person required to file  
 24 a return under section 6035, 6046, or 6046A who  
 25 fails to file such return at the time provided in such

1 section, or who files a return which does not show  
2 the information required pursuant to such section,  
3 shall pay a penalty of \$10,000, unless it is shown  
4 that such failure is due to reasonable cause.

5 “(2) INCREASE IN PENALTY WHERE FAILURE  
6 CONTINUES AFTER NOTIFICATION.—If any failure  
7 described in paragraph (1) continues for more than  
8 90 days after the day on which the Secretary mails  
9 notice of such failure to the United States person,  
10 such person shall pay a penalty (in addition to the  
11 amount required under paragraph (1)) of \$10,000  
12 for each 30-day period (or fraction thereof) during  
13 which such failure continues after the expiration of  
14 such 90-day period. The increase in any penalty  
15 under this paragraph shall not exceed \$50,000.

16 “(3) REDUCED PENALTY FOR RETURNS RELAT-  
17 ING TO FOREIGN PERSONAL HOLDING COMPANIES.—  
18 In the case of a return required under section 6035,  
19 paragraph (1) shall be applied by substituting  
20 ‘\$1,000’ for ‘\$10,000’, and paragraph (2) shall not  
21 apply.”

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to transfers and changes after the  
24 date of the enactment of this Act.

1 **SEC. 934. TRANSFERS OF PROPERTY TO FOREIGN PART-**  
 2 **NERSHIPS SUBJECT TO INFORMATION RE-**  
 3 **PORTING COMPARABLE TO INFORMATION**  
 4 **REPORTING FOR SUCH TRANSFERS TO FOR-**  
 5 **EIGN CORPORATIONS.**

6 (a) IN GENERAL.—Paragraph (1) of section  
 7 6038B(a) (relating to notice of certain transfers to foreign  
 8 corporations) is amended to read as follows:

9 “(1) transfers property to—

10 “(A) a foreign corporation in an exchange  
 11 described in section 332, 351, 354, 355, 356, or  
 12 361, or

13 “(B) a foreign partnership in a contribu-  
 14 tion described in section 721 or in any other  
 15 contribution described in regulations prescribed  
 16 by the Secretary.”.

17 (b) EXCEPTIONS.—Section 6038B is amended by re-  
 18 designating subsection (b) as subsection (c) and by insert-  
 19 ing after subsection (a) the following new subsection:

20 “(b) EXCEPTIONS FOR CERTAIN TRANSFERS TO  
 21 FOREIGN PARTNERSHIPS; SPECIAL RULE.—

22 “(1) EXCEPTIONS.—Subsection (a)(1)(B) shall  
 23 apply to a transfer by a United States person to a  
 24 foreign partnership only if—

25 “(A) the United States person holds (im-  
 26 mediately after the transfer) directly or indi-

1 rectly at least a 10-percent interest (as defined  
 2 in section 6046A(d)) in the partnership, or

3 “(B) the value of the property transferred  
 4 (when added to the value of the property trans-  
 5 ferred by such person or any related person to  
 6 such partnership or a related partnership dur-  
 7 ing the 12-month period ending on the date of  
 8 the transfer) exceeds \$100,000.

9 For purposes of the preceding sentence, the value of  
 10 any transferred property is its fair market value at  
 11 the time of its transfer.

12 “(2) SPECIAL RULE.—If by reason of an ad-  
 13 justment under section 482 or otherwise, a contribu-  
 14 tion described in subsection (a)(1) is deemed to have  
 15 been made, such contribution shall be treated for  
 16 purposes of this section as having been made not  
 17 earlier than the date specified by the Secretary.”

18 (c) MODIFICATION OF PENALTY APPLICABLE TO  
 19 FOREIGN CORPORATIONS AND PARTNERSHIPS.—

20 (1) IN GENERAL.—Paragraph (1) of section  
 21 6038B(b) is amended by striking “equal to” and all  
 22 that follows and inserting “equal to 10 percent of  
 23 the fair market value of the property at the time of  
 24 the exchange (and, in the case of a contribution de-  
 25 scribed in subsection (a)(1)(B), such person shall

1 recognize gain as if the contributed property had  
2 been sold for such value at the time of such con-  
3 tribution).”

4 (2) LIMIT ON PENALTY.—Section 6038B(b) is  
5 amended by adding at the end the following new  
6 paragraph:

7 “(3) LIMIT ON PENALTY.—The penalty under  
8 paragraph (1) with respect to any exchange shall not  
9 exceed \$100,000 unless the failure with respect to  
10 such exchange was due to intentional disregard.”

11 (d) EFFECTIVE DATE.—

12 (1) IN GENERAL.—The amendments made by  
13 this section shall apply to transfers made after the  
14 date of the enactment of this Act.

15 (2) ELECTION OF RETROACTIVE EFFECT.—Sec-  
16 tion 1494(c) of the Internal Revenue Code of 1986  
17 shall not apply to any transfer after August 20,  
18 1996, if all applicable reporting requirements under  
19 section 6038B of such Code (as amended by this  
20 section) are satisfied. The Secretary of the Treasury  
21 or his delegate may prescribe simplified reporting  
22 under the preceding sentence.

1 **SEC. 935. EXTENSION OF STATUTE OF LIMITATION FOR**  
 2 **FOREIGN TRANSFERS.**

3 (a) IN GENERAL.—Paragraph (8) of section 6501(c)  
 4 (relating to failure to notify Secretary under section  
 5 6038B) is amended to read as follows:

6 “(8) FAILURE TO NOTIFY SECRETARY OF CER-  
 7 TAIN FOREIGN TRANSFERS.—In the case of any in-  
 8 formation which is required to be reported to the  
 9 Secretary under section 6038, 6038A, 6038B, 6046,  
 10 6046A, or 6048, the time for assessment of any tax  
 11 imposed by this title with respect to any event or pe-  
 12 riod to which such information relates shall not ex-  
 13 pire before the date which is 3 years after the date  
 14 on which the Secretary is furnished the information  
 15 required to be reported under such section.”

16 (b) EFFECTIVE DATE.—The amendment made by  
 17 subsection (a) shall apply to information the due date for  
 18 the reporting of which is after the date of the enactment  
 19 of this Act.

20 **SEC. 936. INCREASE IN FILING THRESHOLDS FOR RETURNS**  
 21 **AS TO ORGANIZATION OF FOREIGN COR-**  
 22 **PORATIONS AND ACQUISITIONS OF STOCK IN**  
 23 **SUCH CORPORATIONS.**

24 (a) IN GENERAL.—Subsection (a) of section 6046  
 25 (relating to returns as to organization or reorganization



1 of foreign corporations and as to acquisitions of their  
2 stock) is amended to read as follows:

3 “(a) REQUIREMENT OF RETURN.—

4 “(1) IN GENERAL.—A return complying with  
5 the requirements of subsection (b) shall be made  
6 by—

7 “(A) each United States citizen or resident  
8 who becomes an officer or director of a foreign  
9 corporation if a United States person (as de-  
10 fined in section 7701(a)(30)) meets the stock  
11 ownership requirements of paragraph (2) with  
12 respect to such corporation,

13 “(B) each United States person—

14 “(i) who acquires stock which, when  
15 added to any stock owned on the date of  
16 such acquisition, meets the stock owner-  
17 ship requirements of paragraph (2) with  
18 respect to a foreign corporation, or

19 “(ii) who acquires stock which, with-  
20 out regard to stock owned on the date of  
21 such acquisition, meets the stock owner-  
22 ship requirements of paragraph (2) with  
23 respect to a foreign corporation,

24 “(C) each person (not described in sub-  
25 paragraph (B)) who is treated as a United

1 States shareholder under section 953(c) with  
2 respect to a foreign corporation, and

3 “(D) each person who becomes a United  
4 States person while meeting the stock owner-  
5 ship requirements of paragraph (2) with respect  
6 to stock of a foreign corporation.

7 In the case of a foreign corporation with respect to  
8 which any person is treated as a United States  
9 shareholder under section 953(c), subparagraph (A)  
10 shall be treated as including a reference to each  
11 United States person who is an officer or director of  
12 such corporation.

13 “(2) STOCK OWNERSHIP REQUIREMENTS.—A  
14 person meets the stock ownership requirements of  
15 this paragraph with respect to any corporation if  
16 such person owns 10 percent or more of—

17 “(A) the total combined voting power of all  
18 classes of stock of such corporation entitled to  
19 vote, or

20 “(B) the total value of the stock of such  
21 corporation.”

22 (b) EFFECTIVE DATE.—The amendment made by  
23 this section shall take effect on January 1, 1998.

1 **Subtitle E—Determination of For-**  
 2 **eign or Domestic Status of Part-**  
 3 **nerships**

4 **SEC. 941. DETERMINATION OF FOREIGN OR DOMESTIC STA-**  
 5 **TUS 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 Secretary provides otherwise by  
 9 regulations”.

10 (b) EFFECTIVE DATE.—The amendment made by  
 11 subsection (a) shall apply to taxable years beginning after  
 12 the date of the enactment of this Act.

13 **Subtitle F—Other Simplification**  
 14 **Provisions**

15 **SEC. 951. TRANSITION RULE FOR CERTAIN TRUSTS.**

16 (a) IN GENERAL.—Paragraph (3) of section 1907(a)  
 17 of the Small Business Job Protection Act of 1996 is  
 18 amended by adding at the end the following flush sen-  
 19 tence:

20 “To the extent prescribed in regulations by the Sec-  
 21 retary of the Treasury or his delegate, a trust which  
 22 was in existence on August 20, 1996 (other than a  
 23 trust treated as owned by the grantor under subpart  
 24 E of part I of subchapter J of chapter 1 of the In-  
 25 ternal Revenue Code of 1986), and which was treat-

1       ed as a United States person on the day before the  
 2       date of the enactment of this Act may elect to con-  
 3       tinue to be treated as a United States person not-  
 4       withstanding section 7701(a)(30)(E) of such Code.”

5       (b) EFFECTIVE DATE.—The amendment made by  
 6       subsection (a) shall take effect as if included in the  
 7       amendments made by section 1907(a) of the Small Busi-  
 8       ness Job Protection Act of 1996.

9       **SEC. 952. REPEAL OF STOCK AND SECURITIES SAFE HAR-**  
 10                   **BOR REQUIREMENT THAT PRINCIPAL OFFICE**  
 11                   **BE OUTSIDE THE UNITED STATES.**

12       (a) IN GENERAL.—The last sentence of clause (ii) of  
 13       section 864(b)(2)(A) (relating to stock or securities) is  
 14       amended by striking “, or in the case of a corporation”  
 15       and all that follows and inserting a period.

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

19       **SEC. 953. MISCELLANEOUS CLARIFICATIONS.**

20       (a) ATTRIBUTION OF DEEMED PAID FOREIGN TAXES  
 21       TO PRIOR DISTRIBUTIONS.—Subparagraph (B) of section  
 22       902(c)(2) is amended by striking “deemed paid with re-  
 23       spect to” and inserting “attributable to”.

24       (b) FINANCIAL SERVICES INCOME DETERMINED  
 25       WITHOUT REGARD TO HIGH-TAXED INCOME.—Subclause

1 (II) of section 904(d)(2)(C)(i) is amended by striking  
 2 “subclause (I)” and inserting “subclauses (I) and (III)”.

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

## 6 **TITLE X—SIMPLIFICATION PRO-** 7 **VISIONS RELATING TO INDIVIDUALS AND BUSINESSES**

### 9 **Subtitle A—Provisions Relating to** 10 **Individuals**

#### 11 **SEC. 1001. BASIC STANDARD DEDUCTION AND MINIMUM** 12 **TAX EXEMPTION AMOUNT FOR CERTAIN DE-** 13 **PENDENTS.**

14 (a) BASIC STANDARD DEDUCTION.—

15 (1) IN GENERAL.—Paragraph (5) of section  
 16 63(c) (relating to limitation on basic standard de-  
 17 duction in the case of certain dependents) is amend-  
 18 ed by striking “shall not exceed” and all that follows  
 19 and inserting “shall not exceed the greater of—

20 “(A) \$500, or

21 “(B) the sum of \$250 and such individ-  
 22 ual’s earned income.”

23 (2) CONFORMING AMENDMENT.—Paragraph (4)  
 24 of section 63(c) is amended—

1 (A) by striking “(5)(A)” in the material  
 2 preceding subparagraph (A) and inserting  
 3 “(5)”, and

4 (B) by striking “by substituting” and all  
 5 that follows in subparagraph (B) and inserting  
 6 “by substituting for ‘calendar year 1992’ in  
 7 subparagraph (B) thereof—

8 “(i) ‘calendar year 1987’ in the case  
 9 of the dollar amounts contained in para-  
 10 graph (2) or (5)(A) or subsection (f), and

11 “(ii) ‘calendar year 1997’ in the case  
 12 of the dollar amount contained in para-  
 13 graph (5)(B).”

14 (b) MINIMUM TAX EXEMPTION AMOUNT.—Sub-  
 15 section (j) of section 59 is amended to read as follows:

16 “(j) TREATMENT OF UNEARNED INCOME OF MINOR  
 17 CHILDREN.—

18 “(1) IN GENERAL.—In the case of a child to  
 19 whom section 1(g) applies, the exemption amount  
 20 for purposes of section 55 shall not exceed the sum  
 21 of—

22 “(A) such child’s earned income (as de-  
 23 fined in section 911(d)(2)) for the taxable year,  
 24 plus

25 “(B) \$5,000.

1           “(2) INFLATION ADJUSTMENT.—In the case of  
 2           any taxable year beginning in a calendar year after  
 3           1998, the dollar amount in paragraph (1)(B) shall  
 4           be increased by an amount equal to the product of—

5                   “(A) such dollar amount, and

6                   “(B) the cost-of-living adjustment deter-  
 7           mined under section 1(f)(3) for the calendar  
 8           year in which the taxable year begins, deter-  
 9           mined by substituting ‘1997’ for ‘1992’ in sub-  
 10          paragraph (B) thereof.

11          If any increase determined under the preceding sen-  
 12          tence is not a multiple of \$50, such increase shall  
 13          be rounded to the nearest multiple of \$50.”

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

17      **SEC. 1002. INCREASE IN AMOUNT OF TAX EXEMPT FROM**  
 18                   **ESTIMATED TAX REQUIREMENTS.**

19          (a) IN GENERAL.—Paragraph (1) of section 6654(e)  
 20          (relating to exception where tax is small amount) is  
 21          amended by striking “\$500” and inserting “\$1,000”.

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

1 **SEC. 1003. TREATMENT OF CERTAIN REIMBURSED EX-**  
2 **PENSES OF RURAL MAIL CARRIERS.**

3 (a) IN GENERAL.—Section 162 (relating to trade or  
4 business expenses), as amended by title VII, is amended  
5 by redesignating subsection (p) as subsection (q) and by  
6 inserting after subsection (o) the following new subsection:

7 “(p) 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. 1004. TREATMENT OF TRAVELING EXPENSES OF CER-**  
 2 **TAIN FEDERAL EMPLOYEES ENGAGED IN**  
 3 **CRIMINAL INVESTIGATIONS.**

4 (a) IN GENERAL.—Subsection (o) of section 162, as  
 5 added by title VII, is amended by adding at the end the  
 6 following new paragraph:

7 “(3) TRAVELING EXPENSES OF CERTAIN FED-  
 8 ERAL EMPLOYEES ENGAGED IN CRIMINAL INVES-  
 9 TIGATIONS.—Paragraph (1) shall not apply to any  
 10 Federal employee during any period for which such  
 11 employee is certified by the Attorney General (or the  
 12 designee thereof) as traveling on behalf of the Unit-  
 13 ed States in temporary duty status to investigate, or  
 14 provide support services for the investigation of, a  
 15 Federal crime.”

16 (b) EFFECTIVE DATE.—The amendment made by  
 17 subsection (a) shall apply to amounts paid or incurred  
 18 with respect to taxable years ending after the date of the  
 19 enactment of this Act.

20 **Subtitle B—Provisions Relating to**  
 21 **Businesses Generally**

22 **SEC. 1011. MODIFICATIONS TO LOOK-BACK METHOD FOR**  
 23 **LONG-TERM CONTRACTS.**

24 (a) LOOK-BACK METHOD NOT TO APPLY IN CER-  
 25 TAIN CASES.—Subsection (b) of section 460 (relating to

1 percentage of completion method) is amended by adding  
 2 at the end the following new paragraph:

3           “(6) ELECTION TO HAVE LOOK-BACK METHOD  
 4           NOT APPLY IN DE MINIMIS CASES.—

5           “(A) AMOUNTS TAKEN INTO ACCOUNT  
 6           AFTER COMPLETION OF CONTRACT.—Para-  
 7           graph (1)(B) shall not apply with respect to  
 8           any taxable year (beginning after the taxable  
 9           year in which the contract is completed) if—

10                   “(i) the cumulative taxable income (or  
 11                   loss) under the contract as of the close of  
 12                   such taxable year, is within

13                   “(ii) 10 percent of the cumulative  
 14                   look-back taxable income (or loss) under  
 15                   the contract as of the close of the most re-  
 16                   cent taxable year to which paragraph  
 17                   (1)(B) applied (or would have applied but  
 18                   for subparagraph (B)).

19           “(B) DE MINIMIS DISCREPANCIES.—Para-  
 20           graph (1)(B) shall not apply in any case to  
 21           which it would otherwise apply if—

22                   “(i) the cumulative taxable income (or  
 23                   loss) under the contract as of the close of  
 24                   each prior contract year, is within

1                   “(ii) 10 percent of the cumulative  
 2                   look-back income (or loss) under the con-  
 3                   tract as of the close of such prior contract  
 4                   year.

5                   “(C) DEFINITIONS.—For purposes of this  
 6                   paragraph—

7                   “(i) CONTRACT YEAR.—The term  
 8                   ‘contract year’ means any taxable year for  
 9                   which income is taken into account under  
 10                  the contract.

11                  “(ii) LOOK-BACK INCOME OR LOSS.—  
 12                  The look-back income (or loss) is the  
 13                  amount which would be the taxable income  
 14                  (or loss) under the contract if the alloca-  
 15                  tion method set forth in paragraph (2)(A)  
 16                  were used in determining taxable income.

17                  “(iii) DISCOUNTING NOT APPLICA-  
 18                  BLE.—The amounts taken into account  
 19                  after the completion of the contract shall  
 20                  be determined without regard to any dis-  
 21                  counting under the 2nd sentence of para-  
 22                  graph (2).

23                  “(D) CONTRACTS TO WHICH PARAGRAPH  
 24                  APPLIES.—This paragraph shall only apply if  
 25                  the taxpayer makes an election under this sub-

1 paragraph. Unless revoked with the consent of  
2 the Secretary, such an election shall apply to  
3 all long-term contracts completed during the  
4 taxable year for which election is made or dur-  
5 ing any subsequent taxable year.”

6 (b) MODIFICATION OF INTEREST RATE.—

7 (1) IN GENERAL.—Subparagraph (C) of section  
8 460(b)(2) is amended by striking “the overpayment  
9 rate established by section 6621” and inserting “the  
10 adjusted overpayment rate (as defined in paragraph  
11 (7))”.

12 (2) ADJUSTED OVERPAYMENT RATE.—Sub-  
13 section (b) of section 460 is amended by adding at  
14 the end the following new paragraph:

15 “(7) ADJUSTED OVERPAYMENT RATE.—

16 “(A) IN GENERAL.—The adjusted overpay-  
17 ment rate for any interest accrual period is the  
18 overpayment rate in effect under section 6621  
19 for the calendar quarter in which such interest  
20 accrual period begins.

21 “(B) INTEREST ACCRUAL PERIOD.—For  
22 purposes of subparagraph (A), the term ‘inter-  
23 est accrual period’ means the period—

1 “(i) beginning on the day after the re-  
 2 turn due date for any taxable year of the  
 3 taxpayer, and

4 “(ii) ending on the return due date  
 5 for the following taxable year.

