

106TH CONGRESS
2D SESSION

H. R. 3874

To amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2000

Mr. RANGEL (for himself, Mr. GEPHARDT, Mr. BONIOR, Mr. MATSUI, Mr. COYNE, Mr. NEAL of Massachusetts, Mr. OBEY, Mr. LAFALCE, Mrs. MINK of Hawaii, Mr. SKELTON, Mr. STENHOLM, Mr. ACKERMAN, Mr. SPRATT, Mr. EVANS, Mr. WISE, Mr. SAWYER, Mr. SERRANO, Mr. ABERCROMBIE, Mr. ENGEL, Ms. DELAURO, Mr. NADLER, Mr. HINCHEY, Mr. BROWN of Ohio, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. STUPAK, Mr. WYNN, Mr. FORBES, Mr. KIND, Mr. STRICKLAND, Mr. MCGOVERN, Mr. TURNER, Mr. BOSWELL, Mr. HINOJOSA, Ms. SANCHEZ, Mr. SANDLIN, Mr. WU, Mr. HOLT, Mrs. CAPPS, Mr. MEEKS of New York, Mr. LARSON, Ms. BERKLEY, Mrs. NAPOLITANO, Mr. PHELPS, Mr. GONZALEZ, Mr. INSLEE, and Mr. UDALL of Colorado) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

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

1 **TITLE II—AMENDMENTS OF IN-**
 2 **TERNAL REVENUE CODE OF**
 3 **1986**

4 **SEC. 200. SHORT TITLE.**

5 (a) **SHORT TITLE.**—This title may be cited as the
 6 “Small Business Tax Relief Act of 2000”.

7 (b) **TABLE OF CONTENTS.**—

TITLE II—AMENDMENTS OF INTERNAL REVENUE CODE OF 1986

Sec. 200. Short title.

Subtitle A—Permanent Extension of Work Opportunity Credit and Welfare-
to-Work Credit

Sec. 201. Work opportunity credit and welfare-to-work credit; repeal of age limitation on eligibility of food stamp recipients.

Subtitle B—Deduction for 100 Percent of Health Insurance Costs of Self-
Employed Individuals

Sec. 211. Deduction for 100 percent of health insurance costs of self-employed individuals.

Subtitle C—Pension Provisions

Sec. 221. Treatment of multiemployer plans under section 415.

Sec. 222. Early retirement limits for certain plans.

Sec. 223. Certain post-secondary educational benefits provided by an employer to children of employees excludable from gross income as a scholarship.

Subtitle D—Business Tax Relief

Sec. 231. Increase in expense treatment for small businesses.

Sec. 232. Small businesses allowed increased deduction for meal and entertainment expenses.

Sec. 233. Restoration of deduction for travel expenses of spouse, etc. accompanying taxpayer on business travel.

Sec. 234. Increased credit and amortization deduction for reforestation expenditures.

Sec. 235. Repeal of modification of installment method.

Subtitle E—Expansion of Incentives for Public Schools

Sec. 241. Expansion of incentives for public schools.

Subtitle F—Increased Estate Tax Relief for Family-Owned Business Interests

Sec. 251. Increase in estate tax benefit for family-owned business interests.

Subtitle G—Revenue Offsets

PART I—REVISION OF TAX RULES ON EXPATRIATION

Sec. 261. Revision of tax rules on expatriation.

PART II—DISALLOWANCE OF NONECONOMIC TAX ATTRIBUTES

SUBPART A—DISALLOWANCE OF NONECONOMIC TAX ATTRIBUTES; INCREASE
IN PENALTY WITH RESPECT TO DISALLOWED NONECONOMIC TAX ATTRIBUTES

Sec. 266. Disallowance of noneconomic tax attributes.

Sec. 267. Increase in substantial underpayment penalty with respect to dis-
allowed noneconomic tax attributes.

Sec. 268. Penalty on marketed tax avoidance strategies which have no economic
substance, etc.

Sec. 269. Effective dates.

SUBPART B—LIMITATIONS ON IMPORTATION OR TRANSFER OF BUILT-IN
LOSSES

Sec. 271. Limitation on importation of built-in losses.

Sec. 272. Disallowance of partnership loss transfers.

PART III—ESTATE AND GIFT TAX OFFSETS

Sec. 276. Valuation rules for transfers involving nonbusiness assets.

Sec. 277. Correction of technical error affecting largest estates.

PART IV—OTHER OFFSETS

Sec. 281. Consistent amortization periods for intangibles.

Sec. 282. Modification of foreign tax credit carryover rules.

Sec. 283. Recognition of gain on transfers to swap funds.

1 **Subtitle A—Permanent Extension**
2 **of Work Opportunity Credit and**
3 **Welfare-to-Work Credit**

4 **SEC. 201. WORK OPPORTUNITY CREDIT AND WELFARE-TO-**
5 **WORK CREDIT; REPEAL OF AGE LIMITATION**
6 **ON ELIGIBILITY OF FOOD STAMP RECIPI-**
7 **ENTS.**

8 (a) PERMANENT EXTENSION.—

9 (1) IN GENERAL.—

1 (A) Section 51(c) of the Internal Revenue
2 Code of 1986 is amended by striking paragraph
3 (4).

4 (B) Section 51A of such Code is amended
5 by striking subsection (f).

6 (2) EFFECTIVE DATE.—The amendments made
7 by this subsection shall apply to individuals who
8 begin work for the employer after December 31,
9 2001.

10 (b) REPEAL OF AGE LIMITATION ON ELIGIBILITY OF
11 FOOD STAMP RECIPIENTS.—

12 (1) IN GENERAL.—Subparagraph (A) of section
13 51(d)(8) of such Code is amended to read as follows:

14 “(A) IN GENERAL.—The term ‘qualified
15 food stamp recipient’ means any individual who
16 is certified by the designated local agency as
17 being a member of a family—

18 “(i) receiving assistance under a food
19 stamp program under the Food Stamp Act
20 of 1977 for the 6-month period ending on
21 the hiring date, or

22 “(ii) receiving such assistance for at
23 least 3 months of the 5-month period end-
24 ing on the hiring date, in the case of a
25 member of a family who ceases to be eligi-

1 ble for such assistance under section 6(o)
2 of the Food Stamp Act of 1977.”

3 (2) EFFECTIVE DATE.—The amendment made
4 by this subsection shall apply to individuals who
5 begin work for the employer after the date of the en-
6 actment of this Act.

7 **Subtitle B—Deduction for 100 Per-**
8 **cent of Health Insurance Costs**
9 **of Self-Employed Individuals**

10 **SEC. 211. DEDUCTION FOR 100 PERCENT OF HEALTH IN-**
11 **SURANCE COSTS OF SELF-EMPLOYED INDI-**
12 **VIDUALS.**

13 (a) IN GENERAL.—Paragraph (1) of section 162(l)
14 of the Internal Revenue Code of 1986 is amended to read
15 as follows:

16 “(1) ALLOWANCE OF DEDUCTION.—In the case
17 of an individual who is an employee within the
18 meaning of section 401(c)(1), there shall be allowed
19 as a deduction under this section an amount equal
20 to 100 percent of the amount paid during the tax-
21 able year for insurance which constitutes medical
22 care for the taxpayer and the taxpayer’s spouse and
23 dependents.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 2000.

4 **Subtitle C—Pension Provisions**

5 **SEC. 221. TREATMENT OF MULTIEMPLOYER PLANS UNDER** 6 **SECTION 415.**

7 (a) COMPENSATION LIMIT.—Paragraph (11) of sec-
8 tion 415(b) of the Internal Revenue Code of 1986 (relat-
9 ing to limitation for defined benefit plans) is amended to
10 read as follows:

11 “(11) SPECIAL LIMITATION RULE FOR GOVERN-
12 MENTAL AND MULTIEMPLOYER PLANS.—In the case
13 of a governmental plan (as defined in section
14 414(d)) or a multiemployer plan (as defined in sec-
15 tion 414(f)), subparagraph (B) of paragraph (1)
16 shall not apply.”.