6 For purposes of the preceding sentence, the  
 7 term ‘return due date’ means the date pre-  
 8 scribed for filing the return of the tax imposed  
 9 by this chapter (determined without regard to  
 10 extensions).”

11 (c) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as provided in para-  
 13 graph (2), the amendments made by this section  
 14 shall apply to contracts completed in taxable years  
 15 ending after the date of the enactment of this Act.

16 (2) SUBSECTION (b).—The amendments made  
 17 by subsection (b) shall apply for purposes of section  
 18 167(g) of the Internal Revenue Code of 1986 to  
 19 property placed in service after September 13, 1995.

20 **SEC. 1012. MINIMUM TAX TREATMENT OF CERTAIN PROP-**  
 21 **ERTY AND CASUALTY INSURANCE COMPA-**  
 22 **NIES.**

23 (a) IN GENERAL.—Clause (i) of section 56(g)(4)(B)  
 24 (relating to inclusion of items included for purposes of  
 25 computing earnings and profits) is amended by adding at

1 the end the following new sentence: “In the case of any  
 2 insurance company taxable under section 831(b), this  
 3 clause shall not apply to any amount not described in sec-  
 4 tion 834(b).”

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

8 **SEC. 1013. USE OF ESTIMATES OF SHRINKAGE FOR INVEN-**  
 9 **TORY ACCOUNTING.**

10 (a) IN GENERAL.—Section 471 (relating to general  
 11 rule for inventories) is amended by redesignating sub-  
 12 section (b) as subsection (c) and by inserting after sub-  
 13 section (a) the following new subsection:

14 “(b) ESTIMATES OF INVENTORY SHRINKAGE PER-  
 15 MITTED.—A method of determining inventories shall not  
 16 be deemed not to clearly reflect income solely because it  
 17 utilizes estimates of inventory shrinkage that are con-  
 18 firmed by a physical count only after the last day of the  
 19 taxable year if—

20 “(1) the taxpayer normally does a physical  
 21 count of inventories at each location on a regular  
 22 and consistent basis, and

23 “(2) the taxpayer makes proper adjustments to  
 24 such inventories and to its estimating methods to

1 the extent such estimates are greater than or less  
 2 than the actual shrinkage.”

3 (b) EFFECTIVE DATE.—

4 (1) IN GENERAL.—The amendment made by  
 5 this section shall apply to taxable years ending after  
 6 the date of the enactment of this Act.

7 (2) COORDINATION WITH SECTION 481.—In the  
 8 case of any taxpayer permitted by this section to  
 9 change its method of accounting to a permissible  
 10 method for any taxable year—

11 (A) such changes shall be treated as initi-  
 12 ated by the taxpayer,

13 (B) such changes shall be treated as made  
 14 with the consent of the Secretary, and

15 (C) the period for taking into account the  
 16 adjustments under section 481 by reason of  
 17 such change shall be 4 years.

18 **SEC. 1014. QUALIFIED LESSEE CONSTRUCTION ALLOW-**  
 19 **ANCES FOR SHORT-TERM LEASES.**

20 (a) IN GENERAL.—Part III of subchapter B of chap-  
 21 ter 1 is amended by inserting after section 109 the follow-  
 22 ing new section:



1 **“SEC. 110. QUALIFIED LESSEE CONSTRUCTION ALLOW-**  
2 **ANCES FOR SHORT-TERM LEASES.**

3 “(a) IN GENERAL.—Gross income of a lessee does  
4 not include any amount received in cash (or treated as  
5 a rent reduction) by a lessee from a lessor—

6 “(1) under a short-term lease of retail space,  
7 and

8 “(2) for the purpose of such lessee’s construct-  
9 ing or improving qualified long-term real property  
10 for use in such lessee’s trade or business at such re-  
11 tail space,

12 but only to the extent that such amount does not exceed  
13 the amount expended by the lessee for such construction  
14 or improvement.

15 “(b) CONSISTENT TREATMENT BY LESSOR.—Quali-  
16 fied long-term real property constructed or improved in  
17 connection with any amount excluded from a lessee’s in-  
18 come by reason of subsection (a) shall be treated as non-  
19 residential real property by the lessor.

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

21 “(1) QUALIFIED LONG-TERM REAL PROP-  
22 erty.—The term ‘qualified long-term real property’  
23 means nonresidential real property which is part of,  
24 or otherwise present at, the retail space referred to  
25 in subsection (a) and which reverts to the lessor at  
26 the termination of the lease.

1           “(2) SHORT-TERM LEASE.—The term ‘short-  
2       term lease’ means a lease (or other agreement for  
3       occupancy or use) of retail space for 15 years or less  
4       (as determined under the rules of section 168(i)(3)).

5           “(3) RETAIL SPACE.—The term ‘retail space’  
6       means real property leased, occupied, or otherwise  
7       used by a lessee in its trade or business of selling  
8       tangible personal property or services to the general  
9       public.

10          “(d) INFORMATION REQUIRED TO BE FURNISHED  
11       TO SECRETARY.—Under regulations, the lessee and lessor  
12       described in subsection (a) shall, at such times and in such  
13       manner as may be provided in such regulations, furnish  
14       to the Secretary—

15               “(1) information concerning the amounts re-  
16       ceived (or treated as a rent reduction) and expended  
17       as described in subsection (a), and

18               “(2) any other information which the Secretary  
19       deems necessary to carry out the provisions of this  
20       section.”

21          (b) TREATMENT AS INFORMATION RETURN.—Sub-  
22       paragraph (A) of section 6724(d)(1)(A) is amended by  
23       striking “or” at the end of clause (vii), by adding “or”  
24       at the end of clause (viii), and by adding at the end the  
25       following new clause:

1 “(ix) section 110(d) (relating to quali-  
 2 fied lessee construction allowances for  
 3 short-term leases),”.

4 (c) CROSS REFERENCE.—Paragraph (8) of section  
 5 168(i) (relating to treatment of leasehold improvements)  
 6 is amended by adding at the end the following new sub-  
 7 paragraph:

8 “(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).”**

9 (d) CLERICAL AMENDMENT.—The table of sections  
 10 for part III of subchapter B of chapter 1 is amended by  
 11 inserting after the item relating to section 109 the follow-  
 12 ing new item:

“Sec. 110. Qualified lessee construction allowances for short-term  
 leases.”

13 (e) EFFECTIVE DATE.—The amendments made by  
 14 this section shall apply to leases entered into after the date  
 15 of the enactment of this Act.

1 **Subtitle C—Simplification Relating**  
 2 **to Electing Large Partnerships**

3 **PART I—GENERAL PROVISIONS**

4 **SEC. 1021. SIMPLIFIED FLOW-THROUGH FOR ELECTING**  
 5 **LARGE PARTNERSHIPS.**

6 (a) GENERAL RULE.—Subchapter K (relating to  
 7 partners and partnerships) is amended by adding at the  
 8 end the following new part:

9 **“PART IV—SPECIAL RULES FOR ELECTING**  
 10 **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.

11 **“SEC. 771. APPLICATION OF SUBCHAPTER TO ELECTING**  
 12 **LARGE PARTNERSHIPS.**

13 “The preceding provisions of this subchapter to the  
 14 extent inconsistent with the provisions of this part shall  
 15 not apply to an electing large partnership and its partners.

16 **“SEC. 772. SIMPLIFIED FLOW-THROUGH.**

17 “(a) GENERAL RULE.—In determining the income  
 18 tax of a partner of an electing large partnership, such  
 19 partner shall take into account separately such partner’s  
 20 distributive share of the partnership’s—

- 1           “(1) taxable income or loss from passive loss
- 2           limitation activities,
- 3           “(2) taxable income or loss from other activi-
- 4           ties,
- 5           “(3) net capital gain (or net capital loss)—
- 6                 “(A) to the extent allocable to passive loss
- 7           limitation activities, and
- 8                 “(B) to the extent allocable to other activi-
- 9           ties,
- 10          “(4) tax-exempt interest,
- 11          “(5) applicable net AMT adjustment separately
- 12          computed for—
- 13                 “(A) passive loss limitation activities, and
- 14                 “(B) other activities,
- 15          “(6) general credits,
- 16          “(7) low-income housing credit determined
- 17          under section 42,
- 18          “(8) rehabilitation credit determined under sec-
- 19          tion 47,
- 20          “(9) foreign income taxes,
- 21          “(10) the credit allowable under section 29, and
- 22          “(11) other items to the extent that the Sec-
- 23          retary determines that the separate treatment of
- 24          such items is appropriate.

1       “(b) SEPARATE COMPUTATIONS.—In determining  
 2 the amounts required under subsection (a) to be sepa-  
 3 rately taken into account by any partner, this section and  
 4 section 773 shall be applied separately with respect to  
 5 such partner by taking into account such partner’s dis-  
 6 tributive share of the items of income, gain, loss, deduc-  
 7 tion, or credit of the partnership.

8       “(c) TREATMENT AT PARTNER LEVEL.—

9           “(1) IN GENERAL.—Except as provided in this  
 10 subsection, rules similar to the rules of section  
 11 702(b) shall apply to any partner’s distributive share  
 12 of the amounts referred to in subsection (a).

13           “(2) INCOME OR LOSS FROM PASSIVE LOSS LIM-  
 14 ITATION ACTIVITIES.—For purposes of this chapter,  
 15 any partner’s distributive share of any income or  
 16 loss described in subsection (a)(1) shall be treated as  
 17 an item of income or loss (as the case may be) from  
 18 the conduct of a trade or business which is a single  
 19 passive activity (as defined in section 469). A similar  
 20 rule shall apply to a partner’s distributive share of  
 21 amounts referred to in paragraphs (3)(A) and  
 22 (5)(A) of subsection (a).

23           “(3) INCOME OR LOSS FROM OTHER ACTIVI-  
 24 TIES.—

1           “(A) IN GENERAL.—For purposes of this  
 2           chapter, any partner’s distributive share of any  
 3           income or loss described in subsection (a)(2)  
 4           shall be treated as an item of income or expense  
 5           (as the case may be) with respect to property  
 6           held for investment.

7           “(B) DEDUCTIONS FOR LOSS NOT SUB-  
 8           JECT TO SECTION 67.—The deduction under  
 9           section 212 for any loss described in subpara-  
 10          graph (A) shall not be treated as a miscellane-  
 11          ous itemized deduction for purposes of section  
 12          67.

13          “(4) TREATMENT OF NET CAPITAL GAIN OR  
 14          LOSS.—For purposes of this chapter, any partner’s  
 15          distributive share of any gain or loss described in  
 16          subsection (a)(3) shall be treated as a long-term  
 17          capital gain or loss, as the case may be.

18          “(5) MINIMUM TAX TREATMENT.—In determin-  
 19          ing the alternative minimum taxable income of any  
 20          partner, such partner’s distributive share of any ap-  
 21          plicable net AMT adjustment shall be taken into ac-  
 22          count in lieu of making the separate adjustments  
 23          provided in sections 56, 57, and 58 with respect to  
 24          the items of the partnership. Except as provided in  
 25          regulations, the applicable net AMT adjustment

1 shall be treated, for purposes of section 53, as an  
 2 adjustment or item of tax preference not specified in  
 3 section 53(d)(1)(B)(ii).

4 “(6) GENERAL CREDITS.—A partner’s distribu-  
 5 tive share of the amount referred to in paragraph  
 6 (6) of subsection (a) shall be taken into account as  
 7 a current year business credit.

8 “(d) OPERATING RULES.—For purposes of this sec-  
 9 tion—

10 “(1) PASSIVE LOSS LIMITATION ACTIVITY.—

11 The term ‘passive loss limitation activity’ means—

12 “(A) any activity which involves the con-  
 13 duct of a trade or business, and

14 “(B) any rental activity.

15 For purposes of the preceding sentence, the term  
 16 ‘trade or business’ includes any activity treated as a  
 17 trade or business under paragraph (5) or (6) of sec-  
 18 tion 469(c).

19 “(2) TAX-EXEMPT INTEREST.—The term ‘tax-  
 20 exempt interest’ means interest excludable from  
 21 gross income under section 103.

22 “(3) APPLICABLE NET AMT ADJUSTMENT.—

23 “(A) IN GENERAL.—The applicable net  
 24 AMT adjustment is—



1                   “(i) with respect to taxpayers other  
 2                   than corporations, the net adjustment de-  
 3                   termined by using the adjustments applica-  
 4                   ble to individuals, and

5                   “(ii) with respect to corporations, the  
 6                   net adjustment determined by using the  
 7                   adjustments applicable to corporations.

8                   “(B) NET ADJUSTMENT.—The term ‘net  
 9                   adjustment’ means the net adjustment in the  
 10                  items attributable to passive loss activities or  
 11                  other activities (as the case may be) which  
 12                  would result if such items were determined with  
 13                  the adjustments of sections 56, 57, and 58.

14                  “(4) TREATMENT OF CERTAIN SEPARATELY  
 15                  STATED ITEMS.—

16                  “(A) EXCLUSION FOR CERTAIN PUR-  
 17                  POSES.—In determining the amounts referred  
 18                  to in paragraphs (1) and (2) of subsection (a),  
 19                  any net capital gain or net capital loss (as the  
 20                  case may be), and any item referred to in sub-  
 21                  section (a)(11), shall be excluded.

22                  “(B) ALLOCATION RULES.—The net cap-  
 23                  ital gain shall be treated—

24                         “(i) as allocable to passive loss limita-  
 25                         tion activities to the extent the net capital

1           gain does not exceed the net capital gain  
 2           determined by only taking into account  
 3           gains and losses from sales and exchanges  
 4           of property used in connection with such  
 5           activities, and

6           “(ii) as allocable to other activities to  
 7           the extent such gain exceeds the amount  
 8           allocated under clause (i).

9           A similar rule shall apply for purposes of allo-  
 10          cating any net capital loss.

11          “(C) NET CAPITAL LOSS.—The term ‘net  
 12          capital loss’ means the excess of the losses from  
 13          sales or exchanges of capital assets over the  
 14          gains from sales or exchange of capital assets.

15          “(5) GENERAL CREDITS.—The term ‘general  
 16          credits’ means any credit other than the low-income  
 17          housing credit, the rehabilitation credit, the foreign  
 18          tax credit, and the credit allowable under section 29.

19          “(6) FOREIGN INCOME TAXES.—The term ‘for-  
 20          eign income taxes’ means taxes described in section  
 21          901 which are paid or accrued to foreign countries  
 22          and to possessions of the United States.

23          “(e) SPECIAL RULE FOR UNRELATED BUSINESS  
 24          TAX.—In the case of a partner which is an organization  
 25          subject to tax under section 511, such partner’s distribu-

1 tive share of any items shall be taken into account sepa-  
 2 rately to the extent necessary to comply with the provi-  
 3 sions of section 512(c)(1).

4 “(f) SPECIAL RULES FOR APPLYING PASSIVE LOSS  
 5 LIMITATIONS.—If any person holds an interest in an elect-  
 6 ing large partnership other than as a limited partner—

7 “(1) paragraph (2) of subsection (c) shall not  
 8 apply to such partner, and

9 “(2) such partner’s distributive share of the  
 10 partnership items allocable to passive loss limitation  
 11 activities shall be taken into account separately to  
 12 the extent necessary to comply with the provisions of  
 13 section 469.

14 The preceding sentence shall not apply to any items alloca-  
 15 ble to an interest held as a limited partner.

16 **“SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.**

17 “(a) GENERAL RULE.—

18 “(1) TAXABLE INCOME.—The taxable income of  
 19 an electing large partnership shall be computed in  
 20 the same manner as in the case of an individual ex-  
 21 cept that—

22 “(A) the items described in section 772(a)  
 23 shall be separately stated, and

24 “(B) the modifications of subsection (b)  
 25 shall apply.

1           “(2) ELECTIONS.—All elections affecting the  
2           computation of the taxable income of an electing  
3           large partnership or the computation of any credit  
4           of an electing large partnership shall be made by the  
5           partnership; except that the election under section  
6           901, and any election under section 108, shall be  
7           made by each partner separately.

8           “(3) LIMITATIONS, ETC.—

9                   “(A) IN GENERAL.—Except as provided in  
10           subparagraph (B), all limitations and other pro-  
11           visions affecting the computation of the taxable  
12           income of an electing large partnership or the  
13           computation of any credit of an electing large  
14           partnership shall be applied at the partnership  
15           level (and not at the partner level).

16                   “(B) CERTAIN LIMITATIONS APPLIED AT  
17           PARTNER LEVEL.—The following provisions  
18           shall be applied at the partner level (and not at  
19           the partnership level):

20                           “(i) Section 68 (relating to overall  
21                   limitation on itemized deductions).

22                           “(ii) Sections 49 and 465 (relating to  
23                   at risk limitations).

24                           “(iii) Section 469 (relating to limita-  
25                   tion on passive activity losses and credits).

1 “(iv) Any other provision specified in  
2 regulations.

3 “(4) COORDINATION WITH OTHER PROVI-  
4 SIONS.—Paragraphs (2) and (3) shall apply notwith-  
5 standing any other provision of this chapter other  
6 than this part.

7 “(b) MODIFICATIONS TO DETERMINATION OF TAX-  
8 ABLE INCOME.—In determining the taxable income of an  
9 electing large partnership—

10 “(1) CERTAIN DEDUCTIONS NOT ALLOWED.—  
11 The following deductions shall not be allowed:

12 “(A) The deduction for personal exemp-  
13 tions provided in section 151.

14 “(B) The net operating loss deduction pro-  
15 vided in section 172.

16 “(C) The additional itemized deductions  
17 for individuals provided in part VII of sub-  
18 chapter B (other than section 212 thereof).

19 “(2) CHARITABLE DEDUCTIONS.—In determin-  
20 ing the amount allowable under section 170, the lim-  
21 itation of section 170(b)(2) shall apply.

22 “(3) COORDINATION WITH SECTION 67.—In lieu  
23 of applying section 67, 70 percent of the amount of  
24 the miscellaneous itemized deductions shall be dis-  
25 allowed.

1       “(c) SPECIAL RULES FOR INCOME FROM DISCHARGE  
2 OF INDEBTEDNESS.—If an electing large partnership has  
3 income from the discharge of any indebtedness—

4           “(1) such income shall be excluded in determin-  
5 ing the amounts referred to in section 772(a), and

6           “(2) in determining the income tax of any part-  
7 ner of such partnership—

8           “(A) such income shall be treated as an  
9 item required to be separately taken into ac-  
10 count under section 772(a), and

11           “(B) the provisions of section 108 shall be  
12 applied without regard to this part.

13 **“SEC. 774. OTHER MODIFICATIONS.**

14       “(a) TREATMENT OF CERTAIN OPTIONAL ADJUST-  
15 MENTS, ETC.—In the case of an electing large partner-  
16 ship—

17           “(1) computations under section 773 shall be  
18 made without regard to any adjustment under sec-  
19 tion 743(b) or 108(b), but

20           “(2) a partner’s distributive share of any  
21 amount referred to in section 772(a) shall be appro-  
22 priately adjusted to take into account any adjust-  
23 ment under section 743(b) or 108(b) with respect to  
24 such partner.

1       “(b) CREDIT RECAPTURE DETERMINED AT PART-  
2       NERSHIP LEVEL.—

3               “(1) IN GENERAL.—In the case of an electing  
4       large partnership—

5                       “(A) any credit recapture shall be taken  
6       into account by the partnership, and

7                       “(B) the amount of such recapture shall be  
8       determined as if the credit with respect to  
9       which the recapture is made had been fully uti-  
10      lized to reduce tax.

11               “(2) METHOD OF TAKING RECAPTURE INTO AC-  
12      COUNT.—An electing large partnership shall take  
13      into account a credit recapture by reducing the  
14      amount of the appropriate current year credit to the  
15      extent thereof, and if such recapture exceeds the  
16      amount of such current year credit, the partnership  
17      shall be liable to pay such excess.

18               “(3) DISPOSITIONS NOT TO TRIGGER RECAP-  
19      TURE.—No credit recapture shall be required by rea-  
20      son of any transfer of an interest in an electing  
21      large partnership.

22               “(4) CREDIT RECAPTURE.—For purposes of  
23      this subsection, the term ‘credit recapture’ means  
24      any increase in tax under section 42(j) or 50(a).

1       “(c) PARTNERSHIP NOT TERMINATED BY REASON  
 2 OF CHANGE IN OWNERSHIP.—Subparagraph (B) of sec-  
 3 tion 708(b)(1) shall not apply to an electing large partner-  
 4 ship.

5       “(d) PARTNERSHIP ENTITLED TO CERTAIN CRED-  
 6 ITS.—The following shall be allowed to an electing large  
 7 partnership and shall not be taken into account by the  
 8 partners of such partnership:

9               “(1) The credit provided by section 34.

10              “(2) Any credit or refund under section  
 11       852(b)(3)(D).

12       “(e) TREATMENT OF REMIC RESIDUALS.—For pur-  
 13 poses of applying section 860E(e)(6) to any electing large  
 14 partnership—

15              “(1) all interests in such partnership shall be  
 16       treated as held by disqualified organizations,

17              “(2) in lieu of applying subparagraph (C) of  
 18       section 860E(e)(6), the amount subject to tax under  
 19       section 860E(e)(6) shall be excluded from the gross  
 20       income of such partnership, and

21              “(3) subparagraph (D) of section 860E(e)(6)  
 22       shall not apply.

23       “(f) SPECIAL RULES FOR APPLYING CERTAIN IN-  
 24 STALLMENT SALE RULES.—In the case of an electing  
 25 large partnership—



1           “(1) the provisions of sections 453(1)(3) and  
2           453A shall be applied at the partnership level, and

3           “(2) in determining the amount of interest pay-  
4           able under such sections, such partnership shall be  
5           treated as subject to tax under this chapter at the  
6           highest rate of tax in effect under section 1 or 11.

7   **“SEC. 775. ELECTING LARGE PARTNERSHIP DEFINED.**

8           “(a) GENERAL RULE.—For purposes of this part—

9           “(1) IN GENERAL.—The term ‘electing large  
10          partnership’ means, with respect to any partnership  
11          taxable year, any partnership if—

12                 “(A) the number of persons who were part-  
13                 ners in such partnership in the preceding part-  
14                 nership taxable year equaled or exceeded 100,  
15                 and

16                 “(B) such partnership elects the applica-  
17                 tion of this part.

18          To the extent provided in regulations, a partnership  
19          shall cease to be treated as an electing large part-  
20          nership for any partnership taxable year if in such  
21          taxable year fewer than 100 persons were partners  
22          in such partnership.

23                 “(2) ELECTION.—The election under this sub-  
24          section shall apply to the taxable year for which

1       made and all subsequent taxable years unless re-  
2       voked with the consent of the Secretary.

3       “(b) SPECIAL RULES FOR CERTAIN SERVICE PART-  
4       NERSHIPS.—

5               “(1) CERTAIN PARTNERS NOT COUNTED.—For  
6       purposes of this section, the term ‘partner’ does not  
7       include any individual performing substantial serv-  
8       ices in connection with the activities of the partner-  
9       ship and holding an interest in such partnership, or  
10      an individual who formerly performed substantial  
11      services in connection with such activities and who  
12      held an interest in such partnership at the time the  
13      individual performed such services.

14              “(2) EXCLUSION.—For purposes of this part,  
15      an election under subsection (a) shall not be effec-  
16      tive with respect to any partnership if substantially  
17      all the partners of such partnership—

18                      “(A) are individuals performing substantial  
19                      services in connection with the activities of such  
20                      partnership or are personal service corporations  
21                      (as defined in section 269A(b)) the owner-em-  
22                      ployees (as defined in section 269A(b)) of which  
23                      perform such substantial services,

24                      “(B) are retired partners who had per-  
25                      formed such substantial services, or

1           “(C) are spouses of partners who are per-  
2           forming (or had previously performed) such  
3           substantial services.

4           “(3) SPECIAL RULE FOR LOWER TIER PART-  
5           NERSHIPS.—For purposes of this subsection, the ac-  
6           tivities of a partnership shall include the activities of  
7           any other partnership in which the partnership owns  
8           directly an interest in the capital and profits of at  
9           least 80 percent.

10          “(c) EXCLUSION OF COMMODITY POOLS.—For pur-  
11         poses of this part, an election under subsection (a) shall  
12         not be effective with respect to any partnership the prin-  
13         cipal activity of which is the buying and selling of com-  
14         modities (not described in section 1221(1)), or options, fu-  
15         tures, or forwards with respect to such commodities.

16          “(d) SECRETARY MAY RELY ON TREATMENT ON RE-  
17         TURN.—If, on the partnership return of any partnership,  
18         such partnership is treated as an electing large partner-  
19         ship, such treatment shall be binding on such partnership  
20         and all partners of such partnership but not on the Sec-  
21         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-  
15pletion 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(c)(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. 1022. 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  
8           amount of such credit determined for the  
9           partnership taxable year in which the adjust-  
10          ment takes effect,

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  
7           of 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 MAILES 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**  
 15                       **ADJUSTMENT 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  
 3 treated as being the date of the court's order entering the  
 4 decision.

## 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. 1023. 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. 1024. 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. 1025. TREATMENT OF PARTNERSHIP ITEMS OF INDIVIDUAL 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. 1026. EFFECTIVE DATE.**

22 The amendments made by this part shall apply to  
23 partnership taxable years ending on or after December 31,  
24 1997.

**PART II—PROVISIONS RELATED TO TEFRA**

**PARTNERSHIP PROCEEDINGS**

**SEC. 1031. TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.**

(a) IN GENERAL.—Subchapter C of chapter 63 is amended by adding at the end the following new section:

**“SEC. 6234. DECLARATORY JUDGMENT RELATING TO TREATMENT OF ITEMS OTHER THAN PARTNERSHIP ITEMS WITH RESPECT TO AN OVERSHELTERED RETURN.**

“(a) GENERAL RULE.—If—

“(1) a taxpayer files an oversheltered return for a taxable year,

“(2) the Secretary makes a determination with respect to the treatment of items (other than partnership items) of such taxpayer for such taxable year, and

“(3) the adjustments resulting from such determination do not give rise to a deficiency (as defined in section 6211) but would give rise to a deficiency if there were no net loss from partnership items,

the Secretary is authorized to send a notice of adjustment reflecting such determination to the taxpayer by certified 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 MAILES 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. 1032. 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. 1033. 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. 1034. 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. 1035. 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. 1036. 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. 1037. 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. 1038. 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

5 (6) Paragraph (4) of section 6230(c) is amend-  
6 ed by adding at the end the following: “In addition,  
7 the determination under the final partnership ad-  
8 ministrative adjustment or under the decision of the  
9 court (whichever is appropriate) concerning the ap-  
10 plicability of any penalty, addition to tax, or addi-  
11 tional amount which relates to an adjustment to a  
12 partnership item shall also be conclusive. Notwith-  
13 standing the preceding sentence, the partner shall be  
14 allowed to assert any partner level defenses that may  
15 apply or to challenge the amount of the computa-  
16 tional adjustment.”

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

20 **SEC. 1039. PROVISIONS RELATING TO COURT JURISDIC-**  
21 **TION, ETC.**

22 (a) TAX COURT JURISDICTION TO ENJOIN PRE-  
23 MATURE ASSESSMENTS OF DEFICIENCIES ATTRIBUTABLE  
24 TO PARTNERSHIP ITEMS.—Subsection (b) of section 6225  
25 is amended by striking “the proper court.” and inserting  
“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:

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. 1040. 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  
 9 period.”

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. 1041. 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. 1042. 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. 1043. 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. 1046. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH**  
 19 **RESPECT TO DECEASED PARTNER, ETC.**

20 (a) GENERAL RULE.—Subparagraph (A) of section  
 21 706(c)(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           terest 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. 1051. 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



Secretary determines appropriate to ascertain actual ownership if the trust fails to meet the requirements of paragraph (1). If the trust fails to take such actions, the trust shall pay (on notice and demand by the Secretary and in the same manner as tax) an additional penalty equal to the penalty determined under subparagraph (A) or (B), whichever is applicable.

“(D) REASONABLE CAUSE.—No penalty shall be imposed under this paragraph with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.”

(b) COMPLIANCE WITH CLOSELY HELD PROHIBITION.—

(1) IN GENERAL.—Section 856 (defining real estate investment trust) is amended by adding at the end the following new subsection:

“(k) REQUIREMENT THAT ENTITY NOT BE CLOSELY HELD TREATED AS MET IN CERTAIN CASES.—A corporation, trust, or association—

“(1) which for a taxable year meets the requirements of section 857(f)(1), and

“(2) which does not know, or exercising reasonable 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. 1052. 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. 1053. 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. 1054. 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 redesign-  
 7 ating 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. 1055. 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. 1056. 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. 1057. 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       PERTY.—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. 1058. 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. 1059. 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. 1060. 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. 1061. 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. 1062. 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. 1063. 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. 1071. 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 beginning after  
3 December 31, 1997.

## 4 **Subtitle F—Taxpayer Protections**

### 5 **SEC. 1081. 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. 1082. 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. 1083. 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. 1084. 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. 1085. PENALTY FOR UNAUTHORIZED INSPECTION OF**  
7 **TAX RETURNS OR TAX RETURN INFORMA-**  
8 **TION.**

9 (a) IN GENERAL.—Part I of subchapter A of chapter  
10 75 (relating to crimes, other offenses, and forfeitures) is  
11 amended by adding after section 7213 the following new  
12 section:

13 **“SEC. 7213A. UNAUTHORIZED INSPECTION OF RETURNS OR**  
14 **RETURN INFORMATION.**

15 “(a) PROHIBITIONS.—

16 “(1) FEDERAL EMPLOYEES AND OTHER PER-  
17 SONS.—It shall be unlawful for—

18 “(A) any officer or employee of the United  
19 States, or

20 “(B) any person described in section  
21 6103(n) or an officer or employee of any such  
22 person,

23 willfully to inspect, except as authorized in this title,  
24 any return or return information.

1           “(2) STATE AND OTHER EMPLOYEES.—It shall  
 2           be unlawful for any person (not described in para-  
 3           graph (1)) willfully to inspect, except as authorized  
 4           in this title, any return or return information ac-  
 5           quired by such person or another person under a  
 6           provision of section 6103 referred to in section  
 7           7213(a)(2).

8           “(b) PENALTY.—

9           “(1) IN GENERAL.—Any violation of subsection  
 10          (a) shall be punishable upon conviction by a fine in  
 11          any amount not exceeding \$1,000, or imprisonment  
 12          of not more than 1 year, or both, together with the  
 13          costs of prosecution.

14          “(2) FEDERAL OFFICERS OR EMPLOYEES.—An  
 15          officer or employee of the United States who is con-  
 16          victed of any violation of subsection (a) shall, in ad-  
 17          dition to any other punishment, be dismissed from  
 18          office or discharged from employment.

19          “(c) DEFINITIONS.—For purposes of this section, the  
 20          terms ‘inspect’, ‘return’, and ‘return information’ have the  
 21          respective meanings given such terms by section 6103(b).”

22          (b) TECHNICAL AMENDMENTS.—

23                 (1) Paragraph (2) of section 7213(a) is amend-  
 24                 ed by inserting “(5),” after “(m)(2), (4),”.

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

8 SEC. 1086. CIVIL DAMAGES FOR UNAUTHORIZED INSPEC-  
9 TION OF RETURNS AND RETURN INFORMA-  
10 TION; NOTIFICATION OF UNLAWFUL INSPEC-  
11 TION OR DISCLOSURE.

(1) by striking “DISCLOSURE” in the headings  
for paragraphs (1) and (2) and inserting “INSPEC-  
TION OR DISCLOSURE”, and

(b) NOTIFICATION OF UNLAWFUL INSPECTION OR  
DISCLOSURE.—Section 7431 is amended by redesignating  
subsections (e) and (f) as subsections (f) and (g), respec-  
tively, and by inserting after subsection (d) the following  
new subsection:

1       “(e) NOTIFICATION OF UNLAWFUL INSPECTION AND  
 2 DISCLOSURE.—If any person is criminally charged by in-  
 3 dictment or information with inspection or disclosure of  
 4 a taxpayer’s return or return information in violation of—

5               “(1) paragraph (1) or (2) of section 7213(a),

6               “(2) section 7213A(a), or

7               “(3) subparagraph (B) of section 1030(a)(2) of  
 8 title 18, United States Code,

9 the Secretary shall notify such taxpayer as soon as prac-  
 10 ticable of such inspection or disclosure.”

11       (c) NO DAMAGES FOR INSPECTION REQUESTED BY  
 12 TAXPAYER.—Subsection (b) of section 7431 is amended  
 13 to read as follows:

14       “(b) EXCEPTIONS.—No liability shall arise under this  
 15 section with respect to any inspection or disclosure—

16               “(1) which results from a good faith, but erro-  
 17 neous, interpretation of section 6103, or

18               “(2) which is requested by the taxpayer.”

19       (d) CONFORMING AMENDMENTS.—

20               (1) Subsections (c)(1)(A), (c)(1)(B)(i), and (d)  
 21 of section 7431 are each amended by inserting “in-  
 22 spection or” before “disclosure”.

23               (2) Clause (ii) of section 7431(c)(1)(B) is  
 24 amended by striking “willful disclosure or a disclo-

1       sure” and inserting “willful inspection or disclosure  
2       or an inspection or disclosure”.

3           (3) Subsection (f) of section 7431, as redesign-  
4       nated by subsection (b), is amended to read as fol-  
5       lows:

6       “(f) DEFINITIONS.—For purposes of this section, the  
7       terms ‘inspect’, ‘inspection’, ‘return’, and ‘return informa-  
8       tion’ have the respective meanings given such terms by  
9       section 6103(b).”

10          (4) The section heading for section 7431 is  
11       amended by inserting “**INSPECTION OR**” before  
12       “**DISCLOSURE**”.

13          (5) The table of sections for subchapter B of  
14       chapter 76 is amended by inserting “inspection or”  
15       before “disclosure” in the item relating to section  
16       7431.

17          (6) Paragraph (2) of section 7431(g), as redes-  
18       ignated by subsection (b), is amended by striking  
19       “any use” and inserting “any inspection or use”.

20       (e) EFFECTIVE DATE.—The amendments made by  
21       this section shall apply to inspections and disclosures oc-  
22       curring on and after the date of the enactment of this  
23       Act.



1 **TITLE XI—SIMPLIFICATION PRO-**  
2 **VISIONS RELATING TO ES-**  
3 **TATE AND GIFT TAXES**

4 **SEC. 1101. GIFTS TO CHARITIES EXEMPT FROM GIFT TAX**  
5 **FILING REQUIREMENTS.**

6 (a) IN GENERAL.—Section 6019 is amended by strik-  
7 ing “or” at the end of paragraph (1), by adding “or” at  
8 the end of paragraph (2), and by inserting after paragraph  
9 (2) the following new paragraph:

10 “(3) a transfer with respect to which a deduc-  
11 tion is allowed under section 2522, except that this  
12 paragraph shall apply with respect to a transfer of  
13 property (other than a transfer described in section  
14 2522(d)) only if the entire value of such property is  
15 allowed as a deduction under section 2522,”.

16 (b) EFFECTIVE DATE.—The amendment made by  
17 this section shall apply to gifts made after the date of the  
18 enactment of this Act.

19 **SEC. 1102. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS**  
20 **OF RECOVERY.**

21 (a) AMENDMENT TO SECTION 2207A.—Paragraph  
22 (2) of section 2207A(a) (relating to right of recovery in  
23 the case of certain marital deduction property) is amended  
24 to read as follows:

1           “(2) DECEDENT MAY OTHERWISE DIRECT.—  
 2       Paragraph (1) shall not apply with respect to any  
 3       property to the extent that the decedent in his will  
 4       (or a revocable trust) specifically indicates an intent  
 5       to waive any right of recovery under this subchapter  
 6       with respect to such property.”

7       (b) AMENDMENT TO SECTION 2207B.—Paragraph  
 8       (2) of section 2207B(a) (relating to right of recovery  
 9       where decedent retained interest) is amended to read as  
 10      follows:

11           “(2) DECEDENT MAY OTHERWISE DIRECT.—  
 12       Paragraph (1) shall not apply with respect to any  
 13       property to the extent that the decedent in his will  
 14       (or a revocable trust) specifically indicates an intent  
 15       to waive any right of recovery under this subchapter  
 16       with respect to such property.”

17       (c) EFFECTIVE DATE.—The amendments made by  
 18       this section shall apply with respect to the estates of dece-  
 19       dents dying after the date of the enactment of this Act.

20      **SEC. 1103. TRANSITIONAL RULE UNDER SECTION 2056A.**

21       (a) GENERAL RULE.—In the case of any trust cre-  
 22       ated under an instrument executed before the date of the  
 23       enactment of the Revenue Reconciliation Act of 1990,  
 24       such trust shall be treated as meeting the requirements  
 25       of paragraph (1) of section 2056A(a) of the Internal Reve-

1 nue Code of 1986 if the trust instrument requires that  
 2 all trustees of the trust be individual citizens of the United  
 3 States or domestic corporations.

4 (b) EFFECTIVE DATE.—The provisions of subsection  
 5 (a) shall take effect as if included in the provisions of sec-  
 6 tion 11702(g) of the Revenue Reconciliation Act of 1990.

7 **SEC. 1104. 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. 1105. 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. 1106. 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. 1107. 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. 1108. TREATMENT OF FUNERAL TRUSTS.**

10 (a) IN GENERAL.—Subpart F of part I of subchapter  
 11 J of chapter 1 is amended by adding at the end the follow-  
 12 ing new section:

13 **“SEC. 684. TREATMENT OF FUNERAL TRUSTS.**

14 “(a) IN GENERAL.—In the case of a qualified funeral  
 15 trust—

16 “(1) subparts B, C, D, and E shall not apply,  
 17 and

18 “(2) no deduction shall be allowed by section  
 19 642(b).

20 “(b) QUALIFIED FUNERAL TRUST.—For purposes of  
 21 this subsection, the term ‘qualified funeral trust’ means  
 22 any trust (other than a foreign trust) if—

23 “(1) the trust arises as a result of a contract  
 24 with a person engaged in the trade or business of

1 providing funeral or burial services or property nec-  
2 essary to provide such services,

3 “(2) the sole purpose of the trust is to hold, in-  
4 vest, and reinvest funds in the trust and to use such  
5 funds solely to make payments for such services or  
6 property for the benefit of the beneficiaries of the  
7 trust,

8 “(3) the only beneficiaries of such trust are in-  
9 dividuals who have entered into contracts described  
10 in paragraph (1) to have such services or property  
11 provided at their death,

12 “(4) the only contributions to the trust are con-  
13 tributions by or for the benefit of such beneficiaries,

14 “(5) the trustee elects the application of this  
15 subsection, and

16 “(6) the trust would (but for the election de-  
17 scribed in paragraph (5)) be treated as owned by the  
18 beneficiaries under subpart E.

19 “(c) DOLLAR LIMITATION ON CONTRIBUTIONS.—

20 “(1) IN GENERAL.—The term ‘qualified funeral  
21 trust’ shall not include any trust which accepts ag-  
22 gregate contributions by or for the benefit of an in-  
23 dividual in excess of \$7,000.

24 “(2) RELATED TRUSTS.—For purposes of para-  
25 graph (1), all trusts having trustees which are relat-

1 ed persons shall be treated as 1 trust. For purposes  
2 of the preceding 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. 1109. 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. 1110. 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. 1111. 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. 1112. 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. 1113. 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 XII—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. 1201. 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 **PART II—PROVISIONS RELATED TO DISTILLED**  
19 **SPIRITS, WINES, AND BEER**

20 **SEC. 1211. CREDIT OR REFUND FOR IMPORTED BOTTLED**  
21 **DISTILLED SPIRITS RETURNED TO DIS-**  
22 **TILLED SPIRITS PLANT.**

23 (a) IN GENERAL.—Section 5008(c)(1) (relating to  
24 distilled spirits returned to bonded premises) is amended  
25 by striking “withdrawn from bonded premises on payment



1 or determination of tax” and inserting “on which tax has  
2 been determined or paid”.