17 (b) COMBINING AND AGGREGATION OF PLANS.—

18 (1) COMBINING OF PLANS.—Subsection (f) of
19 section 415 of such Code (relating to combining of
20 plans) is amended by adding at the end the fol-
21 lowing:

22 “(3) EXCEPTION FOR MULTIEMPLOYER
23 PLANS.—Notwithstanding paragraph (1) and sub-
24 section (g), a multiemployer plan (as defined in sec-
25 tion 414(f)) shall not be combined or aggregated

1 with any other plan maintained by an employer for
 2 purposes of applying the limitations established in
 3 this section, except that such plan shall be combined
 4 or aggregated with another plan which is not such
 5 a multiemployer plan solely for purposes of deter-
 6 mining whether such other plan meets the require-
 7 ments of subsection (b)(1)(A).”.

8 (2) CONFORMING AMENDMENT FOR AGGREGA-
 9 TION OF PLANS.—Subsection (g) of section 415 of
 10 such Code (relating to aggregation of plans) is
 11 amended by striking “The Secretary” and inserting
 12 “Except as provided in subsection (f)(3), the Sec-
 13 retary”.

14 (c) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to years beginning after December
 16 31, 1999.

17 **SEC. 222. EARLY RETIREMENT LIMITS FOR CERTAIN**
 18 **PLANS.**

19 (a) IN GENERAL.—Subparagraph (F) of section
 20 415(b)(2) of the Internal Revenue Code of 1986 is amend-
 21 ed to read as follows:

22 “(F) MULTIEMPLOYER PLANS AND PLANS
 23 MAINTAINED BY GOVERNMENTS AND TAX EX-
 24 EMPT ORGANIZATIONS.—In the case of a gov-
 25 ernmental plan (within the meaning of section

1 414(d)), a plan maintained by an organization
2 (other than a governmental unit) exempt from
3 tax under this subtitle, a multiemployer plan
4 (as defined in section 414(f)), or a qualified
5 merchant marine plan—

6 “(i) subparagraph (C) shall be
7 applied—

8 “(I) by substituting ‘age 62’ for
9 ‘social security retirement age’ each
10 place it appears, and

11 “(II) as if the last sentence
12 thereof read as follows: ‘The reduction
13 under this subparagraph shall not re-
14 duce the limitation of paragraph
15 (1)(A) below (i) 80 percent of such
16 limitation as in effect for the year, or
17 (ii) if the benefit begins before age 55,
18 the equivalent of such 80 percent
19 amount for age 55.’, and

20 “(ii) subparagraph (D) shall be ap-
21 plied by substituting ‘age 65’ for ‘social se-
22 curity retirement age’ each place it ap-
23 pears.

24 For purposes of this subparagraph, the term
25 ‘qualified merchant marine plan’ means a plan

1 in existence on January 1, 1986, the partici-
2 pants in which are merchant marine officers
3 holding licenses issued by the Secretary of
4 Transportation under title 46, United States
5 Code.”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to years beginning after December
8 31, 1999.

9 **SEC. 223. CERTAIN POST-SECONDARY EDUCATIONAL BENE-**
10 **FITS PROVIDED BY AN EMPLOYER TO CHIL-**
11 **DREN OF EMPLOYEES EXCLUDABLE FROM**
12 **GROSS INCOME AS A SCHOLARSHIP.**

13 (a) IN GENERAL.—Section 117 of the Internal Rev-
14 enue Code of 1986 (relating to qualified scholarships) is
15 amended by adding at the end the following:

16 “(e) EMPLOYER-PROVIDED POST-SECONDARY EDU-
17 CATIONAL BENEFITS PROVIDED TO CHILDREN OF EM-
18 PLOYEES.—

19 “(1) IN GENERAL.—In determining whether
20 any amount is a qualified scholarship for purposes
21 of subsection (a), the fact that such amount is pro-
22 vided in connection with an employment relationship
23 shall be disregarded if—

24 “(A) such amount is provided by the em-
25 ployer to a child (as defined in section

1 151(c)(3)) of an employee or former employee
2 of such employer,

3 “(B) such amount is provided pursuant to
4 a plan which meets the nondiscrimination re-
5 quirements of subsection (d)(3), and

6 “(C) amounts provided under such plan
7 are in addition to any other compensation pay-
8 able to employees and such plan does not pro-
9 vide employees with a choice between such
10 amounts and any other benefit.

11 For purposes of subparagraph (C), the business
12 practices of the employer (as well as such plan) shall
13 be taken into account.

14 “(2) DOLLAR LIMITATIONS.—

15 “(A) PER CHILD.—The amount excluded
16 from the gross income of the employee by rea-
17 son of paragraph (1) for a taxable year with re-
18 spect to amounts provided to each child of such
19 employee shall not exceed \$2,000.

20 “(B) AGGREGATE LIMIT.—The amount ex-
21 cluded from the gross income of the employee
22 by reason of paragraph (1) for a taxable year
23 (after the application of subparagraph (A))
24 shall not exceed the excess of the dollar amount
25 contained in section 127(a)(2) over the amount

1 excluded from the employee's gross income
2 under section 127 for such year.

3 “(3) PRINCIPAL SHAREHOLDERS AND OWN-
4 ERS.—Paragraph (1) shall not apply to any amount
5 provided to any child of any individual if such indi-
6 vidual (or such individual's spouse) owns (on any
7 day of the year) more than 5 percent of the stock
8 or of the capital or profits interest in the employer.

9 “(4) SPECIAL RULES OF APPLICATION.—In the
10 case of an amount which is treated as a qualified
11 scholarship by reason of this subsection—

12 “(A) subsection (a) shall be applied with-
13 out regard to the requirement that the recipient
14 be a candidate for a degree, and

15 “(B) subsection (b)(2)(A) shall be applied
16 by substituting ‘section 529(e)(5)’ for ‘section
17 170(b)(1)(A)(ii)’.

18 “(5) CERTAIN OTHER RULES TO APPLY.—Rules
19 similar to the rules of paragraphs (4), (5), and (7)
20 of section 127(c) shall apply for purposes of this
21 subsection.”

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to taxable years beginning after
24 December 31, 2000.

1 **Subtitle D—Business Tax Relief**

2 **SEC. 231. INCREASE IN EXPENSE TREATMENT FOR SMALL**
3 **BUSINESSES.**

4 (a) IN GENERAL.—Paragraph (1) of section 179(b)
5 of the Internal Revenue Code of 1986 (relating to dollar
6 limitation) is amended to read as follows:

7 “(1) DOLLAR LIMITATION.—The aggregate cost
8 which may be taken into account under subsection
9 (a) for any taxable year shall not exceed \$30,000.”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to taxable years beginning after
12 December 31, 2000.

13 **SEC. 232. SMALL BUSINESSES ALLOWED INCREASED DE-**
14 **DUCTION FOR MEAL AND ENTERTAINMENT**
15 **EXPENSES.**

16 (a) IN GENERAL.—Subsection (n) of section 274 (re-
17 lating to only 50 percent of meal and entertainment ex-
18 penses allowed as deduction) is amended by adding at the
19 end the following new paragraph:

20 “(4) SPECIAL RULE FOR SMALL BUSINESSES.—

21 “(A) IN GENERAL.—In the case of any
22 taxpayer which is a small business, paragraph
23 (1) shall be applied by substituting for ‘50
24 percent’—

1 “(i) ‘55 percent’ in the case of taxable
2 years beginning in 2001 and 2002, and

3 “(ii) ‘60 percent’ in the case of tax-
4 able years beginning in 2003, 2004, 2005,
5 and 2006, and

6 “(iii) ‘65 percent’ in the case of tax-
7 able years beginning after 2006.

8 “(B) SMALL BUSINESS.—For purposes of
9 this paragraph, the term ‘small business’
10 means, with respect to expenses paid or in-
11 curred during any taxable year—

12 “(i) any C corporation which meets
13 the requirements of section 55(e)(1) for
14 such year, and

15 “(ii) any S corporation, partnership,
16 or sole proprietorship which would meet
17 such requirements if it were a C corpora-
18 tion.”