3 (b) **EFFECTIVE DATE.**—The amendment made by  
4 subsection (a) shall take effect on the 1st day of the 1st  
5 calendar quarter that begins at least 90 days after the  
6 date of the enactment of this Act.

7 **SEC. 1212. AUTHORITY TO CANCEL OR CREDIT EXPORT**  
8 **BONDS WITHOUT SUBMISSION OF RECORDS.**

9 (a) **IN GENERAL.**—Section 5175(c) (relating to can-  
10 cellation of credit of export bonds) is amended by striking  
11 “on the submission of” and all that follows and inserting  
12 “if there is such proof of exportation as the Secretary may  
13 by regulations require.”

14 (b) **EFFECTIVE DATE.**—The amendment made by  
15 subsection (a) shall take effect on the 1st day of the 1st  
16 calendar quarter that begins at least 90 days after the  
17 date of the enactment of this Act.

18 **SEC. 1213. REPEAL OF REQUIRED MAINTENANCE OF**  
19 **RECORDS ON PREMISES OF DISTILLED SPIR-**  
20 **ITS PLANT.**

21 (a) **IN GENERAL.**—Section 5207(c) (relating to pres-  
22 ervation and inspection) is amended by striking “shall be  
23 kept on the premises where the operations covered by the  
24 record are carried on and”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall take effect on the 1st day of the 1st  
3 calendar quarter that begins at least 90 days after the  
4 date of the enactment of this Act.

5 **SEC. 1214. FERMENTED MATERIAL FROM ANY BREWERY**  
6 **MAY BE RECEIVED AT A DISTILLED SPIRITS**  
7 **PLANT.**

8 (a) IN GENERAL.—Section 5222(b)(2) (relating to  
9 receipt) is amended to read as follows:

10 “(2) beer conveyed without payment of tax  
11 from brewery premises, beer which has been lawfully  
12 removed from brewery premises upon determination  
13 of tax, or”.

14 (b) CLARIFICATION OF AUTHORITY TO PERMIT RE-  
15 MOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE  
16 AS DISTILLING MATERIAL.—Section 5053 (relating to ex-  
17 emptions) is amended by redesignating subsection (f) as  
18 subsection (i) and by inserting after subsection (e) the fol-  
19 lowing new subsection:

20 “(f) REMOVAL FOR USE AS DISTILLING MATE-  
21 RIAL.—Subject to such regulations as the Secretary may  
22 prescribe, beer may be removed from a brewery without  
23 payment of tax to any distilled spirits plant for use as  
24 distilling material.”

1       (c) CLARIFICATION OF REFUND AND CREDIT OF  
2 TAX.—Section 5056 (relating to refund and credit of tax,  
3 or relief from liability) is amended—

4           (1) by redesignating subsection (c) as sub-  
5 section (d) and by inserting after subsection (b) the  
6 following new subsection:

7       “(c) BEER RECEIVED AT A DISTILLED SPIRITS  
8 PLANT.—Any tax paid by any brewer on beer produced  
9 in the United States may be refunded or credited to the  
10 brewer, without interest, or if the tax has not been paid,  
11 the brewer may be relieved of liability therefor, under reg-  
12 ulations as the Secretary may prescribe, if such beer is  
13 received on the bonded premises of a distilled spirits plant  
14 pursuant to the provisions of section 5222(b)(2), for use  
15 in the production of distilled spirits.”, and

16           (2) by striking “or rendering unmerchantable”  
17 in subsection (d) (as so redesignated) and inserting  
18 “rendering unmerchantable, or receipt on the bond-  
19 ed premises of a distilled spirits plant”.

20       (d) EFFECTIVE DATE.—The amendments made by  
21 this section shall take effect on the 1st day of the 1st cal-  
22 endar quarter that begins at least 90 days after the date  
23 of the enactment of this Act.

1 **SEC. 1215. REPEAL OF REQUIREMENT FOR WHOLESALE**  
2 **DEALERS IN LIQUORS TO POST SIGN.**

3 (a) IN GENERAL.—Section 5115 (relating to sign re-  
4 quired on premises) is hereby repealed.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 5681(a) is amended by striking “,  
7 and every wholesale dealer in liquors,” and by strik-  
8 ing “section 5115(a) or”.

9 (2) Section 5681(c) is amended—

10 (A) by striking “or wholesale liquor estab-  
11 lishment, on which no sign required by section  
12 5115(a) or” and inserting “on which no sign  
13 required by”, and

14 (B) by striking “or wholesale liquor estab-  
15 lishment, or who” and inserting “or who”.

16 (3) The table of sections for subpart D of part  
17 II of subchapter A of chapter 51 is amended by  
18 striking the item relating to section 5115.

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

22 **SEC. 1216. REFUND OF TAX TO WINE RETURNED TO BOND**  
23 **NOT LIMITED TO UNMERCHANTABLE WINE.**

24 (a) IN GENERAL.—Section 5044(a) (relating to re-  
25 fund of tax on unmerchantable wine) is amended by strik-  
26 ing “as unmerchantable”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 5361 is amended by striking  
3 “unmerchantable”.

4 (2) The section heading for section 5044 is  
5 amended by striking “**UNMERCHANTABLE**”.

6 (3) The item relating to section 5044 in the  
7 table of sections for subpart C of part I of sub-  
8 chapter A of chapter 51 is amended by striking  
9 “unmerchantable”.

10 (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall take effect on the 1st day of the 1st cal-  
12 endar quarter that begins at least 90 days after the date  
13 of the enactment of this Act.

14 **SEC. 1217. USE OF ADDITIONAL AMELIORATING MATERIAL**  
15 **IN CERTAIN WINES.**

16 (a) IN GENERAL.—Section 5384(b)(2)(D) (relating  
17 to ameliorated fruit and berry wines) is amended by strik-  
18 ing “loganberries, currants, or gooseberries,” and insert-  
19 ing “any fruit or berry with a natural fixed acid of 20  
20 parts per thousand or more (before any correction of such  
21 fruit or berry)”.

22 (b) EFFECTIVE DATE.—The amendment made by  
23 this section shall take effect on the 1st day of the 1st cal-  
24 endar quarter that begins at least 90 days after the date  
25 of the enactment of this Act.

1 **SEC. 1218. DOMESTICALLY PRODUCED BEER MAY BE WITH-**  
2 **DRAWN FREE OF TAX FOR USE OF FOREIGN**  
3 **EMBASSIES, LEGATIONS, ETC.**

4 (a) IN GENERAL.—Section 5053 (relating to exemp-  
5 tions), as amended by section 1414(b), is amended by in-  
6 serting after subsection (f) the following new subsection:

7 “(g) REMOVALS FOR USE OF FOREIGN EMBASSIES,  
8 LEGATIONS, ETC.—

9 “(1) IN GENERAL.—Subject to such regulations  
10 as the Secretary may prescribe—

11 “(A) beer may be withdrawn from the  
12 brewery without payment of tax for transfer to  
13 any customs bonded warehouse for entry pend-  
14 ing withdrawal therefrom as provided in sub-  
15 paragraph (B), and

16 “(B) beer entered into any customs bonded  
17 warehouse under subparagraph (A) may be  
18 withdrawn for consumption in the United  
19 States by, and for the official and family use of,  
20 such foreign governments, organizations, and  
21 individuals as are entitled to withdraw imported  
22 beer from such warehouses free of tax.

23 Beer transferred to any customs bonded warehouse  
24 under subparagraph (A) shall be entered, stored,  
25 and accounted for in such warehouse under such  
26 regulations and bonds as the Secretary may pre-

1 scribe, and may be withdrawn therefrom by such  
 2 governments, organizations, and individuals free of  
 3 tax under the same conditions and procedures as im-  
 4 ported beer.

5 “(2) OTHER RULES TO APPLY.—Rules similar  
 6 to the rules of paragraphs (2) and (3) of section  
 7 5362(e) shall apply for purposes of this subsection.”

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. 1219. BEER MAY BE WITHDRAWN FREE OF TAX FOR**  
 13 **DESTRUCTION.**

14 (a) IN GENERAL.—Section 5053 (relating to exemp-  
 15 tions), as amended by section 1418(a), is amended by in-  
 16 serting after subsection (g) the following new subsection:

17 “(h) REMOVALS FOR DESTRUCTION.—Subject to  
 18 such regulations as the Secretary may prescribe, beer may  
 19 be removed from the brewery without payment of tax for  
 20 destruction.”

21 (b) EFFECTIVE DATE.—The amendment made by  
 22 subsection (a) shall take effect on the 1st day of the 1st  
 23 calendar quarter that begins at least 90 days after the  
 24 date of the enactment of this Act.

1 **SEC. 1220. AUTHORITY TO ALLOW DRAWBACK ON EX-**  
2 **PORTED BEER WITHOUT SUBMISSION OF**  
3 **RECORDS.**

4 (a) IN GENERAL.—The first sentence of section 5055  
5 (relating to drawback of tax on beer) is amended by strik-  
6 ing “found to have been paid” and all that follows and  
7 inserting “paid on such beer if there is such proof of ex-  
8 portation as the Secretary may by regulations require.”

9 (b) EFFECTIVE DATE.—The amendment made by  
10 subsection (a) shall take effect on the 1st day of the 1st  
11 calendar quarter that begins at least 90 days after the  
12 date of the enactment of this Act.

13 **SEC. 1221. TRANSFER TO BREWERY OF BEER IMPORTED IN**  
14 **BULK WITHOUT PAYMENT OF TAX.**

15 (a) IN GENERAL.—Part II of subchapter G of chap-  
16 ter 51 is amended by adding at the end the following new  
17 section:

18 **“SEC. 5418. BEER IMPORTED IN BULK.**

19 “Beer imported or brought into the United States in  
20 bulk containers may, under such regulations as the Sec-  
21 retary may prescribe, be withdrawn from customs custody  
22 and transferred in such bulk containers to the premises  
23 of a brewery without payment of the internal revenue tax  
24 imposed on such beer. The proprietor of a brewery to  
25 which such beer is transferred shall become liable for the  
26 tax on the beer withdrawn from customs custody under



1 this section upon release of the beer from customs custody,  
 2 and the importer, or the person bringing such beer into  
 3 the United States, shall thereupon be relieved of the liabil-  
 4 ity for such tax.”

5 (b) CLERICAL AMENDMENT.—The table of sections  
 6 for such part II is amended by adding at the end the fol-  
 7 lowing new item:

“Sec. 5418. Beer imported in bulk.”

8 (c) EFFECTIVE DATE.—The amendments made by  
 9 this section shall take effect on the 1st day of the 1st cal-  
 10 endar quarter that begins at least 90 days after the date  
 11 of the enactment of this Act.

12 **SEC. 1222. TRANSFER TO BONDED WINE CELLARS OF WINE**  
 13 **IMPORTED IN BULK WITHOUT PAYMENT OF**  
 14 **TAX.**

15 (a) IN GENERAL.—Part II of subchapter F of chap-  
 16 ter 51 is amended by inserting after section 5363 the fol-  
 17 lowing new section:

18 **“SEC. 5364. WINE IMPORTED IN BULK.**

19 “Wine imported or brought into the United States  
 20 in bulk containers may, under such regulations as the Sec-  
 21 retary may prescribe, be withdrawn from customs custody  
 22 and transferred in such bulk containers to the premises  
 23 of a bonded wine cellar without payment of the internal  
 24 revenue tax imposed on such wine. The proprietor of a  
 25 bonded wine cellar to which such wine is transferred shall

1 become liable for the tax on the wine withdrawn from cus-  
 2 toms custody under this section upon release of the wine  
 3 from customs custody, and the importer, or the person  
 4 bringing such wine into the United States, shall thereupon  
 5 be relieved of the liability for such tax.”

6 (b) CLERICAL AMENDMENT.—The table of sections  
 7 for such part II is amended by inserting after the item  
 8 relating to section 5363 the following new item:

“Sec. 5364. Wine imported in bulk.”

9 (c) EFFECTIVE DATE.—The amendments made by  
 10 this section shall take effect on the 1st day of the 1st cal-  
 11 endar quarter that begins at least 90 days after the date  
 12 of the enactment of this Act.

### 13 **PART III—OTHER EXCISE TAX PROVISIONS**

#### 14 **SEC. 1231. AUTHORITY TO GRANT EXEMPTIONS FROM REG-** 15 **ISTRATION REQUIREMENTS.**

16 (a) IN GENERAL.—Section 4222(b)(2) (relating to  
 17 export) is amended—

18 (1) by striking “in the case of any sale or resale  
 19 for export,” and

20 (2) by striking “EXPORT” and inserting  
 21 “UNDER REGULATIONS”.

22 (b) EFFECTIVE DATE.—The amendments made by  
 23 subsection (a) shall take effect on the date of the enact-  
 24 ment of this Act.

1 **SEC. 1232. REPEAL OF EXPIRED PROVISIONS.**

2 (a) PIGGY-BACK TRAILERS.—Section 4051 (relating  
3 to imposition of tax on heavy trucks and trailers sold at  
4 retail) is amended by striking subsection (d) and by redesh-  
5 ignating subsection (e) as subsection (d).

6 (b) DEEP SEABED MINING.—

7 (1) IN GENERAL.—Subchapter F of chapter 36  
8 (relating to tax on removal of hard mineral re-  
9 sources from deep seabed) is hereby repealed.

10 (2) CONFORMING AMENDMENT.—The table of  
11 subchapters for chapter 36 is amended by striking  
12 the item relating to subchapter F.

13 (c) OZONE-DEPLETING CHEMICALS.—

14 (1) Paragraph (1) of section 4681(b) is amend-  
15 ed by striking subparagraphs (B) and (C) and in-  
16 serting the following new subparagraph:

17 “(B) BASE TAX AMOUNT.—The base tax  
18 amount for purposes of subparagraph (A) with  
19 respect to any sale or use during any calendar  
20 year after 1995 shall be \$5.35 increased by 45  
21 cents for each year after 1995.”

22 (2) Subsection (g) of section 4682 is amended  
23 to read as follows:

24 “(g) CHEMICALS USED AS PROPELLANTS IN ME-  
25 TERED-DOSE INHALERS.—

26 “(1) EXEMPTION FROM TAX.—

1           “(A) IN GENERAL.—No tax shall be im-  
2           posed by section 4681 on—

3                   “(i) any use of any substance as a  
4                   propellant in metered-dose inhalers, or

5                   “(ii) any qualified sale by the manu-  
6                   facturer, producer, or importer of any sub-  
7                   stance.

8           “(B) QUALIFIED SALE.—For purposes of  
9           subparagraph (A), the term ‘qualified sale’  
10          means any sale by the manufacturer, producer,  
11          or importer of any substance—

12                   “(i) for use by the purchaser as a pro-  
13                   pellant in metered dose inhalers, or

14                   “(ii) for resale by the purchaser to a  
15                   2d purchaser for such use by the 2d pur-  
16                   chaser.

17          The preceding sentence shall apply only if the  
18          manufacturer, producer, and importer, and the  
19          1st and 2d purchasers (if any) meet such reg-  
20          istration requirements as may be prescribed by  
21          the Secretary.

22          “(2) OVERPAYMENTS.—If any substance on  
23          which tax was paid under this subchapter is used by  
24          any person as a propellant in metered-dose inhalers,  
25          credit or refund without interest shall be allowed to

1       such person in an amount equal to the tax so paid.  
 2       Amounts payable under the preceding sentence with  
 3       respect to uses during the taxable year shall be  
 4       treated as described in section 34(a) for such year  
 5       unless claim thereof has been timely filed under this  
 6       paragraph.”

7   **SEC. 1233. SIMPLIFICATION OF IMPOSITION OF EXCISE TAX**  
 8                   **ON ARROWS.**

9       (a) IN GENERAL.—Subsection (b) of section 4161  
 10   (relating to imposition of tax) is amended to read as fol-  
 11   lows:

12       “(b) BOWS AND ARROWS, ETC.—

13               “(1) BOWS.—

14                   “(A) IN GENERAL.—There is hereby im-  
 15       posed on the sale by the manufacturer, pro-  
 16       ducer, or importer of any bow which has a draw  
 17       weight of 10 pounds or more, a tax equal to 11  
 18       percent of the price for which so sold.

19                   “(B) PARTS AND ACCESSORIES.—There is  
 20       hereby imposed upon the sale by the manufac-  
 21       turer, producer, or importer—

22                   “(i) of any part of accessory suitable  
 23       for inclusion in or attachment to a bow de-  
 24       scribed in subparagraph (A), and

1                   “(ii) of any quiver suitable for use  
2                   with arrows described in paragraph (2),  
3                   a tax equivalent to 11 percent of the price for  
4                   which so sold.

5                   “(2) ARROWS.—There is hereby imposed on the  
6                   sale by the manufacturer, producer, or importer of  
7                   any shaft, point,nock, or vane of a type used in the  
8                   manufacture of any arrow which after its assem-  
9                   bly—

10                   “(A) measures 18 inches overall or more in  
11                   length, or

12                   “(B) measures less than 18 inches overall  
13                   in length but is suitable for use with a bow de-  
14                   scribed in paragraph (1)(A),

15                   a tax equal to 12.4 percent of the price for which  
16                   so sold.

17                   “(3) COORDINATION WITH SUBSECTION (a).—  
18                   No tax shall be imposed under this subsection with  
19                   respect to any article taxable under subsection (a).”.

20                   (b) EFFECTIVE DATE.—The amendment made by  
21                   subsection (a) shall apply to articles sold by the manufac-  
22                   turer, producer, or importer after September 30 1997.

1 **SEC. 1234. MODIFICATIONS TO RETAIL TAX ON HEAVY**  
2 **TRUCKS.**

3 (a) CERTAIN REPAIRS AND MODIFICATIONS NOT  
4 TREATED AS MANUFACTURE.—Section 4052 is amended  
5 by redesignating the subsection defining a long-term lease  
6 as subsection (e) and by adding at the end the following  
7 new subsection:

8 “(f) CERTAIN REPAIRS AND MODIFICATIONS NOT  
9 TREATED AS MANUFACTURE.—

10 “(1) IN GENERAL.—An article described in sec-  
11 tion 4051(a)(1) shall not be treated as manufac-  
12 tured or produced solely by reason of repairs or  
13 modifications to the article (including any modifica-  
14 tion which changes the transportation function of  
15 the article or restores a wrecked article to a func-  
16 tional condition) if the cost of such repairs and  
17 modifications does not exceed 75 percent of the re-  
18 tail price of a comparable new article.

19 “(2) EXCEPTION.—Paragraph (1) shall not  
20 apply if the article (as repaired or modified) would,  
21 if new, be taxable under section 4051 and the article  
22 when new was not taxable under this section or the  
23 corresponding provision of prior law.”

24 (b) SIMPLIFICATION OF CERTIFICATION PROCE-  
25 DURES WITH RESPECT TO SALES OF TAXABLE ARTI-  
26 CLES.—

“(g) REGULATIONS.—The Secretary shall prescribe regulations which permit, in lieu of any other certification, persons who are purchasing articles taxable under this subchapter for resale or leasing in a long-term lease to execute a statement (made under penalties of perjury) on the sale invoice that such sale is for resale. The Secretary shall not impose any registration requirement as a condition of using such procedure.”

20 SEC. 1235. SKYDIVING FLIGHTS EXEMPT FROM TAX ON  
21 TRANSPORTATION OF PERSONS BY AIR.

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1       “(h) EXEMPTION FOR SKYDIVING USES.—No tax  
2 shall be imposed by this section or section 4271 on any  
3 air transportation exclusively for the purpose of skydiv-  
4 ing.”

5       (b) EFFECTIVE DATE.—The amendment made by  
6 subsection (a) shall apply to transportation beginning  
7 after September 30, 1997.

8   **SEC. 1236. ALLOWANCE OR CREDIT OF REFUND FOR TAX-**  
9                   **PAID AVIATION FUEL PURCHASED BY REG-**  
10                  **ISTERED PRODUCER OF AVIATION FUEL.**

11       (a) IN GENERAL.—Subsection (l) of section 6467 (re-  
12 lating to nontaxable uses of diesel fuel and aviation fuel)  
13 is amended by adding at the end the following new para-  
14 graph:

15               “(6) REFUND OF TAX-PAID AVIATION FUEL TO  
16 REGISTERED PRODUCER OF FUEL.—For purposes of  
17 this subsection, the term ‘nontaxable use’ includes  
18 the taxable sale of aviation fuel by a producer of  
19 such fuel who is registered under section 4101 if a  
20 prior tax imposed by section 4091 was paid (and not  
21 credited or refunded) on such fuel.”

22       (b) EFFECTIVE DATE.—The amendment made by  
23 subsection (a) shall apply to sales by the producer after  
24 September 30, 1997.

1       **Subtitle B—Tax-Exempt Bond**  
2                   **Provisions**

3   **SEC. 1241. REPEAL OF \$100,000 LIMITATION ON UNSPENT**  
4                   **PROCEEDS UNDER 1-YEAR EXCEPTION FROM**  
5                   **REBATE.**

6       Subclause (I) of section 148(f)(4)(B)(ii) (relating to  
7 additional period for certain bonds) is amended by striking  
8 “the lesser of 5 percent of the proceeds of the issue or  
9 \$100,000” and inserting “5 percent of the proceeds of the  
10 issue”.

11   **SEC. 1242. EXCEPTION FROM REBATE FOR EARNINGS ON**  
12                   **BONA FIDE DEBT SERVICE FUND UNDER**  
13                   **CONSTRUCTION BOND RULES.**

14       Subparagraph (C) of section 148(f)(4) is amended by  
15 adding at the end the following new clause:

16                   “(xvii) TREATMENT OF BONA FIDE  
17                   DEBT SERVICE FUNDS.—If the spending  
18                   requirements of clause (ii) are met with re-  
19                   spect to the available construction proceeds  
20                   of a construction issue, then paragraph (2)  
21                   shall not apply to earnings on a bona fide  
22                   debt service fund for such issue.”

1 **SEC. 1243. REPEAL OF DEBT SERVICE-BASED LIMITATION**  
2 **ON INVESTMENT IN CERTAIN NONPURPOSE**  
3 **INVESTMENTS.**

4 Subsection (d) of section 148 (relating to special  
5 rules for reasonably required reserve or replacement fund)  
6 is amended by striking paragraph (3).

7 **SEC. 1244. REPEAL OF EXPIRED PROVISIONS.**

8 (a) Paragraph (2) of section 148(c) is amended by  
9 striking subparagraph (B) and by redesignating subpara-  
10 graphs (C), (D), and (E) as subparagraphs (B), (C), and  
11 (D), respectively.

12 (b) Paragraph (4) of section 148(f) is amended by  
13 striking subparagraph (E).

14 **SEC. 1245. EFFECTIVE DATE.**

15 The amendments made by this subtitle shall apply to  
16 bonds issued after the date of the enactment of this Act.

17 **Subtitle C—Tax Court Procedures**

18 **SEC. 1251. OVERPAYMENT DETERMINATIONS OF TAX**  
19 **COURT.**

20 (a) APPEAL OF ORDER.—Paragraph (2) of section  
21 6512(b) (relating to jurisdiction to enforce) is amended  
22 by adding at the end the following new sentence: “An  
23 order of the Tax Court disposing of a motion under this  
24 paragraph shall be reviewable in the same manner as a  
25 decision of the Tax Court, but only with respect to the  
26 matters determined in such order.”

1 (b) DENIAL OF JURISDICTION REGARDING CERTAIN  
 2 CREDITS AND REDUCTIONS.—Subsection (b) of section  
 3 6512 (relating to overpayment determined by Tax Court)  
 4 is amended by adding at the end the following new para-  
 5 graph:

6 “(4) DENIAL OF JURISDICTION REGARDING  
 7 CERTAIN CREDITS AND REDUCTIONS.—The Tax  
 8 Court shall have no jurisdiction under this sub-  
 9 section to restrain or review any credit or reduction  
 10 made by the Secretary under section 6402.”

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. 1252. REDETERMINATION OF INTEREST PURSUANT TO**  
 15 **MOTION.**

16 (a) IN GENERAL.—Subsection (c) of section 7481  
 17 (relating to jurisdiction over interest determinations) is  
 18 amended to read as follows:

19 “(c) JURISDICTION OVER INTEREST DETERMINA-  
 20 TIONS.—

21 “(1) IN GENERAL.—Notwithstanding subsection  
 22 (a), if, within 1 year after the date the decision of  
 23 the Tax Court becomes final under subsection (a) in  
 24 a case to which this subsection applies, the taxpayer  
 25 files a motion in the Tax Court for a redetermina-

tion of the amount of interest involved, then the Tax Court may reopen the case solely to determine whether the taxpayer has made an overpayment of such interest or the Secretary has made an underpayment of such interest and the amount thereof.

“(2) CASES TO WHICH THIS SUBSECTION APPLIES.—This subsection shall apply where—

“(A)(i) an assessment has been made by the Secretary under section 6215 which includes interest as imposed by this title, and

“(ii) the taxpayer has paid the entire amount of the deficiency plus interest claimed by the Secretary, and

“(B) the Tax Court finds under section 6512(b) that the taxpayer has made an overpayment.

“(3) SPECIAL RULES.—If the Tax Court determines under this subsection that the taxpayer has made an overpayment of interest or that the Secretary has made an underpayment of interest, then that determination shall be treated under section 6512(b)(1) as a determination of an overpayment of tax. An order of the Tax Court redetermining interest, when entered upon the records of the court,

1       shall be reviewable in the same manner as a decision  
2       of the Tax Court.”

3       (b) **EFFECTIVE DATE.**—The amendment made by  
4 this section shall take effect on the date of the enactment  
5 of this Act.

6 **SEC. 1253. APPLICATION OF NET WORTH REQUIREMENT**  
7 **FOR AWARDS OF LITIGATION COSTS.**

8       (a) **IN GENERAL.**—Paragraph (4) of section 7430(c)  
9 (defining prevailing party) is amended by adding at the  
10 end thereof the following new subparagraph:

11               “(D) **SPECIAL RULES FOR APPLYING NET**  
12               **WORTH REQUIREMENT.**—In applying the re-  
13               quirements of section 2412(d)(2)(B) of title 28,  
14               United States Code, for purposes of subpara-  
15               graph (A)(iii) of this paragraph—

16                       “(i) the net worth limitation in clause  
17                       (i) of such section shall apply to—

18                               “(I) an estate but shall be deter-  
19                               mined as of the date of the decedent’s  
20                               death, and

21                               “(II) a trust but shall be deter-  
22                               mined as of the last day of the taxable  
23                               year involved in the proceeding, and

1                   “(ii) individuals filing a joint return  
 2                   shall be treated as separate individuals for  
 3                   purposes of clause (i) of such section.”

4           (b) EFFECTIVE DATE.—The amendment made by  
 5 this section shall apply to proceedings commenced after  
 6 the date of the enactment of this Act.

7 **SEC. 1254. PROCEEDINGS FOR DETERMINATION OF EM-**  
 8 **PLOYMENT STATUS.**

9           (a) IN GENERAL.—Subchapter B of chapter 76 (re-  
 10 lating to proceedings by taxpayers and third parties) is  
 11 amended by redesignating section 7435 as section 7436  
 12 and by inserting after section 7434 the following new sec-  
 13 tion:

14 **“SEC. 7435. PROCEEDINGS FOR DETERMINATION OF EM-**  
 15 **PLOYMENT STATUS.**

16           “(a) CREATION OF REMEDY.—If, in connection with  
 17 an audit of any person, there is an actual controversy in-  
 18 volving a determination by the Secretary as part of an ex-  
 19 amination that—

20                   “(1) one or more individuals performing serv-  
 21 ices for such person are employees of such person  
 22 for purposes of subtitle C, or

23                   “(2) such person is not entitled to the treat-  
 24 ment under subsection (a) of section 530 of the Rev-  
 25 enue Act of 1978 with respect to such an individual,

1 upon the filing of an appropriate pleading, the Tax Court  
2 may determine whether such a determination by the Sec-  
3 retary is correct. Any such determination by the Tax  
4 Court shall have the force and effect of a decision of the  
5 Tax Court and shall be reviewable as such.

6 “(b) LIMITATIONS.—

7 “(1) PETITIONER.—A pleading may be filed  
8 under this section only by the person for whom the  
9 services are performed.

10 “(2) TIME FOR FILING ACTION.—If the Sec-  
11 retary sends by certified or registered mail notice to  
12 the petitioner of a determination by the Secretary  
13 described in subsection (a), no proceeding may be  
14 initiated under this section with respect to such de-  
15 termination unless the pleading is filed before the  
16 91st day after the date of such mailing.

17 “(3) NO ADVERSE INFERENCE FROM TREAT-  
18 MENT WHILE ACTION IS PENDING.—If, during the  
19 pendency of any proceeding brought under this sec-  
20 tion, the petitioner changes his treatment for em-  
21 ployment tax purposes of any individual whose em-  
22 ployment status as an employee is involved in such  
23 proceeding (or of any individual holding a substan-  
24 tially similar position) to treatment as an employee,



1 such change shall not be taken into account in the  
2 Tax Court's determination under this section.

3 “(c) SMALL CASE PROCEDURES.—

4 “(1) IN GENERAL.—At the option of the peti-  
5 tioner, concurred in by the Tax Court or a division  
6 thereof before the hearing of the case, proceedings  
7 under this section may (notwithstanding the provi-  
8 sions of section 7453) be conducted subject to the  
9 rules of evidence, practice, and procedure applicable  
10 under section 7463 if the amount of employment  
11 taxes placed in dispute is \$10,000 or less for each  
12 calendar quarter involved.

13 “(2) FINALITY OF DECISIONS.—A decision en-  
14 tered in any proceeding conducted under this sub-  
15 section shall not be reviewed in any other court and  
16 shall not be treated as a precedent for any other  
17 case not involving the same petitioner and the same  
18 determinations.

19 “(3) CERTAIN RULES TO APPLY.—Rules similar  
20 to the rules of the last sentence of subsection (a),  
21 and subsections (c), (d), and (e), of section 7463  
22 shall apply to proceedings conducted under this sub-  
23 section.

24 “(d) SPECIAL RULES.—

1           “(1) RESTRICTIONS ON ASSESSMENT AND COL-  
 2           LECTION PENDING ACTION, ETC.—The principles of  
 3           subsections (a), (b), and (d) of section 6213, section  
 4           6214(a), section 6215, section 6503(a), and section  
 5           6512 shall apply to proceedings brought under this  
 6           section in the same manner as if the Secretary’s de-  
 7           termination described in subsection (a) were a notice  
 8           of deficiency.

9           “(2) AWARDING OF COSTS AND CERTAIN  
 10          FEES.—Section 7430 shall apply to proceedings  
 11          brought under this section.

12          “(e) EMPLOYMENT TAX.—The term ‘employment  
 13          tax’ means any tax imposed by subtitle C.”

14          (b) CONFORMING AMENDMENTS.—

15               (1) Subsection (d) of section 6511 is amended  
 16               by adding at the end the following new paragraph:

17               “(7) SPECIAL PERIOD OF LIMITATION WITH RE-  
 18               SPECT TO SELF-EMPLOYMENT TAX IN CERTAIN  
 19               CASES.—If—

20                       “(A) the claim for credit or refund relates  
 21                       to an overpayment of the tax imposed by chap-  
 22                       ter 2 (relating to the tax on self-employment in-  
 23                       come) attributable to Tax Court determination  
 24                       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(c) 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. 1261. 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. 1262. 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. 1263. 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 XIII—PENSION**

## 11 **SIMPLIFICATION**

### 12 **SEC. 1301. MATCHING CONTRIBUTIONS OF SELF-EMPLOYED**

### 13 **INDIVIDUALS NOT TREATED AS ELECTIVE**

### 14 **EMPLOYER CONTRIBUTIONS.**

15 (a) IN GENERAL.—Section 402(g) (relating to limita-  
 16 tion on exclusion for elective deferrals) is amended by add-  
 17 ing at the end the following:

18 “(9) MATCHING CONTRIBUTIONS ON BEHALF  
 19 OF SELF-EMPLOYED INDIVIDUALS NOT TREATED AS  
 20 ELECTIVE EMPLOYER CONTRIBUTIONS.—Any match-  
 21 ing contribution described in section 401(m)(4)(A))  
 22 which is made on behalf of a self-employed individ-  
 23 ual (as defined in section 401(c)) shall not be treat-  
 24 ed as an elective employer contribution under a

1 qualified cash or deferred arrangement (as defined  
2 in section 401(k)) for purposes of this title.”.

3 (b) CONFORMING AMENDMENT FOR SIMPLE RETIRE-  
4 MENT ACCOUNTS.—Section 408(p) (relating to simple re-  
5 tirement accounts) is amended by adding at the end the  
6 following:

7 “(8) MATCHING CONTRIBUTIONS ON BEHALF  
8 OF SELF-EMPLOYED INDIVIDUALS NOT TREATED AS  
9 ELECTIVE EMPLOYER CONTRIBUTIONS.—Any match-  
10 ing contribution described in paragraph (2)(A)(iii)  
11 which is made on behalf of a self-employed individ-  
12 ual (as defined in section 401(c)) shall not be treat-  
13 ed as an elective employer contribution to a simple  
14 retirement account for purposes of this title.”.

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

18 **SEC. 1302. CONTRIBUTIONS TO IRAS THROUGH PAYROLL**  
19 **DEDUCTIONS.**

20 (a) DEFINITIONS.—For purposes of this section:

21 (1) CONTRIBUTION CERTIFICATE.—The term  
22 “contribution certificate” means a certificate submit-  
23 ted by an eligible employee to the employee’s em-  
24 ployer which—

1 (A) identifies the employee by name, ad-  
2 dress, and social security number,

3 (B) includes a certification by the em-  
4 ployee that the employee is an eligible employee,

5 (C) identifies the individual retirement  
6 plan to which the employee wishes to make con-  
7 tributions through payroll deductions,

8 (D) identifies the amount of such contribu-  
9 tions, not to exceed the amount allowed under  
10 section 408 of the Internal Revenue Code of  
11 1986 to an individual retirement plan for such  
12 year.

13 (2) ELIGIBLE EMPLOYEE.—

14 (A) IN GENERAL.—The term “eligible em-  
15 ployee” means, with respect to any taxable  
16 year, an employee whose employer does not  
17 sponsor a plan, contract, pension, account, or  
18 trust described in section 219(g)(5) (A) or (B)  
19 of the Internal Revenue Code of 1986.

20 (B) EMPLOYEE.—The term “employee”  
21 does not include an employee as defined in sec-  
22 tion 401(c)(1) of such Code.

23 (3) INDIVIDUAL RETIREMENT PLANS.—The  
24 term “individual retirement plan” has the meaning

1       given the term by section 7701(a)(37) of the Inter-  
2       nal Revenue Code of 1986.

3           (4) SECRETARY.—The term “Secretary” means  
4       the Secretary of the Treasury.

5       (b) ESTABLISHMENT OF PAYROLL DEDUCTION SYS-  
6       TEM.—An employer may establish a system under which  
7       eligible employees, through employer payroll deductions,  
8       may make contributions to individual retirement plans. An  
9       employer shall not incur any liability under title I of the  
10      Employee Retirement Income Security Act of 1974 in pro-  
11      viding for such a system.

12      (c) CONTRIBUTIONS TO INDIVIDUAL RETIREMENT  
13      PLANS.—

14           (1) IN GENERAL.—The system established  
15      under subsection (b) shall provide that contributions  
16      made to an individual retirement plan for any tax-  
17      able year are—

18           (A) contributions through employer payroll  
19      deductions, and

20           (B) if the employer so elects, additional  
21      contributions by the employee which, when  
22      added to contributions under subparagraph (A),  
23      do not exceed the amount allowed under section  
24      408 of the Internal Revenue Code of 1986 for  
25      the taxable year.



1           (2) EMPLOYER PAYROLL DEDUCTIONS.—

2           (A) IN GENERAL.—The system established  
3           under subsection (b) shall provide that an eligi-  
4           ble employee may establish and maintain an in-  
5           dividual retirement plan simply by—

6                   (i) completing a contribution certifi-  
7                   cate, and

8                   (ii) submitting such certificate to the  
9                   eligible employee's employer in the manner  
10                  provided under subparagraph (D).

11          (B) EASE OF ADMINISTRATION.—An eligi-  
12          ble employee establishing and maintaining an  
13          individual retirement plan under subparagraph  
14          (A) may change the amount of an employer  
15          payroll deduction in the same manner as under  
16          subparagraph (A).

17          (C) SIMPLIFIED CONTRIBUTION CERTIFI-  
18          CATE.—The Secretary shall develop a model  
19          contribution certificate for purposes of this  
20          paragraph which is written in a clear and easily  
21          understandable manner.

22          (D) USE OF CERTIFICATE.—Each em-  
23          ployer electing to adopt a system under sub-  
24          section (b) shall, upon receipt of a contribution  
25          certificate from an eligible employee, deduct the

1 appropriate contribution as determined by such  
2 certificate from the employee's wages in equal  
3 amounts during the remaining payroll periods  
4 for the taxable year and shall remit such  
5 amounts for investment in the employee's indi-  
6 vidual retirement plan not later than the close  
7 of the 30-day period following the last day of  
8 the month in which such payroll period occurs.

9 (E) FAILURE TO REMIT PAYROLL DEDUC-  
10 TIONS.—For purposes of the Internal Revenue  
11 Code of 1986, any amount which an employer  
12 fails to remit on behalf of an eligible employee  
13 pursuant to a contribution certificate of such  
14 employee shall not be allowed as a deduction to  
15 the employer under such Code.

16 **SEC. 1303. PLANS NOT DISQUALIFIED MERELY BY ACCEPT-**  
17 **ING ROLLOVER CONTRIBUTIONS.**

18 (a) IN GENERAL.—Section 401(a) (relating to quali-  
19 fied pension, profit-sharing, and stock bonus plans) is  
20 amended by inserting after paragraph (34) the following:

21 “(35) PLANS NOT DISQUALIFIED MERELY BY  
22 ACCEPTING ROLLOVER CONTRIBUTIONS.—A trust  
23 which is part of a plan shall not fail to be a qualified  
24 trust under this section solely because the plan ac-  
25 cepts a contribution of an eligible rollover distribu-

1       tion as described in section 402(c)(4) from another  
 2       plan without such a qualified trust if, at the time of  
 3       the transfer, the trustee of the other plan provided  
 4       notice of the other plan’s intention to have such a  
 5       qualified trust.”.

6       (b) EFFECTIVE DATE.—The amendment made by  
 7       this section shall apply to rollover contributions made  
 8       after December 31, 1997.

9       **SEC. 1304. MODIFICATION OF PROHIBITION OF ASSIGN-**  
 10       **MENT OR ALIENATION.**

11       (a) AMENDMENT TO ERISA.—Section 206(d) of the  
 12       Employee Retirement Income Security Act of 1974 (29  
 13       U.S.C. 1056(d)) is amended by adding at the end the fol-  
 14       lowing:

15       “(4) Paragraph (1) shall not apply to any offset of  
 16       a participant’s accrued benefit in an employee pension  
 17       benefit plan against an amount that the participant is or-  
 18       dered or required to pay to the plan if—

19               “(A) the order or requirement to pay arises—

20                       “(i) under a judgment of conviction for a  
 21                       crime involving such plan,

22                       “(ii) under a civil judgment (including a  
 23                       consent order or decree) entered by a court in  
 24                       an action brought in connection with a violation

1 (or alleged violation) of part 4 of this subtitle,  
2 or

3 “(iii) pursuant to a settlement agreement  
4 between the Secretary and the participant, or a  
5 settlement agreement between the Pension Ben-  
6 efit Guaranty Corporation and the participant,  
7 in connection with a violation (or alleged viola-  
8 tion) of part 4 of this subtitle by a fiduciary or  
9 any other person,

10 “(B) the judgment, order, decree, or settlement  
11 agreement expressly provides for the offset of all or  
12 part of the amount ordered or required to be paid  
13 to the plan against the participant’s accrued benefit  
14 in the plan, and

15 “(C) if the participant has a spouse at the time  
16 at which the offset is to be made—

17 “(i) such spouse has consented in writing  
18 to such offset and such consent is witnessed by  
19 a notary public or representative of the plan,

20 “(ii) such spouse is ordered or required in  
21 such judgment, order, decree, or settlement to  
22 pay an amount to the plan in connection with  
23 a violation of part 4 of this subtitle, or

24 “(iii) in such judgment, order, decree, or  
25 settlement, such spouse retains the right to re-

1           ceive the value of the survivor annuity under a  
 2           qualified joint and survivor annuity provided  
 3           pursuant to section 205(a)(1) and under a  
 4           qualified preretirement survivor annuity pro-  
 5           vided pursuant to section 205(a)(2), determined  
 6           in accordance with paragraph (5).