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall apply to taxable years beginning after
21 December 31, 2000.

1 **SEC. 233. RESTORATION OF DEDUCTION FOR TRAVEL EX-**
2 **PENSES OF SPOUSE, ETC. ACCOMPANYING**
3 **TAXPAYER ON BUSINESS TRAVEL.**

4 (a) **IN GENERAL.**—Subsection (m) of section 274 of
5 the Internal Revenue Code of 1986 (relating to additional
6 limitations on travel expenses) is amended by striking
7 paragraph (3).

8 (b) **EFFECTIVE DATE.**—The amendment made by
9 this section shall apply to taxable years beginning after
10 December 31, 2000.

11 **SEC. 234. INCREASED CREDIT AND AMORTIZATION DEDUC-**
12 **TION FOR REFORESTATION EXPENDITURES.**

13 (a) **INCREASE IN CREDIT.**—Paragraph (1) of section
14 48(b) of the Internal Revenue Code of 1986 (relating to
15 reforestation credit) is amended by striking “10 percent”
16 and inserting “20 percent”.

17 (b) **REDUCTION IN AMORTIZATION PERIOD.**—Sub-
18 section (a) of section 194 of such Code (relating to amorti-
19 zation of reforestation expenditures) is amended—

20 (1) by striking “84 months” and inserting “36
21 months”, and

22 (2) by striking “84-month period” and insert-
23 ing “36-month period”.

24 (c) **INCREASE IN MAXIMUM AMOUNT WHICH MAY BE**
25 **AMORTIZED.**—Paragraph (1) of section 194(b) of such

1 Code is amended by striking “\$10,000 (\$5,000” and in-
 2 serting “\$20,000 (\$10,000”.

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

6 **SEC. 235. REPEAL OF MODIFICATION OF INSTALLMENT**
 7 **METHOD.**

8 (a) **IN GENERAL.**—Subsection (a) of section 536 of
 9 the Ticket to Work and Work Incentives Improvement Act
 10 of 1999 (relating to modification of installment method
 11 and repeal of installment method for accrual method tax-
 12 payers) is repealed effective with respect to sales and other
 13 dispositions occurring on or after the date of the enact-
 14 ment of such Act.

15 (b) **APPLICABILITY.**—The Internal Revenue Code of
 16 1986 shall be applied and administered as if that sub-
 17 section (and the amendments made by that subsection)
 18 had not been enacted.

19 **Subtitle E—Expansion of**
 20 **Incentives for Public Schools**

21 **SEC. 241. EXPANSION OF INCENTIVES FOR PUBLIC**
 22 **SCHOOLS.**

23 (a) **IN GENERAL.**—Chapter 1 of the Internal Rev-
 24 enue Code of 1986 is amended by adding at the end the
 25 following new subchapter:

1 **“Subchapter X—Public School Modernization**
 2 **Provisions**

“Part I. Credit to holders of qualified public school modernization bonds.

“Part II. Qualified school construction bonds.

“Part III. Incentives for education zones.

3 **“PART I—CREDIT TO HOLDERS OF QUALIFIED**
 4 **PUBLIC SCHOOL MODERNIZATION BONDS**

“Sec. 1400F. Credit to holders of qualified public school modernization bonds.

5 **“SEC. 1400F. CREDIT TO HOLDERS OF QUALIFIED PUBLIC**
 6 **SCHOOL MODERNIZATION BONDS.**

7 “(a) ALLOWANCE OF CREDIT.—In the case of a tax-
 8 payer who holds a qualified public school modernization
 9 bond on a credit allowance date of such bond which occurs
 10 during the taxable year, there shall be allowed as a credit
 11 against the tax imposed by this chapter for such taxable
 12 year an amount equal to the sum of the credits determined
 13 under subsection (b) with respect to credit allowance dates
 14 during such year on which the taxpayer holds such bond.

15 “(b) AMOUNT OF CREDIT.—

16 “(1) IN GENERAL.—The amount of the credit
 17 determined under this subsection with respect to any
 18 credit allowance date for a qualified public school
 19 modernization bond is 25 percent of the annual
 20 credit determined with respect to such bond.

1 “(2) ANNUAL CREDIT.—The annual credit de-
2 termined with respect to any qualified public school
3 modernization bond is the product of—

4 “(A) the applicable credit rate, multiplied
5 by

6 “(B) the outstanding face amount of the
7 bond.

8 “(3) APPLICABLE CREDIT RATE.—For purposes
9 of paragraph (1), the applicable credit rate with re-
10 spect to an issue is the rate equal to an average
11 market yield (as of the day before the date of
12 issuance of the issue) on outstanding long-term cor-
13 porate debt obligations (determined under regula-
14 tions prescribed by the Secretary).

15 “(4) SPECIAL RULE FOR ISSUANCE AND RE-
16 DEMPTION.—In the case of a bond which is issued
17 during the 3-month period ending on a credit allow-
18 ance date, the amount of the credit determined
19 under this subsection with respect to such credit al-
20 lowance date shall be a ratable portion of the credit
21 otherwise determined based on the portion of the 3-
22 month period during which the bond is outstanding.
23 A similar rule shall apply when the bond is re-
24 deemed.

25 “(c) LIMITATION BASED ON AMOUNT OF TAX.—

1 “(1) IN GENERAL.—The credit allowed under
2 subsection (a) for any taxable year shall not exceed
3 the excess of—

4 “(A) the sum of the regular tax liability
5 (as defined in section 26(b)) plus the tax im-
6 posed by section 55, over

7 “(B) the sum of the credits allowable
8 under part IV of subchapter A (other than sub-
9 part C thereof, relating to refundable credits).

10 “(2) CARRYOVER OF UNUSED CREDIT.—If the
11 credit allowable under subsection (a) exceeds the
12 limitation imposed by paragraph (1) for such taxable
13 year, such excess shall be carried to the succeeding
14 taxable year and added to the credit allowable under
15 subsection (a) for such taxable year.

16 “(d) QUALIFIED PUBLIC SCHOOL MODERNIZATION
17 BOND; CREDIT ALLOWANCE DATE.—For purposes of this
18 section—

19 “(1) QUALIFIED PUBLIC SCHOOL MODERNIZA-
20 TION BOND.—The term ‘qualified public school mod-
21 ernization bond’ means—

22 “(A) a qualified zone academy bond, and

23 “(B) a qualified school construction bond.

24 “(2) CREDIT ALLOWANCE DATE.—The term
25 ‘credit allowance date’ means—

- 1 “(A) March 15,
2 “(B) June 15,
3 “(C) September 15, and
4 “(D) December 15.

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

7 “(e) OTHER DEFINITIONS.—For purposes of this
8 subchapter—

9 “(1) LOCAL EDUCATIONAL AGENCY.—The term
10 ‘local educational agency’ has the meaning given to
11 such term by section 14101 of the Elementary and
12 Secondary Education Act of 1965. Such term in-
13 cludes the local educational agency that serves the
14 District of Columbia but does not include any other
15 State agency.

16 “(2) BOND.—The term ‘bond’ includes any ob-
17 ligation.

18 “(3) STATE.—The term ‘State’ includes the
19 District of Columbia and any possession of the
20 United States.

21 “(4) PUBLIC SCHOOL FACILITY.—The term
22 ‘public school facility’ shall not include—

23 “(A) any stadium or other facility pri-
24 marily used for athletic contests or exhibitions

1 or other events for which admission is charged
2 to the general public, or

3 “(B) any facility which is not owned by a
4 State or local government or any agency or in-
5 strumentality of a State or local government.

6 “(f) CREDIT INCLUDED IN GROSS INCOME.—Gross
7 income includes the amount of the credit allowed to the
8 taxpayer under this section (determined without regard to
9 subsection (c)) and the amount so included shall be treat-
10 ed as interest income.

11 “(g) BONDS HELD BY REGULATED INVESTMENT
12 COMPANIES.—If any qualified public school modernization
13 bond is held by a regulated investment company, the credit
14 determined under subsection (a) shall be allowed to share-
15 holders of such company under procedures prescribed by
16 the Secretary.

17 “(h) CREDITS MAY BE STRIPPED.—Under regula-
18 tions prescribed by the Secretary—

19 “(1) IN GENERAL.—There may be a separation
20 (including at issuance) of the ownership of a quali-
21 fied public school modernization bond and the enti-
22 tlement to the credit under this section with respect
23 to such bond. In case of any such separation, the
24 credit under this section shall be allowed to the per-
25 son who on the credit allowance date holds the in-

1 strument evidencing the entitlement to the credit
2 and not to the holder of the bond.

3 “(2) CERTAIN RULES TO APPLY.—In the case
4 of a separation described in paragraph (1), the rules
5 of section 1286 shall apply to the qualified public
6 school modernization bond as if it were a stripped
7 bond and to the credit under this section as if it
8 were a stripped coupon.

9 “(i) TREATMENT FOR ESTIMATED TAX PURPOSES.—
10 Solely for purposes of sections 6654 and 6655, the credit
11 allowed by this section to a taxpayer by reason of holding
12 a qualified public school modernization bond on a credit
13 allowance date shall be treated as if it were a payment
14 of estimated tax made by the taxpayer on such date.

15 “(j) CREDIT MAY BE TRANSFERRED.—Nothing in
16 any law or rule of law shall be construed to limit the trans-
17 ferability of the credit allowed by this section through sale
18 and repurchase agreements.

19 “(k) REPORTING.—Issuers of qualified public school
20 modernization bonds shall submit reports similar to the
21 reports required under section 149(e).

22 “(l) PENALTY ON CONTRACTORS FAILING TO PAY
23 PREVAILING WAGE.—

24 “(1) IN GENERAL.—If any contractor on any
25 project funded by any qualified public school mod-

1 ernization bond has failed, during any portion of
2 such contractor's taxable year, to pay prevailing
3 wages that would be required under section 439 of
4 the General Education Provisions Act if such fund-
5 ing were an applicable program under such section,
6 the tax imposed by chapter 1 on such contractor for
7 such taxable year shall be increased by 200 percent
8 of the amount involved in such failure.

9 “(2) AMOUNT INVOLVED.—For purposes of
10 paragraph (1), the amount involved with respect to
11 any failure is the excess of the amount of wages
12 such contractor would be so required to pay under
13 such section over the amount of wages paid.

14 “(3) ABATEMENT OF TAX IF FAILURE COR-
15 RECTED.—If a failure to pay prevailing wages is cor-
16 rected within a reasonable period, then any tax im-
17 posed by paragraph (1) with respect to such failure
18 (including interest, additions to the tax, and addi-
19 tional amounts) shall not be assessed, and if as-
20 sessed the assessment shall be abated, and if col-
21 lected shall be credited or refunded as an overpay-
22 ment.

23 “(4) NO CREDITS AGAINST TAX.—The tax im-
24 posed by paragraph (1) shall not be treated as a tax

1 imposed by this chapter for purposes of
2 determining—

3 “(A) the amount of any credit allowable
4 under this chapter, or

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

7 “(m) TERMINATION.—This section shall not apply to
8 any bond issued after December 31, 2004.

9 **“PART II—QUALIFIED SCHOOL CONSTRUCTION**
10 **BONDS**

“Sec. 1400G. Qualified school construction bonds.

11 **“SEC. 1400G. QUALIFIED SCHOOL CONSTRUCTION BONDS.**

12 “(a) QUALIFIED SCHOOL CONSTRUCTION BOND.—
13 For purposes of this subchapter, the term ‘qualified school
14 construction bond’ means any bond issued as part of an
15 issue if—

16 “(1) 95 percent or more of the proceeds of such
17 issue are to be used for the construction, rehabilita-
18 tion, or repair of a public school facility or for the
19 acquisition of land on which such a facility is to be
20 constructed with part of the proceeds of such issue,

21 “(2) the bond is issued by a State or local gov-
22 ernment within the jurisdiction of which such school
23 is located,

1 “(3) the issuer designates such bond for pur-
2 poses of this section, and

3 “(4) the term of each bond which is part of
4 such issue does not exceed 15 years.

5 “(b) LIMITATION ON AMOUNT OF BONDS DES-
6 IGNATED.—The maximum aggregate face amount of
7 bonds issued during any calendar year which may be des-
8 ignated under subsection (a) by any issuer shall not exceed
9 the sum of—

10 “(1) the limitation amount allocated under sub-
11 section (d) for such calendar year to such issuer,
12 and

13 “(2) if such issuer is a large local educational
14 agency (as defined in subsection (e)(4)) or is issuing
15 on behalf of such an agency, the limitation amount
16 allocated under subsection (e) for such calendar year
17 to such agency.

18 “(c) NATIONAL LIMITATION ON AMOUNT OF BONDS
19 DESIGNATED.—There is a national qualified school con-
20 struction bond limitation for each calendar year. Such lim-
21 itation is—

22 “(1) \$11,000,000,000 for 2001,

23 “(2) except as provided in subsection (f), zero
24 after 2001.

1 “(d) HALF OF LIMITATION ALLOCATED AMONG
2 STATES.—

3 “(1) IN GENERAL.—One-half of the limitation
4 applicable under subsection (c) for any calendar year
5 shall be allocated among the States under paragraph
6 (2) by the Secretary. The limitation amount allo-
7 cated to a State under the preceding sentence shall
8 be allocated by the State to issuers within such
9 State and such allocations may be made only if there
10 is an approved State application.

11 “(2) ALLOCATION FORMULA.—The amount to
12 be allocated under paragraph (1) for any calendar
13 year shall be allocated among the States in propor-
14 tion to the respective amounts each such State re-
15 ceived for Basic Grants under subpart 2 of part A
16 of title I of the Elementary and Secondary Edu-
17 cation Act of 1965 (20 U.S.C. 6331 et seq.) for the
18 most recent fiscal year ending before such calendar
19 year. For purposes of the preceding sentence, Basic
20 Grants attributable to large local educational agen-
21 cies (as defined in subsection (e)) shall be dis-
22 regarded.

23 “(3) MINIMUM ALLOCATIONS TO STATES.—

24 “(A) IN GENERAL.—The Secretary shall
25 adjust the allocations under this subsection for

1 any calendar year for each State to the extent
2 necessary to ensure that the sum of—

3 “(i) the amount allocated to such
4 State under this subsection for such year,
5 and

6 “(ii) the aggregate amounts allocated
7 under subsection (e) to large local edu-
8 cational agencies in such State for such
9 year,

10 is not less than an amount equal to such
11 State’s minimum percentage of the amount to
12 be allocated under paragraph (1) for the cal-
13 endar year.

14 “(B) MINIMUM PERCENTAGE.—A State’s
15 minimum percentage for any calendar year is
16 the minimum percentage described in section
17 1124(d) of the Elementary and Secondary Edu-
18 cation Act of 1965 (20 U.S.C. 6334(d)) for
19 such State for the most recent fiscal year end-
20 ing before such calendar year.

21 “(4) ALLOCATIONS TO CERTAIN POSSES-
22 SIONS.—The amount to be allocated under para-
23 graph (1) to any possession of the United States
24 other than Puerto Rico shall be the amount which
25 would have been allocated if all allocations under

1 paragraph (1) were made on the basis of respective
2 populations of individuals below the poverty line (as
3 defined by the Office of Management and Budget).
4 In making other allocations, the amount to be allo-
5 cated under paragraph (1) shall be reduced by the
6 aggregate amount allocated under this paragraph to
7 possessions of the United States.

8 “(5) ALLOCATIONS FOR INDIAN SCHOOLS.—In
9 addition to the amounts otherwise allocated under
10 this subsection, \$200,000,000 for calendar year
11 2001 shall be allocated by the Secretary of the Inte-
12 rior for purposes of the construction, rehabilitation,
13 and repair of schools funded by the Bureau of In-
14 dian Affairs. In the case of amounts allocated under
15 the preceding sentence, Indian tribal governments
16 (as defined in section 7871) shall be treated as
17 qualified issuers for purposes of this subchapter.