7   A plan shall not be treated as failing to meet the require-  
 8   ments of section 205 solely by reason of an offset under  
 9   this paragraph.

10       “(5)(A) The value of the survivor annuity described  
 11   in paragraph (4)(C)(iii) shall be determined as if—

12           “(i) the participant terminated employment on  
 13       the date of the offset,

14           “(ii) there was no offset,

15           “(iii) the plan permitted retirement only on or  
 16       after normal retirement age,

17           “(iv) the plan provided only the minimum-re-  
 18       quired qualified joint and survivor annuity, and

19           “(v) the amount of the qualified preretirement  
 20       survivor annuity under the plan is equal to the  
 21       amount of the survivor annuity payable under the  
 22       minimum-required qualified joint and survivor annu-  
 23       ity.

24       “(B) For purposes of this paragraph, the term ‘mini-  
 25   mum-required qualified joint and survivor annuity’ means

1 the qualified joint and survivor annuity which is the actu-  
 2 arial equivalent of a single annuity for the life of the par-  
 3 ticipant and under which the survivor annuity is 50 per-  
 4 cent of the amount of the annuity which is payable during  
 5 the joint lives of the participant and the spouse.”.

6 (b) AMENDMENT TO 1986 CODE.—Section  
 7 401(a)(13) (relating to assignment and alienation) is  
 8 made by adding at the end the following:

9 “(C) SPECIAL RULE FOR CERTAIN JUDG-  
 10 MENTS AND SETTLEMENTS.—Subparagraph (A)  
 11 shall not apply to any offset of a participant’s  
 12 accrued benefit in an employee pension benefit  
 13 plan against an amount that the participant is  
 14 ordered or required to pay to the plan if—

15 “(i) the order or requirement to pay  
 16 arises—

17 “(I) under a judgment of convic-  
 18 tion for a crime involving such plan,

19 “(II) under a civil judgment (in-  
 20 cluding a consent order or decree) en-  
 21 tered by a court in an action brought  
 22 in connection with a violation (or al-  
 23 leged violation) of part 4 of subtitle B  
 24 of title I of the Employee Retirement  
 25 Income Security Act of 1974, or

1                   “(III) pursuant to a settlement  
2                   agreement between the Secretary and  
3                   the participant, or a settlement agree-  
4                   ment between the Pension Benefit  
5                   Guaranty Corporation and the partici-  
6                   pant, in connection with a violation  
7                   (or alleged violation) of part 4 of such  
8                   subtitle by a fiduciary or any other  
9                   person,

10                  “(ii) the judgment, order, decree, or  
11                  settlement agreement expressly provides  
12                  for the offset of all or part of the amount  
13                  ordered or required to be paid to the plan  
14                  against the participant’s accrued benefit in  
15                  the plan, and

16                  “(iii) if the participant has a spouse  
17                  at the time at which the offset is to be  
18                  made—

19                         “(I) such spouse has consented  
20                         in writing to such offset and such con-  
21                         sent is witnessed by a notary public or  
22                         representative of the plan,

23                         “(II) such spouse is ordered or  
24                         required in such judgment, order, de-  
25                         cree, or settlement to pay an amount

1 to the plan in connection with a viola-  
 2 tion of part 4 of such subtitle, or

3 “(III) in such judgment, order,  
 4 decree, or settlement, such spouse re-  
 5 tains the right to receive the value of  
 6 the survivor annuity under a qualified  
 7 joint and survivor annuity provided  
 8 pursuant to section 401(a)(11)(A)(i)  
 9 and under a qualified preretirement  
 10 survivor annuity provided pursuant to  
 11 section 401(a)(11)(A)(ii), determined  
 12 in accordance with subparagraph (D).

13 A plan shall not be treated as failing to meet  
 14 the requirements of this subsection, subsection  
 15 (k), section 403(b), or section 409(d) solely by  
 16 reason of an offset described in this subpara-  
 17 graph.

18 “(D) VALUATION OF SURVIVOR ANNU-  
 19 ITY.—

20 “(i) IN GENERAL.—The value of the  
 21 survivor annuity described in subparagraph  
 22 (C)(iii)(III) shall be determined as if—

23 “(I) the participant terminated  
 24 employment on the date of the offset,

25 “(II) there was no offset,



1 “(III) the plan permitted retire-  
2 ment only on or after normal retire-  
3 ment age,

4 “(IV) the plan provided only the  
5 minimum-required qualified joint and  
6 survivor annuity, and

7 “(V) the amount of the qualified  
8 preretirement survivor annuity under  
9 the plan is equal to the amount of the  
10 survivor annuity payable under the  
11 minimum-required qualified joint and  
12 survivor annuity.

13 “(ii) DEFINITION.—For purposes of  
14 this subparagraph, the term ‘minimum-re-  
15 quired qualified joint and survivor annuity’  
16 means the qualified joint and survivor an-  
17 nuity which is the actuarial equivalent of a  
18 single annuity for the life of the partici-  
19 pant and under which the survivor annuity  
20 is 50 percent of the amount of the annuity  
21 which is payable during the joint lives of  
22 the participant and the spouse.”.

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to judgments, orders, and decrees

1 issued, and settlement agreements entered into, on or  
 2 after the date of the enactment of this Act.

3 **SEC. 1305. ELIMINATION OF PAPERWORK BURDENS ON**  
 4 **PLANS.**

5 (a) ELIMINATION OF UNNECESSARY FILING RE-  
 6 QUIREMENTS.—Section 101(b) of the Employee Retire-  
 7 ment Income Security Act of 1974 (29 U.S.C. 1021(b))  
 8 is amended by striking paragraphs (1), (2), and (3) and  
 9 by redesignating paragraphs (4) and (5) as paragraphs  
 10 (1) and (2), respectively.

11 (b) ELIMINATION OF PLAN DESCRIPTION.—

12 (1) IN GENERAL.—Section 102(a) of the Em-  
 13 ployee Retirement Income Security Act of 1974 (29  
 14 U.S.C. 1022(a)) is amended—

15 (A) by striking paragraph (2), and

16 (B) by striking “(a)(1)” and inserting  
 17 “(a)”.

18 (2) CONFORMING AMENDMENTS.—

19 (A) Section 102(b) of such Act (29 U.S.C.  
 20 1022(b)) is amended by striking “The plan de-  
 21 scription and summary plan description shall  
 22 contain” and inserting “The summary plan de-  
 23 scription shall contain”.

1 (B) The heading for section 102 of such  
2 Act is amended by striking “PLAN DESCRIPTION  
3 AND”.

4 (c) FURNISHING OF REPORTS.—

5 (1) IN GENERAL.—Section 104(a)(1) of the  
6 Employee Retirement Income Security Act of 1974  
7 (29 U.S.C. 1024(a)(1)) is amended to read as fol-  
8 lows:

9 “SEC. 104. (a)(1) The administrator of any employee  
10 benefit plan subject to this part shall file with the Sec-  
11 retary the annual report for a plan year within 210 days  
12 after the close of such year (or within such time as may  
13 be required by regulations promulgated by the Secretary  
14 in order to reduce duplicative filing). The Secretary shall  
15 make copies of such annual reports available for inspection  
16 in the public document room of the Department of  
17 Labor.”.

18 (2) SECRETARY MAY REQUEST DOCUMENTS.—

19 (A) IN GENERAL.—Section 104(a) of such  
20 Act (29 U.S.C. 1024(a)) is amended by adding  
21 at the end the following:

22 “(6) The administrator of any employee benefit plan  
23 subject to this part shall furnish to the Secretary, upon  
24 request, any documents relating to the employee benefit  
25 plan, including but not limited to, the latest summary plan

1 description (including any summaries of plan changes not  
 2 contained in the summary plan description), and the bar-  
 3 gaining agreement, trust agreement, contract, or other in-  
 4 strument under which the plan is established or oper-  
 5 ated.”.

6 (B) PENALTY.—Section 502(c) of such Act  
 7 (29 U.S.C. 1132(c)) is amended by redesignat-  
 8 ing paragraph (6) as paragraph (7) and by in-  
 9 serting after paragraph (5) the following:

10 “(6) If, within 30 days of a request by the Secretary  
 11 to a plan administrator for documents under section  
 12 104(a)(6), the plan administrator fails to furnish the ma-  
 13 terial requested to the Secretary, the Secretary may assess  
 14 a civil penalty against the plan administrator of up to  
 15 \$100 a day from the date of such failure (but in no event  
 16 in excess of \$1,000 per request). No penalty shall be im-  
 17 posed under this paragraph for any failure resulting from  
 18 matters reasonably beyond the control of the plan admin-  
 19 istrator.”.

20 (d) CONFORMING AMENDMENTS.—

21 (1) Section 104(b)(1) of the Employee Retire-  
 22 ment Income Security Act of 1974 (29 U.S.C.  
 23 1024(b)(1)) is amended by striking “section  
 24 102(a)(1)” each place it appears and inserting “sec-  
 25 tion 102(a)”.

1           (2) Section 104(b)(2) of such Act (29 U.S.C.  
2           1024(b)(2)) is amended by striking “the plan de-  
3           scription and” and inserting “the latest updated  
4           summary plan description and”.

5           (3) Section 104(b)(4) of such Act (29 U.S.C.  
6           1024(b)(4)) is amended by striking “plan descrip-  
7           tion”.

8           (4) Section 106(a) of such Act (29 U.S.C.  
9           1026(a)) is amended by striking “descriptions,”.

10          (5) Section 107 of such Act (29 U.S.C. 1027)  
11          is amended by striking “description or”.

12          (6) Paragraph (2)(B) of section 108 of such  
13          Act (29 U.S.C. 1028) is amended to read as follows:  
14          “(B) after publishing or filing the annual reports,”.

15          (7) Section 502(a)(6) of such Act (29 U.S.C.  
16          1132(a)(6)) is amended by striking “or (5)” and in-  
17          serting “(5), or (6)”.

18          (e) TECHNICAL CORRECTION.—Section 1144(c) of  
19          the Social Security Act (42 U.S.C. 1320b–14(c)) is  
20          amended by redesignating paragraph (9) as paragraph  
21          (8).

22          **SEC. 1306. MODIFICATION OF 403(b) EXCLUSION ALLOW-**  
23          **ANCE TO CONFORM TO 415 MODIFICATIONS.**

24          (a) DEFINITION OF COMPENSATION.—

1           (1) IN GENERAL.—Section 403(b)(3) (defining  
2           includible compensation) is amended by adding at  
3           the end the following: “Such term includes—

4                   “(A) any elective deferral (as defined in  
5                   section 402(g)(3)), and

6                   “(B) any amount which is contributed or  
7                   deferred by the employer at the election of the  
8                   employee and which is not includible in the  
9                   gross income of the employee by reason of sec-  
10                  tion 125 or 457.

11           (2) EFFECTIVE DATE.—The amendment made  
12           by this subsection shall apply to years beginning  
13           after December 31, 1997.

14           (b) REPEAL OF RULES IN SECTION 415(e).—The  
15           Secretary of the Treasury shall modify the regulations re-  
16           garding the exclusion allowance under section 403(b)(2)  
17           of the Internal Revenue Code of 1986 to reflect the  
18           amendment made by section 1452(a) of the Small Busi-  
19           ness Job Protection Act of 1996. Such modification shall  
20           take effect for limitation years beginning after December  
21           31, 1999.

22   **SEC. 1307. NEW TECHNOLOGIES IN RETIREMENT PLANS.**

23           (a) IN GENERAL.—Not later than December 31,  
24           1998, the Secretary of the Treasury and the Secretary of  
25           Labor shall each issue guidance which is designed to—

1           (1) interpret the notice, election, consent, dis-  
 2           closure, and time requirements (and related record-  
 3           keeping requirements) under the Internal Revenue  
 4           Code of 1986 and the Employee Retirement Income  
 5           Security Act of 1974 relating to retirement plans as  
 6           applied to the use of new technologies by plan spon-  
 7           sors and administrators while maintaining the pro-  
 8           tection of the rights of participants and bene-  
 9           ficiaries, and

10           (2) clarify the extent to which writing require-  
 11           ments under the Internal Revenue Code of 1986 re-  
 12           lating to retirement plans shall be interpreted to  
 13           permit paperless transactions.

14           (b) **APPLICABILITY OF FINAL REGULATIONS.**—Final  
 15           regulations applicable to the guidance regarding new tech-  
 16           nologies described in subsection (a) shall not be effective  
 17           until the first plan year beginning at least 6 months after  
 18           the issuance of such final regulations.

19           **SEC. 1308. EXTENSION OF MORATORIUM ON APPLICATION**  
 20                                   **OF CERTAIN NONDISCRIMINATION RULES TO**  
 21                                   **STATE AND LOCAL GOVERNMENTS.**

22           (a) **GENERAL NONDISCRIMINATION AND PARTICIPA-**  
 23           **TION RULES.**—

24           (1) **NONDISCRIMINATION REQUIREMENTS.**—  
 25           Section 401(a)(5) (relating to qualified pension,

1 profit-sharing, and stock bonus plans) is amended by  
2 adding at the end the following:

3 “(G) GOVERNMENTAL PLANS.—Para-  
4 graphs (3) and (4) shall not apply to a govern-  
5 mental plan (within the meaning of section  
6 414(d)).”.

7 (2) ADDITIONAL PARTICIPATION REQUIRE-  
8 MENTS.—Section 401(a)(26)(H) (relating to addi-  
9 tional participation requirements) is amended to  
10 read as follows:

11 “(H) EXCEPTION FOR GOVERNMENTAL  
12 PLANS.—This paragraph shall not apply to a  
13 governmental plan (within the meaning of sec-  
14 tion 414(d)).”.

15 (3) MINIMUM PARTICIPATION STANDARDS.—  
16 Section 410(c)(2) (relating to application of partici-  
17 pation standards to certain plans) is amended to  
18 read as follows:

19 “(2) A plan described in paragraph (1) shall be  
20 treated as meeting the requirements of this section  
21 for purposes of section 401(a), except that in the  
22 case of a plan described in subparagraph (B), (C),  
23 or (D) of paragraph (1), this paragraph shall only  
24 apply if such plan meets the requirements of section  
25 401(a)(3) (as in effect on September 1, 1974).”.



1 (b) PARTICIPATION STANDARDS FOR QUALIFIED  
2 CASH OR DEFERRED ARRANGEMENTS.—

3 (1) IN GENERAL.—Section 401(k)(3) (relating  
4 to application of participation and discrimination  
5 standards) is amended by adding at the end the fol-  
6 lowing:

7 “(G) The requirements of subparagraph  
8 (A)(i) and (C) shall not apply to a govern-  
9 mental plan (within the meaning of section  
10 414(d)).”

11 (2) MATCHING CONTRIBUTIONS.—Section  
12 401(m)(2) is amended by adding at the end the fol-  
13 lowing new subparagraph:

14 “(C) SPECIAL RULE FOR GOVERNMENTAL  
15 PLANS.—A defined contribution plan which is a  
16 governmental plan (as defined in section  
17 414(d)) shall be treated as meeting the require-  
18 ments of this paragraph.”.

19 (c) NONDISCRIMINATION RULES FOR SECTION  
20 403(b) PLANS.—Section 403(b)(12) (relating to non-  
21 discrimination requirements) is amended by adding at the  
22 end the following:

23 “(C) GOVERNMENTAL PLANS.—For pur-  
24 poses of paragraph (1)(D), the requirements of  
25 subparagraph (A)(i) (other than those relating

1 to section 401(a)(17)) shall not apply to a gov-  
 2 ernmental plan (within the meaning of section  
 3 414(d)).”.

4 (d) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendments made by  
 6 this section apply to taxable years beginning on or  
 7 after the date of enactment of this Act.

8 (2) TREATMENT FOR YEARS BEGINNING BE-  
 9 FORE DATE OF ENACTMENT.—A governmental plan  
 10 (within the meaning of section 414(d) of the Inter-  
 11 nal Revenue Code of 1986) shall be treated as satis-  
 12 fying the requirements of sections 401(a)(3),  
 13 401(a)(4), 401(a)(26), 401(k), 401(m), 403  
 14 (b)(1)(D) and (b)(12), and 410 of such Code for all  
 15 taxable years beginning before the date of enactment  
 16 of this Act.

17 **SEC. 1309. CLARIFICATION OF CERTAIN RULES RELATING**  
 18 **TO EMPLOYEE STOCK OWNERSHIP PLANS OF**  
 19 **S CORPORATIONS.**

20 (a) CERTAIN CASH DISTRIBUTIONS PERMITTED.—

21 (1) Paragraph (2) of section 409(h) is amended  
 22 by adding at the end the following new subpara-  
 23 graph:

24 “(B) PLAN MAINTAINED BY S CORPORA-  
 25 TION.—In the case of a plan established and

1 maintained by an S corporation which otherwise  
 2 meets the requirements of this subsection or  
 3 section 4975(e)(7), such plan shall not be treat-  
 4 ed as failing to meet the requirements of this  
 5 subsection or section 401(a) merely because it  
 6 does not permit a participant to exercise the  
 7 right described in paragraph (1)(A) if such plan  
 8 provides that the participant entitled to a dis-  
 9 tribution has a right to receive the distribution  
 10 in cash.”

11 (2) Paragraph (2) of section 409(h) is amend-  
 12 ed—

13 (A) by striking “a plan which” in the first  
 14 sentence and inserting the following:

15 “(A) IN GENERAL.—A plan which”, and

16 (B) by moving the text before subpara-  
 17 graph (B) 2 ems to the right.

18 (b) CERTAIN SHAREHOLDER-EMPLOYEES NOT  
 19 TREATED AS OWNER-EMPLOYEES.—

20 (1) AMENDMENT TO 1986 CODE.—The last sen-  
 21 tence of section 4975(d) is amended by inserting “,  
 22 except that this sentence shall not apply for pur-  
 23 poses of any sale of stock by such a shareholder-em-  
 24 ployee to an employee stock ownership plan (as de-  
 25 fined in subsection (e)(7))” after “owner-employee”.

1           (2) AMENDMENT TO ERISA.—The last sentence  
 2           of section 408(d) of the Employee Retirement In-  
 3           come Security Act of 1974 (29 U.S.C. 1108(d)) is  
 4           amended by inserting “, except that this sentence  
 5           shall not apply for purposes of any sale of stock by  
 6           such a shareholder-employee to an employee stock  
 7           ownership plan (as defined in section 4975(e)(7) of  
 8           the Internal Revenue Code of 1986)” after “owner-  
 9           employee”.

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

13      **SEC. 1310. MODIFICATION OF 10 PERCENT TAX FOR NON-**  
 14                                   **DEDUCTIBLE CONTRIBUTIONS.**

15          (a) IN GENERAL.—Section 4972(c)(6)(B) (relating  
 16          to exceptions) is amended to read as follows:

17                               “(B) so much of the contributions to 1 or  
 18                               more defined contribution plans which are not  
 19                               deductible when contributed solely because of  
 20                               section 404(a)(7) as does not exceed the greater  
 21                               of—

22                               “(i) the amount of contributions not  
 23                               in excess of 6 percent of compensation  
 24                               (within the meaning of section 404(a))  
 25                               paid or accrued (during the taxable year

1                   for which the contributions were made) to  
 2                   beneficiaries under the plans, or

3                   “(ii) the sum of—

4                   “(I) the amount of contributions  
 5                   described in section 401(m)(4)(A),  
 6                   plus

7                   “(II) the amount of contributions  
 8                   described in section 402(g)(3)(A).”.