18 “(6) APPROVED STATE APPLICATION.—For
19 purposes of paragraph (1), the term ‘approved State
20 application’ means an application which is approved
21 by the Secretary of Education and which includes—

22 “(A) the results of a recent publicly-avail-
23 able survey (undertaken by the State with the
24 involvement of local education officials, mem-
25 bers of the public, and experts in school con-

1 construction and management) of such State’s
2 needs for public school facilities, including de-
3 scriptions of—

4 “(i) health and safety problems at
5 such facilities,

6 “(ii) the capacity of public schools in
7 the State to house projected enrollments,
8 and

9 “(iii) the extent to which the public
10 schools in the State offer the physical in-
11 frastructure needed to provide a high-qual-
12 ity education to all students, and

13 “(B) a description of how the State will al-
14 locate to local educational agencies, or other-
15 wise use, its allocation under this subsection to
16 address the needs identified under subpara-
17 graph (A), including a description of how it
18 will—

19 “(i) give highest priority to localities
20 with the greatest needs, as demonstrated
21 by inadequate school facilities coupled with
22 a low level of resources to meet those
23 needs,

24 “(ii) use its allocation under this sub-
25 section to assist localities that lack the fis-

1 cal capacity to issue bonds on their own,
2 and

3 “(iii) ensure that its allocation under
4 this subsection is used only to supplement,
5 and not supplant, the amount of school
6 construction, rehabilitation, and repair in
7 the State that would have occurred in the
8 absence of such allocation.

9 Any allocation under paragraph (1) by a State shall
10 be binding if such State reasonably determined that
11 the allocation was in accordance with the plan ap-
12 proved under this paragraph.

13 “(e) HALF OF LIMITATION ALLOCATED AMONG
14 LARGEST SCHOOL DISTRICTS.—

15 “(1) IN GENERAL.—One-half of the limitation
16 applicable under subsection (c) for any calendar year
17 shall be allocated under paragraph (2) by the Sec-
18 retary among local educational agencies which are
19 large local educational agencies for such year. No
20 qualified school construction bond may be issued by
21 reason of an allocation to a large local educational
22 agency under the preceding sentence unless such
23 agency has an approved local application.

24 “(2) ALLOCATION FORMULA.—The amount to
25 be allocated under paragraph (1) for any calendar

1 year shall be allocated among large local educational
2 agencies in proportion to the respective amounts
3 each such agency received for Basic Grants under
4 subpart 2 of part A of title I of the Elementary and
5 Secondary Education Act of 1965 (20 U.S.C. 6331
6 et seq.) for the most recent fiscal year ending before
7 such calendar year.

8 “(3) ALLOCATION OF UNUSED LIMITATION TO
9 STATE.—The amount allocated under this subsection
10 to a large local educational agency for any calendar
11 year may be reallocated by such agency to the State
12 in which such agency is located for such calendar
13 year. Any amount reallocated to a State under the
14 preceding sentence may be allocated as provided in
15 subsection (d)(1).

16 “(4) LARGE LOCAL EDUCATIONAL AGENCY.—
17 For purposes of this section, the term ‘large local
18 educational agency’ means, with respect to a cal-
19 endar year, any local educational agency if such
20 agency is—

21 “(A) among the 100 local educational
22 agencies with the largest numbers of children
23 aged 5 through 17 from families living below
24 the poverty level, as determined by the Sec-
25 retary using the most recent data available

1 from the Department of Commerce that are
2 satisfactory to the Secretary, or

3 “(B) 1 of not more than 25 local edu-
4 cational agencies (other than those described in
5 subparagraph (A)) that the Secretary of Edu-
6 cation determines (based on the most recent
7 data available satisfactory to the Secretary) are
8 in particular need of assistance, based on a low
9 level of resources for school construction, a high
10 level of enrollment growth, or such other factors
11 as the Secretary deems appropriate.

12 “(5) APPROVED LOCAL APPLICATION.—For
13 purposes of paragraph (1), the term ‘approved local
14 application’ means an application which is approved
15 by the Secretary of Education and which includes—

16 “(A) the results of a recent publicly-avail-
17 able survey (undertaken by the local educational
18 agency or the State with the involvement of
19 school officials, members of the public, and ex-
20 perts in school construction and management)
21 of such agency’s needs for public school facili-
22 ties, including descriptions of—

23 “(i) the overall condition of the local
24 educational agency’s school facilities, in-
25 cluding health and safety problems,

1 “(ii) the capacity of the agency’s
2 schools to house projected enrollments, and

3 “(iii) the extent to which the agency’s
4 schools offer the physical infrastructure
5 needed to provide a high-quality education
6 to all students,

7 “(B) a description of how the local edu-
8 cational agency will use its allocation under this
9 subsection to address the needs identified under
10 subparagraph (A), and

11 “(C) a description of how the local edu-
12 cational agency will ensure that its allocation
13 under this subsection is used only to supple-
14 ment, and not supplant, the amount of school
15 construction, rehabilitation, or repair in the lo-
16 cality that would have occurred in the absence
17 of such allocation.

18 A rule similar to the rule of the last sentence of sub-
19 section (d)(6) shall apply for purposes of this para-
20 graph.

21 “(f) CARRYOVER OF UNUSED LIMITATION.—If for
22 any calendar year—

23 “(1) the amount allocated under subsection (d)
24 to any State, exceeds

1 “(2) the amount of bonds issued during such
2 year which are designated under subsection (a) pur-
3 suant to such allocation,
4 the limitation amount under such subsection for such
5 State for the following calendar year shall be increased
6 by the amount of such excess. A similar rule shall apply
7 to the amounts allocated under subsection (d)(5) or (e).

8 “(g) SPECIAL RULES RELATING TO ARBITRAGE.—

9 “(1) IN GENERAL.—A bond shall not be treated
10 as failing to meet the requirement of subsection
11 (a)(1) solely by reason of the fact that the proceeds
12 of the issue of which such bond is a part are in-
13 vested for a temporary period (but not more than 36
14 months) until such proceeds are needed for the pur-
15 pose for which such issue was issued.

16 “(2) BINDING COMMITMENT REQUIREMENT.—

17 Paragraph (1) shall apply to an issue only if, as of
18 the date of issuance, there is a reasonable expecta-
19 tion that—

20 “(A) at least 10 percent of the proceeds of
21 the issue will be spent within the 6-month pe-
22 riod beginning on such date for the purpose for
23 which such issue was issued, and

1 “(B) the remaining proceeds of the issue
2 will be spent with due diligence for such pur-
3 pose.

4 “(3) EARNINGS ON PROCEEDS.—Any earnings
5 on proceeds during the temporary period shall be
6 treated as proceeds of the issue for purposes of ap-
7 plying subsection (a)(1) and paragraph (1) of this
8 subsection.

9 **“PART III—INCENTIVES FOR EDUCATION ZONES**

 “Sec. 1400H. Qualified zone academy bonds.

10 **“SEC. 1400H. QUALIFIED ZONE ACADEMY BONDS.**

11 “(a) QUALIFIED ZONE ACADEMY BOND.—For pur-
12 poses of this subchapter—

13 “(1) IN GENERAL.—The term ‘qualified zone
14 academy bond’ means any bond issued as part of an
15 issue if—

16 “(A) 95 percent or more of the proceeds of
17 such issue are to be used for a qualified pur-
18 pose with respect to a qualified zone academy
19 established by a local educational agency,

20 “(B) the bond is issued by a State or local
21 government within the jurisdiction of which
22 such academy is located,

23 “(C) the issuer—

1 “(i) designates such bond for purposes
2 of this section,

3 “(ii) certifies that it has written as-
4 surances that the private business con-
5 tribution requirement of paragraph (2) will
6 be met with respect to such academy, and

7 “(iii) certifies that it has the written
8 approval of the local educational agency
9 for such bond issuance, and

10 “(D) the term of each bond which is part
11 of such issue does not exceed 15 years.

12 Rules similar to the rules of section 1400G(g) shall
13 apply for purposes of paragraph (1).

14 “(2) PRIVATE BUSINESS CONTRIBUTION RE-
15 QUIREMENT.—

16 “(A) IN GENERAL.—For purposes of para-
17 graph (1), the private business contribution re-
18 quirement of this paragraph is met with respect
19 to any issue if the local educational agency that
20 established the qualified zone academy has writ-
21 ten commitments from private entities to make
22 qualified contributions having a present value
23 (as of the date of issuance of the issue) of not
24 less than 10 percent of the proceeds of the
25 issue.

1 “(B) QUALIFIED CONTRIBUTIONS.—For
2 purposes of subparagraph (A), the term ‘quali-
3 fied contribution’ means any contribution (of a
4 type and quality acceptable to the local edu-
5 cational agency) of—

6 “(i) equipment for use in the qualified
7 zone academy (including state-of-the-art
8 technology and vocational equipment),

9 “(ii) technical assistance in developing
10 curriculum or in training teachers in order
11 to promote appropriate market driven tech-
12 nology in the classroom,

13 “(iii) services of employees as volun-
14 teer mentors,

15 “(iv) internships, field trips, or other
16 educational opportunities outside the acad-
17 emy for students, or

18 “(v) any other property or service
19 specified by the local educational agency.

20 “(3) QUALIFIED ZONE ACADEMY.—The term
21 ‘qualified zone academy’ means any public school (or
22 academic program within a public school) which is
23 established by and operated under the supervision of
24 a local educational agency to provide education or
25 training below the postsecondary level if—

1 “(A) such public school or program (as the
2 case may be) is designed in cooperation with
3 business to enhance the academic curriculum,
4 increase graduation and employment rates, and
5 better prepare students for the rigors of college
6 and the increasingly complex workforce,

7 “(B) students in such public school or pro-
8 gram (as the case may be) will be subject to the
9 same academic standards and assessments as
10 other students educated by the local educational
11 agency,

12 “(C) the comprehensive education plan of
13 such public school or program is approved by
14 the local educational agency, and

15 “(D)(i) such public school is located in an
16 empowerment zone or enterprise community
17 (including any such zone or community des-
18 ignated after the date of the enactment of this
19 section), or

20 “(ii) there is a reasonable expectation (as
21 of the date of issuance of the bonds) that at
22 least 35 percent of the students attending such
23 school or participating in such program (as the
24 case may be) will be eligible for free or reduced-

1 cost lunches under the school lunch program es-
2 tablished under the National School Lunch Act.

3 “(4) QUALIFIED PURPOSE.—The term ‘quali-
4 fied purpose’ means, with respect to any qualified
5 zone academy—

6 “(A) constructing, rehabilitating, or repair-
7 ing the public school facility in which the acad-
8 emy is established,

9 “(B) acquiring the land on which such fa-
10 cility is to be constructed with part of the pro-
11 ceeds of such issue,

12 “(C) providing equipment for use at such
13 academy,

14 “(D) developing course materials for edu-
15 cation to be provided at such academy, and

16 “(E) training teachers and other school
17 personnel in such academy.

18 “(b) LIMITATIONS ON AMOUNT OF BONDS DES-
19 IGNATED.—

20 “(1) IN GENERAL.—There is a national zone
21 academy bond limitation for each calendar year.

22 Such limitation is—

23 “(A) \$400,000,000 for 1998,

24 “(B) \$400,000,000 for 1999,

25 “(C) \$400,000,000 for 2000,

1 “(D) \$1,400,000,000 for 2001,

2 “(E) except as provided in paragraph (3),
3 zero after 2001.

4 “(2) ALLOCATION OF LIMITATION.—

5 “(A) ALLOCATION AMONG STATES.—

6 “(i) 1998, 1999, and 2000 LIMITA-
7 TIONS.—The national zone academy bond
8 limitations for calendar years 1998, 1999,
9 and 2000 shall be allocated by the Sec-
10 retary among the States on the basis of
11 their respective populations of individuals
12 below the poverty line (as defined by the
13 Office of Management and Budget).

14 “(ii) LIMITATION AFTER 2000.—The
15 national zone academy bond limitation for
16 any calendar year after 2000 shall be allo-
17 cated by the Secretary among the States in
18 the manner prescribed by section
19 1400G(d); except that in making the allo-
20 cation under this clause, the Secretary
21 shall take into account—

22 “(I) Basic Grants attributable to
23 large local educational agencies (as
24 defined in section 1400G(e)).

1 “(II) the national zone academy
2 bond limitation.

3 “(B) ALLOCATION TO LOCAL EDU-
4 CATIONAL AGENCIES.—The limitation amount
5 allocated to a State under subparagraph (A)
6 shall be allocated by the State education agency
7 to qualified zone academies within such State.

8 “(C) DESIGNATION SUBJECT TO LIMITA-
9 TION AMOUNT.—The maximum aggregate face
10 amount of bonds issued during any calendar
11 year which may be designated under subsection
12 (a) with respect to any qualified zone academy
13 shall not exceed the limitation amount allocated
14 to such academy under subparagraph (B) for
15 such calendar year.

16 “(3) CARRYOVER OF UNUSED LIMITATION.—If
17 for any calendar year—

18 “(A) the limitation amount under this sub-
19 section for any State, exceeds

20 “(B) the amount of bonds issued during
21 such year which are designated under sub-
22 section (a) (or the corresponding provisions of
23 prior law) with respect to qualified zone acad-
24 emies within such State,

1 the limitation amount under this subsection for such
2 State for the following calendar year shall be in-
3 creased by the amount of such excess.”.

4 (b) REPORTING.—Subsection (d) of section 6049 of
5 such Code (relating to returns regarding payments of in-
6 terest) is amended by adding at the end the following new
7 paragraph:

8 “(8) REPORTING OF CREDIT ON QUALIFIED
9 PUBLIC SCHOOL MODERNIZATION BONDS.—

10 “(A) IN GENERAL.—For purposes of sub-
11 section (a), the term ‘interest’ includes amounts
12 includible in gross income under section
13 1400F(f) and such amounts shall be treated as
14 paid on the credit allowance date (as defined in
15 section 1400F(d)(2)).

16 “(B) REPORTING TO CORPORATIONS,
17 ETC.—Except as otherwise provided in regula-
18 tions, in the case of any interest described in
19 subparagraph (A) of this paragraph, subsection
20 (b)(4) of this section shall be applied without
21 regard to subparagraphs (A), (H), (I), (J), (K),
22 and (L)(i).

23 “(C) REGULATORY AUTHORITY.—The Sec-
24 retary may prescribe such regulations as are
25 necessary or appropriate to carry out the pur-

1 poses of this paragraph, including regulations
2 which require more frequent or more detailed
3 reporting.”

4 (c) OTHER CONFORMING AMENDMENTS.—

5 (1) Subchapter U of chapter 1 of such Code is
6 amended by striking part IV, by redesignating part
7 V as part IV, and by redesignating section 1397F
8 as section 1397E.

9 (2) The table of subchapters for chapter 1 of
10 such Code is amended by adding at the end the fol-
11 lowing new item:

 “Subchapter X. Public school modernization provisions.”

12 (3) The table of parts of subchapter U of chap-
13 ter 1 of such Code is amended by striking the last
14 2 items and inserting the following item:

 “Part IV. Regulations.”

15 (d) EFFECTIVE DATES.—

16 (1) IN GENERAL.—Except as otherwise pro-
17 vided in this subsection, the amendments made by
18 this section shall apply to obligations issued after
19 December 31, 2000.

20 (2) REPEAL OF RESTRICTION ON ZONE ACAD-
21 EMY BOND HOLDERS.—In the case of bonds to
22 which section 1397E of the Internal Revenue Code
23 of 1986 (as in effect before the date of the enact-
24 ment of this Act) applies, the limitation of such sec-

1 tion to eligible taxpayers (as defined in subsection
2 (d)(6) of such section) shall not apply after the date
3 of the enactment of this Act.