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

12 **SEC. 1311. MODIFICATION OF FUNDING REQUIREMENTS**  
 13 **FOR CERTAIN PLANS.**

14           (a) FUNDING RULES FOR CERTAIN PLANS.—Section  
 15 769 of the Retirement Protection Act of 1994 is amended  
 16 by adding at the end the following new subsection:

17           “(c) TRANSITION RULES FOR CERTAIN PLANS.—

18                   “(1) IN GENERAL.—In the case of a plan  
 19                   that—

20                   “(A) was not required to pay a variable  
 21                   rate premium for the plan year beginning in  
 22                   1996;

23                   “(B) has not, in any plan year beginning  
 24                   after 1995 and before 2009, merged with an-  
 25                   other plan (other than a plan sponsored by an

1 employer that was in 1996 within the controlled  
2 group of the plan sponsor); and

3 “(C) is sponsored by a company that is en-  
4 gaged primarily in the interurban or interstate  
5 passenger bus service,

6 the transition rules described in paragraph (2) shall  
7 apply for any plan year beginning after 1996 and  
8 before 2010.

9 “(2) TRANSITION RULES.—The transition rules  
10 described in this paragraph are as follows:

11 “(A) For purposes of section 412(l)(9)(A) of  
12 the Internal Revenue Code of 1986 and section  
13 302(d)(9)(A) of the Employee Retirement Income  
14 Security Act of 1974—

15 “(i) the funded current liability percentage  
16 for any plan year beginning after 1996 and be-  
17 fore 2005 shall be treated as not less than 90  
18 percent if for such plan year the funded current  
19 liability percentage is at least 85 percent, and

20 “(ii) the funded current liability percentage  
21 for any plan year beginning after 2004 and be-  
22 fore 2010 shall be treated as not less than 90  
23 percent if for such plan year the funded current  
24 liability percentage satisfies the minimum per-

1           centage determined according to the following  
2           table:

<b>“In the case of a plan year beginning in:</b>	<b>The minimum percentage is:</b>
2005 .....	86 percent
2006 .....	87 percent
2007 .....	88 percent
2008 .....	89 percent
2009 and thereafter .....	90 percent.

3           “(B) Sections 412(c)(7)(E)(i)(I) of such Code  
4           and 302(c)(7)(E)(i)(I) of such Act shall be ap-  
5           plied—

6                   “(i) by substituting ‘85 percent’ for ‘90  
7                   percent’ for plan years beginning after 1996  
8                   and before 2005, and

9                   “(ii) by substituting the minimum percent-  
10                  age specified in the table contained in subpara-  
11                  graph (A)(ii) for ‘90 percent’ for plan years be-  
12                  ginning after 2004 and before 2010.

13           “(C) In the event the funded current liability  
14           percentage of a plan is less than 85 percent for any  
15           plan year beginning after 1996 and before 2005, the  
16           transition rules under subparagraphs (A) and (B)  
17           shall continue to apply to the plan if contributions  
18           for such a plan year are made to the plan in an  
19           amount equal to the lesser of—

1 “(i) the amount necessary to result in a  
2 funded current liability percentage of 85 per-  
3 cent, or

4 “(ii) the greater of—

5 “(I) 2 percent of the plan’s current li-  
6 ability as of the beginning of such plan  
7 year, or

8 “(II) the amount necessary to result  
9 in a funded current liability percentage of  
10 80 percent as of the end of such plan year.

11 For the plan year beginning in 2005 and for the 3  
12 succeeding plan years, the transition rules under  
13 subparagraphs (A) and (B) shall continue to apply  
14 to the plan for such plan year only if contributions  
15 to the plan equal at least the expected increase in  
16 current liability due to benefits accruing during such  
17 plan year.”

18 (b) EFFECTIVE DATE.—The amendment made by  
19 this section shall apply to contributions due after Decem-  
20 ber 31, 1997.



1 **TITLE XIV—TECHNICAL AMEND-**  
 2 **MENTS RELATED TO SMALL**  
 3 **BUSINESS JOB PROTECTION**  
 4 **ACT OF 1996 AND OTHER LEG-**  
 5 **ISLATION**

6 **SEC. 1401. AMENDMENTS RELATED TO SMALL BUSINESS**  
 7 **JOB PROTECTION ACT OF 1996.**

8 (a) AMENDMENTS RELATED TO SUBTITLE A.—

9 (1) AMENDMENT RELATED TO SECTION 1116.—

10 Paragraph (1) of section 6050R(c) is amended by  
 11 striking “name and address” and inserting “name,  
 12 address, and phone number of the information con-  
 13 tact”.

14 (2) AMENDMENT TO SECTION 1116.—Para-  
 15 graphs (1) and (2)(C) of section 1116(b) of the  
 16 Small Business Job Protection Act of 1996 shall  
 17 each be applied as if the reference to chapter 68  
 18 were a reference to chapter 61.

19 (b) AMENDMENT RELATED TO SUBTITLE B.—Sub-  
 20 section (c) of section 52 is amended by striking “targeted  
 21 jobs credit” and inserting “work opportunity credit”.

22 (c) AMENDMENTS RELATED TO SUBTITLE C.—

23 (1) AMENDMENT RELATED TO SECTION 1302.—

24 Subparagraph (B) of section 1361(e)(1) is amended  
 25 by striking “and” at the end of clause (i), striking

1 the period at the end of clause (ii) and inserting “,  
 2 and”, and adding at the end the following new  
 3 clause:

4 “(iii) any charitable remainder annu-  
 5 ity trust or charitable remainder unitrust  
 6 (as defined in section 664(d)).”

7 (2) EFFECTIVE DATE FOR SECTION 1307.—

8 (A) Notwithstanding section 1317 of the  
 9 Small Business Job Protection Act of 1996, the  
 10 amendments made by subsections (a) and (b) of  
 11 section 1307 of such Act shall apply to deter-  
 12 minations made after December 31, 1996.

13 (B) In no event shall the 120-day period  
 14 referred to in section 1377(b)(1)(B) of the In-  
 15 ternal Revenue Code of 1986 (as added by such  
 16 section 1307) expire before the end of the 120-  
 17 day period beginning on the date of the enact-  
 18 ment of this Act.

19 (3) AMENDMENT RELATED TO SECTION 1308.—

20 Subparagraph (A) of section 1361(b)(3) is amended  
 21 by striking “For purposes of this title” and inserting  
 22 “Except as provided in regulations prescribed by the  
 23 Secretary, for purposes of this title”.

24 (4) AMENDMENTS RELATED TO SECTION  
 25 1316.—

1 (A) Paragraph (2) of section 512(e) is  
 2 amended by striking “within the meaning of  
 3 section 1012” and inserting “as defined in sec-  
 4 tion 1361(e)(1)(C)”.

5 (B) Paragraph (7) of section 1361(c) is re-  
 6 designated as paragraph (6).

7 (C) Subparagraph (B) of section  
 8 1361(b)(1) is amended by striking “subsection  
 9 (c)(7)” and inserting “subsection (c)(6)”.

10 (D) Paragraph (1) of section 512(e) is  
 11 amended by striking “section 1361(c)(7)” and  
 12 inserting “section 1361(e)(6)”.

13 (d) AMENDMENTS RELATED TO SUBTITLE D.—

14 (1) AMENDMENTS RELATED TO SECTION  
 15 1421.—

16 (A) Subsection (i) of section 408 is amend-  
 17 ed in the last sentence by striking “30 days”  
 18 and inserting “31 days”.

19 (B) Subparagraph (H) of section  
 20 408(k)(6) is amended by striking “if the terms  
 21 of such pension” and inserting “of an employer  
 22 if the terms of simplified employee pensions of  
 23 such employer”.

24 (C)(i) Subparagraph (B) of section  
 25 408(l)(2) is amended—

1 (I) by inserting “and the issuer of an  
 2 annuity established under such an arrange-  
 3 ment” after “under subsection (p)”, and

4 (II) in clause (i), by inserting “or is-  
 5 suer” after “trustee”.

6 (ii) Paragraph (2) of section 6693(c) is  
 7 amended—

8 (I) by inserting “or issuer” after  
 9 “trustee”, and

10 (II) in the heading, by inserting “AND  
 11 ISSUER” after “trustee”.

12 (D) Subsection (p) of section 408 is  
 13 amended by adding at the end the following  
 14 new paragraph:

15 “(8) COORDINATION WITH MAXIMUM LIMITA-  
 16 TION UNDER SUBSECTION (a).—In the case of any  
 17 simple retirement account, subsections (a)(1) and  
 18 (b)(2) shall be applied by substituting ‘the sum of  
 19 the dollar amount in effect under paragraph  
 20 (2)(A)(ii) of this subsection and the employer con-  
 21 tribution required under subparagraph (A)(iii) or  
 22 (B)(i) of paragraph (2) of this subsection, whichever  
 23 is applicable’ for ‘\$2,000’.”

24 (E) Clause (i) of section 408(p)(2)(D) is  
 25 amended by adding at the end the following

1 new sentence: “If only individuals other than  
2 employees described in subparagraph (A) or (B)  
3 of section 410(b)(3) are eligible to participate  
4 in such arrangement, then the preceding sen-  
5 tence shall be applied without regard to any  
6 qualified plan in which only employees so de-  
7 scribed are eligible to participate.”

8 (F) Subparagraph (D) of section 408(p)(2)  
9 is amended by adding at the end the following  
10 new clause:

11 “(iii) GRACE PERIOD.—In the case of  
12 an employer who establishes and maintains  
13 a plan under this subsection for 1 or more  
14 years and who fails to meet any require-  
15 ment of this subsection for any subsequent  
16 year due to any acquisition, disposition, or  
17 similar transaction involving another such  
18 employer, rules similar to the rules of sec-  
19 tion 410(b)(6)(C) shall apply for purposes  
20 of this subparagraph.”

21 (G) Paragraph (5) of section 408(p) is  
22 amended in the text preceding subparagraph  
23 (A) by striking “simplified” and inserting “sim-  
24 ple”.

1           (2) AMENDMENTS RELATED TO SECTION  
2       1422.—

3           (A) Clause (ii) of section 401(k)(11)(D) is  
4       amended by striking the period and inserting  
5       “if such plan allows only contributions required  
6       under this paragraph.”

7           (B) Paragraph (11) of section 401(k) is  
8       amended by adding at the end the following  
9       new subparagraph:

10          “(E) COST-OF-LIVING ADJUSTMENT.—The  
11       Secretary shall adjust the \$6,000 amount under  
12       subparagraph (B)(i)(I) at the same time and in  
13       the same manner as under section  
14       408(p)(2)(E).”

15          (C) Subparagraph (A) of section 404(a)(3)  
16       is amended—

17           (i) in clause (i), by striking “not in  
18       excess of” and all that follows and insert-  
19       ing the following: “not in excess of the  
20       greater of—

21           “(I) 15 percent of the compensa-  
22       tion otherwise paid or accrued during  
23       the taxable year to the beneficiaries  
24       under the stock bonus or profit-shar-  
25       ing plan, or

1 “(II) the amount such employer  
 2 is required to contribute to such trust  
 3 under section 401(k)(11) for such  
 4 year.”, and

5 (ii) in clause (ii), by striking “15 per-  
 6 cent” and all that follows and inserting the  
 7 following “the amount described in sub-  
 8 clause (I) or (II) of clause (i), whichever is  
 9 greater, with respect to such taxable year.”

10 (D) Subparagraph (B) of section  
 11 401(k)(11) is amended by adding at the end  
 12 the following new clause:

13 “(iii) ADMINISTRATIVE REQUIRE-  
 14 MENTS.—

15 “(I) IN GENERAL.—Rules similar  
 16 to the rules of subparagraphs (B) and  
 17 (C) of section 408(p)(5) shall apply  
 18 for purposes of this subparagraph.

19 “(II) NOTICE OF ELECTION PE-  
 20 RIOD.—The requirements of this sub-  
 21 paragraph shall not be treated as met  
 22 with respect to any year unless the  
 23 employer notifies each employee eligi-  
 24 ble to participate, within a reasonable  
 25 period of time before the 60th day be-

1 fore the beginning of such year (and,  
 2 for the first year the employee is so  
 3 eligible, the 60th day before the first  
 4 day such employee is so eligible), of  
 5 the rules similar to the rules of sec-  
 6 tion 408(p)(5)(C) which apply by rea-  
 7 son of subclause (I).”

8 (3) AMENDMENT RELATED TO SECTION 1433.—  
 9 The heading of paragraph (11) of section 401(m) is  
 10 amended by striking “ALTERNATIVE” and inserting  
 11 “ADDITIONAL ALTERNATIVE”.

12 (4) AMENDMENT RELATED TO SECTION 1462.—  
 13 The paragraph (7) of section 414(q) added by sec-  
 14 tion 1462 of the Small Business Job Protection Act  
 15 of 1996 is redesignated as paragraph (9).

16 (5) CLARIFICATION OF SECTION 1450.—  
 17 (A) Section 403(b)(11) of the Internal  
 18 Revenue Code of 1986 shall not apply with re-  
 19 spect to a distribution from a contract de-  
 20 scribed in section 1450(b)(1) of such Act to the  
 21 extent that such distribution is not includible in  
 22 income by reason of section 403(b)(8) of such  
 23 Code (determined after the application of sec-  
 24 tion 1450(b)(2) of such Act).



1 (B) This paragraph shall apply as if in-  
 2 cluded in section 1450 of the Small Business  
 3 Job Protection Act of 1996.

4 (e) AMENDMENT RELATED TO SUBTITLE E.—Sub-  
 5 paragraph (A) of section 956(b)(1) is amended by insert-  
 6 ing “to the extent such amount was accumulated in prior  
 7 taxable years” after “section 316(a)(1)”.

8 (f) AMENDMENTS RELATED TO SUBTITLE F.—

9 (1) AMENDMENTS RELATED TO SECTION  
 10 1601.—

11 (A) The heading of section 30A is amend-  
 12 ed to read as follows:

13 **“SEC. 30A. PUERTO RICO ECONOMIC ACTIVITY CREDIT.”**

14 (B) The table of sections for subpart B of  
 15 part IV of subchapter A of chapter 1 is amend-  
 16 ed in the item relating to section 30A by strik-  
 17 ing “Puerto Rican” and inserting “Puerto  
 18 Rico”.

19 (C) Paragraph (1) of section 55(c) is  
 20 amended by striking “Puerto Rican” and in-  
 21 serting “Puerto Rico”.

22 (2) AMENDMENTS RELATED TO SECTION  
 23 1606.—

24 (A) Clause (ii) of section 9503(c)(2)(A) is  
 25 amended by striking “(or with respect to quali-

1           fied diesel-powered highway vehicles purchased  
2           before January 1, 1999)".

3           (B) Subparagraph (A) of section  
4           9503(e)(5) is amended by striking “; except  
5           that” and all that follows and inserting a pe-  
6           riod.

7           (3) AMENDMENTS RELATED TO SECTION  
8           1607.—

9           (A) Subsection (f) of section 4001 (relat-  
10          ing to phasedown of tax on luxury passenger  
11          automobiles) is amended—

12                   (i) by inserting “and section 4003(a)”  
13                   after “subsection (a)”, and

14                   (ii) by inserting “, each place it ap-  
15                   pears,” before “the percentage”.

16          (B) Subsection (g) of section 4001 (relat-  
17          ing to termination) is amended by striking “tax  
18          imposed by this section” and inserting “taxes  
19          imposed by this section and section 4003” and  
20          by striking “or use” and inserting “, use, or in-  
21          stallation”.

22          (4) AMENDMENTS RELATED TO SECTION  
23          1609.—

24          (A) Subsection (l) of section 4041 is  
25          amended—

1 (i) by inserting “or a fixed-wing air-  
2 craft” after “helicopter”, and

3 (ii) in the heading, by striking “HELI-  
4 COPTER”.

5 (B) The last sentence of section  
6 4041(a)(2) is amended by striking “section  
7 4081(a)(2)(A)” and inserting “section  
8 4081(a)(2)(A)(i)”.

9 (C) Subsection (b) of section 4092 is  
10 amended by striking “section 4041(c)(4)” and  
11 inserting “section 4041(c)(2)”.

12 (D) Subsection (g) of section 4261 (as re-  
13 designated by title X) is amended by inserting  
14 “on that flight” after “dedicated”.

15 (E) Paragraph (1) of section 1609(h) of  
16 such Act is amended by striking “paragraph  
17 (3)(A)(i)” and inserting “paragraph (3)(A)”.

18 (F) Paragraph (4) of section 1609(h) of  
19 such Act is amended by inserting before the pe-  
20 riod “or exclusively for the use described in sec-  
21 tion 4092(b) of such Code”.

22 (5) AMENDMENTS RELATED TO SECTION  
23 1616.—

24 (A) Subparagraph (A) of section 593(e)(1)  
25 is amended by inserting “(and, in the case of

1 an S corporation, the accumulated adjustments  
 2 account, as defined in section 1368(e)(1))”  
 3 after “1951,”.

4 (B) Paragraph (7) of section 1374(d) is  
 5 amended by adding at the end the following  
 6 new sentence: “For purposes of applying this  
 7 section to any amount includible in income by  
 8 reason of section 593(e), the preceding sentence  
 9 shall be applied without regard to the phrase  
 10 ‘10-year’.”

11 (6) AMENDMENTS RELATED TO SECTION

12 1621.—

13 (A) Subparagraph (A) of section  
 14 860L(b)(1) is amended in the text preceding  
 15 clause (i) by striking “after the startup date”  
 16 and inserting “on or after the startup date”.

17 (B) Paragraph (2) of section 860L(d) is  
 18 amended by striking “section 860I(c)(2)” and  
 19 inserting “section 860I(b)(2)”.

20 (C) Subparagraph (B) of section  
 21 860L(e)(2) is amended by inserting “other than  
 22 foreclosure property” after “any permitted  
 23 asset”.

24 (D) Subparagraph (A) of section  
 25 860L(e)(3) is amended by striking “if the

FASIT” and all that follows and inserting the following new flush text after clause (ii):

“if the FASIT were treated as a REMIC and permitted assets (other than cash or cash equivalents) were treated as qualified mortgages.”

(E)(i) Paragraph (3) of section 860L(e) is amended by adding at the end the following new subparagraph:

“(D) INCOME FROM DISPOSITIONS OF FORMER HEDGE ASSETS.—Paragraph (2)(A) shall not apply to income derived from the disposition of—

“(i) an asset which was described in subsection (c)(1)(D) when first acquired by the FASIT but on the date of such disposition was no longer described in subsection (c)(1)(D)(ii), or

“(ii) a contract right to acquire an asset described in clause (i).”

(ii) Subparagraph (A) of section 860L(e)(2) is amended by inserting “except as provided in paragraph (3),” before “the receipt”.

(g) AMENDMENTS RELATED TO SUBTITLE G.—

1           (1) EXTENSION OF PERIOD FOR CLAIMING RE-  
 2 FUNDS FOR ALCOHOL FUELS.—Notwithstanding sec-  
 3 tion 6427(i)(3)(C) of the Internal Revenue Code of  
 4 1986, a claim filed under section 6427(f) of such  
 5 Code for any period after September 30, 1995, and  
 6 before October 1, 1996, shall be treated as timely  
 7 filed if filed before the 60th day after the date of the  
 8 enactment of this Act.

9           (2) AMENDMENTS TO SECTIONS 1703 AND  
 10 1704.—Sections 1703(n)(8) and 1704(j)(4)(B) of the  
 11 Small Business Job Protection Act of 1996 shall  
 12 each be applied as if such sections referred to sec-  
 13 tion 1702 instead of section 1602.