4 **Subtitle F—Increased Estate Tax**
5 **Relief for Family-Owned Busi-**
6 **ness Interests**

7 **SEC. 251. INCREASE IN ESTATE TAX BENEFIT FOR FAMILY-**
8 **OWNED BUSINESS INTERESTS.**

9 (a) **TRANSFER TO CREDIT PROVISIONS.**—Section
10 2057 of the Internal Revenue Code of 1986 (relating to
11 family-owned business interests) is hereby moved to part
12 II of subchapter A of chapter 11 of such Code, inserted
13 after section 2010, and redesignated as section 2010A.

14 (b) **INCREASE IN CREDIT; SURVIVING SPOUSE AL-**
15 **LOWED UNUSED CREDIT OF DECEDENT.**—Subsection (a)
16 of section 2010A of such Code, as redesignated by sub-
17 section (a) of this section, is amended to read as follows:

18 “(a) **INCREASE IN UNITED CREDIT.**—For purposes
19 of determining the unified credit under section 2010 in
20 the case of an estate of a decedent to which this section
21 applies—

22 “(1) **IN GENERAL.**—The applicable exclusion
23 amount under section 2010(c) shall be increased
24 (but not in excess of \$2,000,000) by the adjusted
25 value of the qualified family-owned business interests

1 of the decedent which are described in subsection
2 (b)(2) and for which no deduction is allowed under
3 section 2056.

4 “(2) TREATMENT OF UNUSED LIMITATION OF
5 PREDECEASED SPOUSE.—In the case of a
6 decedent—

7 “(A) having no surviving spouse, but

8 “(B) who was the surviving spouse of a
9 decedent—

10 “(i) who died after December 31,
11 2000, and

12 “(ii) whose estate met the require-
13 ments of subsection (b)(1) other than sub-
14 paragraph (B) thereof,

15 there shall be substituted for ‘\$2,000,000’ in para-
16 graph (1) an amount equal to the excess of
17 \$4,000,000 over the exclusion equivalent of the cred-
18 it allowed under section 2010 (as increased by this
19 section) to the estate of the decedent referred to in
20 subparagraph (B). For purposes of the preceding
21 sentence, the exclusion equivalent of the credit is the
22 amount on which a tentative tax under section
23 2001(e) equal to such credit would be imposed.”

24 (c) CONFORMING AMENDMENTS.—

1 (1) The table of sections for part IV of sub-
2 chapter A of chapter 11 of such Code is amended by
3 striking the item relating to section 2057.

4 (2) Paragraph (10) of section 2031(c) of such
5 Code is amended by striking “section 2057(e)(3)”
6 and inserting “section 2010A(e)(3)”.

7 (3) The table of sections for part II of sub-
8 chapter A of chapter 11 of such Code is amended by
9 inserting after the item relating to section 2010 the
10 following new item:

“Sec. 2010A. Family-owned business interests.”

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to estates of decedents dying after
13 December 31, 2000.

14 **Subtitle G—Revenue Offsets**

15 **PART I—REVISION OF TAX RULES ON**

16 **EXPATRIATION**

17 **SEC. 261. REVISION OF TAX RULES ON EXPATRIATION.**

18 (a) IN GENERAL.—Subpart A of part II of sub-
19 chapter N of chapter 1 of the Internal Revenue Code of
20 1986 is amended by inserting after section 877 the fol-
21 lowing new section:

22 **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

23 “(a) GENERAL RULES.—For purposes of this
24 subtitle—

1 “(1) MARK TO MARKET.—Except as provided in
2 subsection (f), all property of a covered expatriate to
3 whom this section applies shall be treated as sold on
4 the day before the expatriation date for its fair mar-
5 ket value.

6 “(2) RECOGNITION OF GAIN OR LOSS.—In the
7 case of any sale under paragraph (1)—

8 “(A) notwithstanding any other provision
9 of this title, any gain arising from such sale
10 shall be taken into account for the taxable year
11 of the sale, and

12 “(B) any loss arising from such sale shall
13 be taken into account for the taxable year of
14 the sale to the extent otherwise provided by this
15 title, except that section 1091 shall not apply to
16 any such loss.

17 Proper adjustment shall be made in the amount of
18 any gain or loss subsequently realized for gain or
19 loss taken into account under the preceding sen-
20 tence.

21 “(3) EXCLUSION FOR CERTAIN GAIN.—The
22 amount which would (but for this paragraph) be in-
23 cludible in the gross income of any individual by rea-
24 son of this section shall be reduced (but not below
25 zero) by \$600,000. For purposes of this paragraph,

1 allocable expatriation gain taken into account under
2 subsection (f)(2) shall be treated in the same man-
3 ner as an amount required to be includible in gross
4 income.

5 “(b) ELECTION TO DEFER TAX.—

6 “(1) IN GENERAL.—If the taxpayer elects the
7 application of this subsection with respect to any
8 property treated as sold by reason of subsection (a),
9 the payment of the additional tax attributable to
10 such property shall be postponed until the due date
11 of the return for the taxable year in which such
12 property is disposed of (or, in the case of property
13 disposed of in a transaction in which gain is not rec-
14 ognized in whole or in part, until such other date as
15 the Secretary may prescribe).

16 “(2) DETERMINATION OF TAX WITH RESPECT
17 TO PROPERTY.—For purposes of paragraph (1), the
18 additional tax attributable to any property is an
19 amount which bears the same ratio to the additional
20 tax imposed by this chapter for the taxable year
21 solely by reason of subsection (a) as the gain taken
22 into account under subsection (a) with respect to
23 such property bears to the total gain taken into ac-
24 count under subsection (a) with respect to all prop-
25 erty to which subsection (a) applies.

1 “(3) TERMINATION OF POSTPONEMENT.—No
2 tax may be postponed under this subsection later
3 than the due date for the return of tax imposed by
4 this chapter for the taxable year which includes the
5 date of death of the expatriate (or, if earlier, the
6 time that the security provided with respect to the
7 property fails to meet the requirements of paragraph
8 (4), unless the taxpayer corrects such failure within
9 the time specified by the Secretary).

10 “(4) SECURITY.—

11 “(A) IN GENERAL.—No election may be
12 made under paragraph (1) with respect to any
13 property unless adequate security is provided
14 with respect to such property.

15 “(B) ADEQUATE SECURITY.—For purposes
16 of subparagraph (A), security with respect to
17 any property shall be treated as adequate secu-
18 rity if—

19 “(i) it is a bond in an amount equal
20 to the deferred tax amount under para-
21 graph (2)(A) for the property, or

22 “(ii) the taxpayer otherwise estab-
23 lishes to the satisfaction of the Secretary
24 that the security is adequate.

1 “(5) WAIVER OF CERTAIN RIGHTS.—No elec-
2 tion may be made under paragraph (1) unless the
3 taxpayer consents to the waiver of any right under
4 any treaty of the United States which would pre-
5 clude assessment or collection of any tax imposed by
6 reason of this section.

7 “(6) ELECTIONS.—An election under paragraph
8 (1) shall only apply to property described in the elec-
9 tion and, once made, is irrevocable. An election may
10 be under paragraph (1) with respect to an interest
11 in a trust with respect to which gain is required to
12 be recognized under subsection (f)(1).

13 “(7) INTEREST.—For purposes of section 6601,
14 the last date for the payment of tax shall be deter-
15 mined without regard to the election under this sub-
16 section.

17 “(c) COVERED EXPATRIATE.—For purposes of this
18 section—

19 “(1) IN GENERAL.—The term ‘covered expa-
20 triate’ means an expatriate who meets the require-
21 ments of subparagraph (A) or (B) of section
22 877(a)(2).