14       (h) AMENDMENTS RELATED TO SUBTITLE H.—

15           (1) AMENDMENTS RELATED TO SECTION  
 16 1806.—

17                   (A) Subparagraph (B) of section 529(e)(1)  
 18 is amended by striking “subsection (c)(2)(C)”  
 19 and inserting “subsection (c)(3)(C)”.

20                   (B) Subparagraph (C) of section 529(e)(1)  
 21 is amended by inserting “(or agency or instru-  
 22 mentality thereof)” after “local government”.

23                   (C) Paragraph (2) of section 1806(c) of  
 24 the Small Business Job Protection Act of 1996  
 25 is amended by striking so much of the first sen-

1           tence as follows subparagraph (B)(ii) and in-  
 2           serting the following:

3           “then such program (as in effect on August 20,  
 4           1996) shall be treated as a qualified State tuition  
 5           program with respect to contributions (and earnings  
 6           allocable thereto) pursuant to contracts entered into  
 7           under such program before the first date on which  
 8           such program meets such requirements (determined  
 9           without regard to this paragraph) and the provisions  
 10          of such program (as so in effect) shall apply in lieu  
 11          of section 529(b) of the Internal Revenue Code of  
 12          1986 with respect to such contributions and earn-  
 13          ings.”

14           (2) AMENDMENTS RELATED TO SECTION  
 15          1807.—

16           (A) Paragraph (2) of section 23(a) is  
 17          amended to read as follows:

18           “(2) YEAR CREDIT ALLOWED.—The credit  
 19          under paragraph (1) with respect to any expense  
 20          shall be allowed—

21           “(A) in the case of any expense paid or in-  
 22          curred before the taxable year in which such  
 23          adoption becomes final, for the taxable year fol-  
 24          lowing the taxable year during which such ex-  
 25          pense is paid or incurred, and

1           “(B) in the case of an expense paid or in-  
 2           curred during or after the taxable year in which  
 3           such adoption becomes final, for the taxable  
 4           year in which such expense is paid or incurred.”

5           (B) Subparagraph (B) of section 23(b)(2)  
 6           is amended by striking “determined—” and all  
 7           that follows and inserting the following: “deter-  
 8           mined without regard to sections 911, 931, and  
 9           933.”

10          (C) Paragraph (1) of section 137(b) (relat-  
 11          ing to adoption assistance programs) is amend-  
 12          ed by striking “amount excludable from gross  
 13          income” and inserting “of the amounts paid or  
 14          expenses incurred which may be taken into ac-  
 15          count”.

16          (D)(i) Subparagraph (C) of section  
 17          414(n)(3) is amended by inserting “137,” after  
 18          “132,”.

19          (ii) Paragraph (2) of section 414(t) is  
 20          amended by inserting “137,” after “132,”.

21          (iii) Paragraph (1) of section 6039D(d) is  
 22          amended by striking “or 129” and inserting  
 23          “129, or 137”.

24          (i) AMENDMENTS RELATED TO SUBTITLE I.—



1 (1) AMENDMENT RELATED TO SECTION 1901.—

2 Subsection (b) of section 6048 is amended in the  
3 heading by striking “GRANTOR” and inserting  
4 “OWNER”.

5 (2) AMENDMENTS RELATED TO SECTION  
6 1903.—

7 Clauses (ii) and (iii) of section  
8 679(a)(3)(C) are each amended by inserting “,  
9 owner,” after “grantor”.

10 (3) AMENDMENTS RELATED TO SECTION  
11 1907.—

12 (A) Clause (ii) of section 7701(a)(30)(E)  
13 is amended by striking “fiduciaries” and insert-  
14 ing “persons”.

15 (B) Subsection (b) of section 641 is  
16 amended by adding at the end the following  
17 new sentence: “For purposes of this subsection,  
18 a foreign trust or foreign estate shall be treated  
19 as a nonresident alien individual who is not  
20 present in the United States at any time.”

21 (4) EFFECTIVE DATE RELATED TO SUBTITLE  
22 I.—The Secretary of the Treasury may by regula-  
23 tions or other administrative guidance provide that  
24 the amendments made by section 1907(a) of the  
25 Small Business Job Protection Act of 1996 shall not

1       apply to a trust with respect to a reasonable period  
2       beginning on the date of the enactment of such Act,  
3       if—

4               (A) such trust is in existence on August  
5               20, 1996, and is a United States person for  
6               purposes of the Internal Revenue Code of 1986  
7               on such date (determined without regard to  
8               such amendments),

9               (B) no election is in effect under section  
10              1907(a)(3)(B) of such Act with respect to such  
11              trust,

12              (C) before the expiration of such reason-  
13              able period, such trust makes the modifications  
14              necessary to be treated as a United States per-  
15              son for purposes of such Code (determined with  
16              regard to such amendments), and

17              (D) such trust meets such other conditions  
18              as the Secretary may require.

19       (j) EFFECTIVE DATE.—

20              (1) IN GENERAL.—Except as provided in para-  
21              graph (2), the amendments made by this section  
22              shall take effect as if included in the provisions of  
23              the Small Business Job Protection Act of 1996 to  
24              which they relate.

1           (2) CERTAIN ADMINISTRATIVE REQUIREMENTS  
 2           WITH RESPECT TO CERTAIN PENSION PLANS.—The  
 3           amendment made by subsection (d)(2)(D) shall  
 4           apply to calendar years beginning after the date of  
 5           the enactment of this Act.

6 **SEC. 1402. AMENDMENTS RELATED TO HEALTH INSURANCE**  
 7                           **PORTABILITY AND ACCOUNTABILITY ACT OF**  
 8                           **1996.**

9           (a) AMENDMENTS RELATED TO SECTION 301.—

10           (1) Paragraph (2) of section 26(b) is amended  
 11           by striking “and” at the end of subparagraph (N),  
 12           by striking the period at the end of subparagraph  
 13           (O) and inserting “, and”, and by adding at the end  
 14           the following new subparagraph:

15                       “(P) section 220(f)(4) (relating to addi-  
 16                       tional tax on medical savings account distribu-  
 17                       tions not used for qualified medical expenses).”

18           (2) Paragraph (3) of section 220(c) is amended  
 19           by striking subparagraph (A) and redesignating sub-  
 20           paragraphs (B) through (D) as subparagraphs (A)  
 21           through (C), respectively.

22           (3) Subparagraph (C) of section 220(d)(2) is  
 23           amended by striking “an eligible individual” and in-  
 24           serting “described in clauses (i) and (ii) of sub-  
 25           section (c)(1)(A)”.

1           (4) Subsection (a) of section 6693 is amended  
2       by adding at the end the following new sentence:  
3       “This subsection shall not apply to any report which is  
4       an information return described in section  
5       6724(d)(1)(C)(i) or a payee statement described in section  
6       6724(d)(2)(X).”

7           (5) Paragraph (4) of section 4975(d) is amend-  
8       ed by striking “if, with respect to such transaction”  
9       and all that follows and inserting the following: “if  
10      section 220(e)(2) applies to such transaction.”

11       (b) AMENDMENT RELATED TO SECTION 321.—Sub-  
12      paragraph (B) of section 7702B(c)(2) is amended in the  
13      last sentence by inserting “described in subparagraph  
14      (A)(i)” after “chronically ill individual”.

15       (c) AMENDMENT RELATED TO SECTION 322.—Sub-  
16      paragraph (B) of section 162(l)(2) is amended by adding  
17      at the end the following new sentence: “The preceding sen-  
18      tence shall be applied separately with respect to—

19                   “(i) plans which include coverage for  
20                   qualified long-term care services (as de-  
21                   fined in section 7702B(c)) or are qualified  
22                   long-term care insurance contracts (as de-  
23                   fined in section 7702B(b)), and

24                   “(ii) plans which do not include such  
25                   coverage and are not such contracts.”

1 (d) AMENDMENTS RELATED TO SECTION 323.—

2 (1) Paragraph (1) of section 6050Q(b) is  
3 amended by inserting “, address, and phone number  
4 of the information contact” after “name”.

5 (2)(A) Paragraph (2) of section 6724(d) is  
6 amended by striking so much as follows subpara-  
7 graph (Q) and precedes the last sentence, and in-  
8 serting the following new subparagraphs:

9 “(R) section 6050R(c) (relating to returns  
10 relating to certain purchases of fish),

11 “(S) section 6051 (relating to receipts for  
12 employees),

13 “(T) section 6052(b) (relating to returns  
14 regarding payment of wages in the form of  
15 group-term life insurance),

16 “(U) section 6053(b) or (c) (relating to re-  
17 ports of tips),

18 “(V) section 6048(b)(1)(B) (relating to  
19 foreign trust reporting requirements),

20 “(W) section 4093(c)(4)(B) (relating to  
21 certain purchasers of diesel and aviation fuels),

22 “(X) section 408(i) (relating to reports  
23 with respect to individual retirement plans) to  
24 any person other than the Secretary with re-

1           spect to the amount of payments made to such  
2           person, or

3           “(Y) section 6047(d) (relating to reports  
4           by plan administrators) to any person other  
5           than the Secretary with respect to the amount  
6           of payments made to such person.”

7           (B) Subsection (e) of section 6652 is amended  
8           in the last sentence by striking “section  
9           6724(d)(2)(X)” and inserting “section  
10          6724(d)(2)(Y)”.

11          (e) AMENDMENT RELATED TO SECTION 325.—  
12       Clauses (ii) and (iii) of section 7702B(g)(4)(B) are each  
13       amended by striking “Secretary” and inserting “appro-  
14       priate State regulatory agency”.

15          (f) AMENDMENTS RELATED TO SECTION 501.—

16               (1) Paragraph (4) of section 264(a) is amended  
17       by striking subparagraph (A) and all that follows  
18       through “by the taxpayer.” and inserting the follow-  
19       ing:

20                       “(A) is or was an officer or employee, or

21                       “(B) is or was financially interested in,  
22       any trade or business carried on (currently or for-  
23       merly) by the taxpayer.”

24               (2) The last 2 sentences of section  
25       264(d)(2)(B)(ii) are amended to read as follows:

1           “For purposes of subclause (II), the term  
 2           ‘applicable period’ means the 12-month pe-  
 3           riod beginning on the date the policy is is-  
 4           sued (and each successive 12-month period  
 5           thereafter) unless the taxpayer elects a  
 6           number of months (not greater than 12)  
 7           other than such 12-month period to be its  
 8           applicable period. Such an election shall be  
 9           made not later than the 90th day after the  
 10          date of the enactment of this sentence and,  
 11          if made, shall apply to the taxpayer’s first  
 12          taxable year ending on or after October 13,  
 13          1995, and all subsequent taxable years un-  
 14          less revoked with the consent of the Sec-  
 15          retary.”

16           (3) Subparagraph (B) of section 264(d)(4) is  
 17          amended by striking “the employer” and inserting  
 18          “the taxpayer”.

19           (4) Subsection (c) of section 501 of the Health  
 20          Insurance Portability and Accountability Act of  
 21          1996 is amended by striking paragraph (3).

22           (5) Paragraph (2) of section 501(d) of such Act  
 23          is amended by striking “no additional premiums”  
 24          and all that follows and inserting the following: “a  
 25          lapse occurring by reason of no additional premiums

1       being received under the contract after October 13,  
2       1995.”

3       (g) AMENDMENTS RELATED TO SECTION 511.—

4           (1) Subparagraph (B) of section 877(d)(2) is  
5       amended by striking “the 10-year period described  
6       in subsection (a)” and inserting “the 10-year period  
7       beginning on the date the individual loses United  
8       States citizenship”.

9           (2) Subparagraph (D) of section 877(d)(2) is  
10      amended by adding at the end the following new  
11      sentence: “In the case of any exchange occurring  
12      during such 5 years, any gain recognized under this  
13      subparagraph shall be recognized immediately after  
14      such loss of citizenship.”

15          (3) Paragraph (3) of section 877(d) is amended  
16      by inserting “and the period applicable under para-  
17      graph (2)” after “subsection (a)”.

18          (4) Subparagraph (A) of section 877(d)(4) is  
19      amended—

20           (A) by inserting “during the 10-year pe-  
21           riod beginning on the date the individual loses  
22           United States citizenship” after “contributes  
23           property” in clause (i),

24           (B) by inserting “immediately before such  
25           contribution” after “from such property”, and



1 (C) by striking “during the 10-year period  
2 referred to in subsection (a),”.

3 (5) Subparagraph (C) of section 2501(a)(3) is  
4 amended by striking “decedent” and inserting  
5 “donor”.

6 (6)(A) Clause (i) of section 2107(c)(2)(A) is  
7 amended by striking “such foreign country in re-  
8 spect of property included in the gross estate” and  
9 inserting “such foreign country”.

10 (B) Subparagraph (C) of section 2107(c)(2) is  
11 amended to read as follows:

12 “(C) PROPORTIONATE SHARE.—In the  
13 case of property which is included in the gross  
14 estate solely by reason of subsection (b), such  
15 property’s proportionate share is the percentage  
16 which the value of such property bears to the  
17 total value of all property included in the gross  
18 estate solely by reason of subsection (b).”.

19 (h) AMENDMENTS RELATED TO SECTION 512.—

20 (1) Subpart A of part III of subchapter A of  
21 chapter 61 is amended by redesignating the section  
22 6039F added by section 512 of the Health Insur-  
23 ance Portability and Accountability Act of 1996 as  
24 section 6039G and by moving such section 6039G  
25 to immediately after the section 6039F added by

1 section 1905 of the Small Business Job Protection  
2 Act of 1996.

3 (2) The table of sections for subpart A of part  
4 III of subchapter A of chapter 61 is amended by  
5 striking the item relating to the section 6039F relat-  
6 ed to information on individuals losing United States  
7 citizenship and inserting after the item relating to  
8 the section 6039F related to notice of large gifts re-  
9 ceived from foreign persons the following new item:

“Sec. 6039G. Information on individuals losing United States citi-  
zenship.”

10 (3) Paragraph (1) of section 877(e) is amended  
11 by striking “6039F” and inserting “6039G”.

12 (i) EFFECTIVE DATE.—The amendments made by  
13 this section shall take effect as if included in the provisions  
14 of the Health Insurance Portability and Accountability  
15 Act of 1996 to which such amendments relate.

16 **SEC. 1403. AMENDMENTS RELATED TO TAXPAYER BILL OF**  
17 **RIGHTS 2.**

18 (a) AMENDMENT RELATED TO SECTION 1311.—Sub-  
19 section (b) of section 4962 is amended by striking “sub-  
20 chapter A or C” and inserting “subchapter A, C, or D”.

21 (b) AMENDMENTS RELATED TO SECTION 1312.—

22 (1)(A) Paragraph (10) of section 6033(b) is  
23 amended by striking all that precedes subparagraph  
24 (A) and inserting the following:

1           “(10) the respective amounts (if any) of the  
 2           taxes imposed on the organization, or any organiza-  
 3           tion manager of the organization, during the taxable  
 4           year under any of the following provisions (and the  
 5           respective amounts (if any) of reimbursements paid  
 6           by the organization during the taxable year with re-  
 7           spect to taxes imposed on any such organization  
 8           manager under any of such provisions):”.

9           (B) Subparagraph (C) of section 6033(b)(10) is  
 10          amended by adding at the end the following: “except  
 11          to the extent that, by reason of section 4962, the  
 12          taxes imposed under such section are not required to  
 13          be paid or are credited or refunded,”.

14          (2) Paragraph (11) of section 6033(b) is  
 15          amended to read as follows:

16               “(11) the respective amounts (if any) of—

17                       “(A) the taxes imposed with respect to the  
 18                       organization on any organization manager, or  
 19                       any disqualified person, during the taxable year  
 20                       under section 4958 (relating to taxes on private  
 21                       excess benefit from certain charitable organiza-  
 22                       tions), and

23                       “(B) reimbursements paid by the organiza-  
 24                       tion during the taxable year with respect to  
 25                       taxes imposed under such section,

1       except to the extent that, by reason of section 4962,  
2       the taxes imposed under such section are not re-  
3       quired to be paid or are credited or refunded,”.

4       (c) EFFECTIVE DATE.—The amendments made by  
5       this section shall take effect as if included in the provisions  
6       of the Taxpayer Bill of Rights 2 to which such amend-  
7       ments relate.

8       **SEC. 1404. MISCELLANEOUS PROVISIONS.**

9       (a) AMENDMENTS RELATED TO ENERGY POLICY  
10      ACT OF 1992.—

11           (1) Paragraph (1) of section 263(a) is amended  
12           by striking “or” at the end of subparagraph (F), by  
13           striking the period at the end of subparagraph (G)  
14           and inserting “; or”, and by adding at the end the  
15           following new subparagraph:

16                   “(H) expenditures for which a deduction is  
17                   allowed under section 179A.”

18           (2) Subparagraph (B) of section 312(k)(3) is  
19           amended—

20                   (A) by striking “179” in the heading and  
21                   the first place it appears in the text and insert-  
22                   ing “179 or 179A”, and

23                   (B) by striking “179” the last place it ap-  
24                   pears and inserting “179 or 179A, as the case  
25                   may be”.

1           (3) Paragraphs (2)(C) and (3)(C) of section  
2   1245(a) are each amended by inserting “179A,”  
3   after “179,”.

4           (4) The amendments made by this subsection  
5   shall take effect as if included in the amendments  
6   made by section 1913 of the Energy Policy Act of  
7   1992.

8           (b) AMENDMENTS RELATED TO URUGUAY ROUND  
9   AGREEMENTS ACT.—

10           (1) Paragraph (1) of section 6621(a) is amend-  
11   ed in the last sentence by striking “subsection  
12   (c)(3))” and inserting “subsection (c)(3), applied by  
13   substituting ‘overpayment’ for ‘underpayment’”.

14           (2) Subclause (II) of section 412(m)(5)(E)(ii) is  
15   amended by striking “clause (i)” and inserting “sub-  
16   clause (I)”.

17           (3) Subparagraph (A) of section 767(d)(3) of  
18   the Uruguay Round Agreements Act is amended in  
19   the last sentence by striking “(except that” and all  
20   that follows through “into account)”.

21           (4) The amendments made by this subsection  
22   shall take effect as if included in the sections of the  
23   Uruguay Round Agreements Act to which they re-  
24   late.

1       (c) AMENDMENT RELATED TO TAX REFORM ACT OF  
2 1986.—Paragraph (3) of section 1059(d) is amended by  
3 striking “subsection (a)(2)” and inserting “subsection  
4 (a)”.

5       (d) AMENDMENT RELATED TO TAX REFORM ACT OF  
6 1984.—

7           (1) Section 267(f) is amended by adding at the  
8 end the following new paragraph:

9           “(4) DETERMINATION OF RELATIONSHIP RE-  
10 SULTING IN DISALLOWANCE OF LOSS, FOR PUR-  
11 POSES OF OTHER PROVISIONS.—For purposes of any  
12 other section of this title which refers to a relation-  
13 ship which would result in a disallowance of losses  
14 under this section, deferral under paragraph (2)  
15 shall be treated as disallowance.”

16          (2) EFFECTIVE DATE.—The amendment made  
17 by paragraph (1) shall take effect as if included in  
18 section 174(b) of the Tax Reform Act of 1984.

19       (e) CLERICAL AMENDMENTS.—

20           (1) Clause (iii) of section 163(j)(2)(B) is  
21 amended by striking “clause (i)” and inserting  
22 “clause (ii)”.

23           (2) Paragraph (1) of section 665(d) is amended  
24 in the last sentence by striking “or 669(d) and (e)”.

1           (3) Subsection (g) of section 1441 (relating to  
2           cross reference) is amended by striking “one-half”  
3           and inserting “85 percent”.

4           (4) Paragraph (1) of section 2523(g) is amend-  
5           ed by striking “qualified remainder trust” and in-  
6           serting “qualified charitable remainder trust”.

7           (5) Subsection (d) of section 9502 is amended  
8           by redesignating the paragraph added by section  
9           806 of the Federal Aviation Reauthorization Act of  
10          1996 as paragraph (6).