23 “(2) EXCEPTIONS.—An individual shall not be
24 treated as a covered expatriate if—

25 “(A) the individual—

1 “(i) became at birth a citizen of the
2 United States and a citizen of another
3 country and, as of the expatriation date,
4 continues to be a citizen of, and is taxed
5 as a resident of, such other country, and

6 “(ii) has been a resident of the United
7 States (as defined in section
8 7701(b)(1)(A)(ii)) for not more than 8 tax-
9 able years during the 15-taxable year pe-
10 riod ending with the taxable year during
11 which the expatriation date occurs, or

12 “(B)(i) the individual’s relinquishment of
13 United States citizenship occurs before such in-
14 dividual attains age 18½, and

15 “(ii) the individual has been a resident of
16 the United States (as so defined) for not more
17 than 5 taxable years before the date of relin-
18 quishment.

19 “(d) SECTION NOT TO APPLY TO CERTAIN PROP-
20 ERTY.—This section shall not apply to the following prop-
21 erty:

22 “(1) UNITED STATES REAL PROPERTY INTER-
23 ESTS.—Any United States real property interest (as
24 defined in section 897(c)(1)), other than stock of a
25 United States real property holding corporation

1 which does not, on the day before the expatriation
2 date, meet the requirements of section 897(c)(2).

3 “(2) INTEREST IN CERTAIN RETIREMENT
4 PLANS.—

5 “(A) IN GENERAL.—Any interest in a
6 qualified retirement plan (as defined in section
7 4974(c)), other than any interest attributable to
8 contributions which are in excess of any limita-
9 tion or which violate any condition for tax-fa-
10 vored treatment.

11 “(B) FOREIGN PENSION PLANS.—

12 “(i) IN GENERAL.—Under regulations
13 prescribed by the Secretary, interests in
14 foreign pension plans or similar retirement
15 arrangements or programs.

16 “(ii) LIMITATION.—The value of prop-
17 erty which is treated as not sold by reason
18 of this subparagraph shall not exceed
19 \$500,000.

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

21 “(1) EXPATRIATE.—The term ‘expatriate’
22 means—

23 “(A) any United States citizen who relin-
24 quishes his citizenship, and

1 “(B) any long-term resident of the United
2 States who—

3 “(i) ceases to be a lawful permanent
4 resident of the United States (within the
5 meaning of section 7701(b)(6)), or

6 “(ii) commences to be treated as a
7 resident of a foreign country under the
8 provisions of a tax treaty between the
9 United States and the foreign country and
10 who does not waive the benefits of such
11 treaty applicable to residents of the foreign
12 country.

13 “(2) EXPATRIATION DATE.—The term ‘expa-
14 triation date’ means—

15 “(A) the date an individual relinquishes
16 United States citizenship, or

17 “(B) in the case of a long-term resident of
18 the United States, the date of the event de-
19 scribed in clause (i) or (ii) of paragraph (1)(B).

20 “(3) RELINQUISHMENT OF CITIZENSHIP.—A
21 citizen shall be treated as relinquishing his United
22 States citizenship on the earliest of—

23 “(A) the date the individual renounces his
24 United States nationality before a diplomatic or
25 consular officer of the United States pursuant

1 to paragraph (5) of section 349(a) of the Immi-
2 gration and Nationality Act (8 U.S.C.
3 1481(a)(5)),

4 “(B) the date the individual furnishes to
5 the United States Department of State a signed
6 statement of voluntary relinquishment of
7 United States nationality confirming the per-
8 formance of an act of expatriation specified in
9 paragraph (1), (2), (3), or (4) of section 349(a)
10 of the Immigration and Nationality Act (8
11 U.S.C. 1481(a)(1)–(4)),

12 “(C) the date the United States Depart-
13 ment of State issues to the individual a certifi-
14 cate of loss of nationality, or

15 “(D) the date a court of the United States
16 cancels a naturalized citizen’s certificate of nat-
17 uralization.

18 Subparagraph (A) or (B) shall not apply to any indi-
19 vidual unless the renunciation or voluntary relin-
20 quishment is subsequently approved by the issuance
21 to the individual of a certificate of loss of nationality
22 by the United States Department of State.

23 “(4) LONG-TERM RESIDENT.—The term ‘long-
24 term resident’ has the meaning given to such term
25 by section 877(e)(2).

1 “(f) SPECIAL RULES APPLICABLE TO BENE-
2 FICIARIES’ INTERESTS IN TRUST.—

3 “(1) IN GENERAL.—Except as provided in para-
4 graph (2), if an individual is determined under para-
5 graph (3) to hold an interest in a trust on the day
6 before the expatriation date—

7 “(A) the individual shall not be treated as
8 having sold such interest,

9 “(B) such interest shall be treated as a
10 separate share in the trust, and

11 “(C)(i) such separate share shall be treat-
12 ed as a separate trust consisting of the assets
13 allocable to such share,

14 “(ii) the separate trust shall be treated as
15 having sold its assets on the day before the ex-
16 patriation date for their fair market value and
17 as having distributed all of its assets to the in-
18 dividual as of such time, and

19 “(iii) the individual shall be treated as hav-
20 ing recontributed the assets to the separate
21 trust.

22 Subsection (a)(2) shall apply to any income, gain, or
23 loss of the individual arising from a distribution de-
24 scribed in subparagraph (C)(ii).

1 “(2) SPECIAL RULES FOR INTERESTS IN QUALI-
2 FIED TRUSTS.—

3 “(A) IN GENERAL.—If the trust interest
4 described in paragraph (1) is an interest in a
5 qualified trust—

6 “(i) paragraph (1) and subsection (a)
7 shall not apply, and

8 “(ii) in addition to any other tax im-
9 posed by this title, there is hereby imposed
10 on each distribution with respect to such
11 interest a tax in the amount determined
12 under subparagraph (B).

13 “(B) AMOUNT OF TAX.—The amount of
14 tax under subparagraph (A)(ii) shall be equal to
15 the lesser of—

16 “(i) the highest rate of tax imposed by
17 section 1(e) for the taxable year which in-
18 cludes the day before the expatriation date,
19 multiplied by the amount of the distribu-
20 tion, or

21 “(ii) the balance in the deferred tax
22 account immediately before the distribution
23 determined without regard to any increases
24 under subparagraph (C)(ii) after the 30th
25 day preceding the distribution.

1 “(C) DEFERRED TAX ACCOUNT.—For pur-
2 poses of subparagraph (B)(ii)—

3 “(i) OPENING BALANCE.—The open-
4 ing balance in a deferred tax account with
5 respect to any trust interest is an amount
6 equal to the tax which would have been im-
7 posed on the allocable expatriation gain
8 with respect to the trust interest if such
9 gain had been included in gross income
10 under subsection (a).

11 “(ii) INCREASE FOR INTEREST.—The
12 balance in the deferred tax account shall
13 be increased by the amount of interest de-
14 termined (on the balance in the account at
15 the time the interest accrues), for periods
16 after the 90th day after the expatriation
17 date, by using the rates and method appli-
18 cable under section 6621 for underpay-
19 ments of tax for such periods.

20 “(iii) DECREASE FOR TAXES PRE-
21 VIOUSLY PAID.—The balance in the tax de-
22 ferred account shall be reduced—

23 “(I) by the amount of taxes im-
24 posed by subparagraph (A) on any

1 distribution to the person holding the
2 trust interest, and

3 “(II) in the case of a person
4 holding a nonvested interest, to the
5 extent provided in regulations, by the
6 amount of taxes imposed by subpara-
7 graph (A) on distributions from the
8 trust with respect to nonvested inter-
9 ests not held by such person.

10 “(D) ALLOCABLE EXPATRIATION GAIN.—

11 For purposes of this paragraph, the allocable
12 expatriation gain with respect to any bene-
13 ficiary’s interest in a trust is the amount of
14 gain which would be allocable to such bene-
15 ficiary’s vested and nonvested interests in the
16 trust if the beneficiary held directly all assets
17 allocable to such interests.

18 “(E) TAX DEDUCTED AND WITHHELD.—

19 “(i) IN GENERAL.—The tax imposed
20 by subparagraph (A)(ii) shall be deducted
21 and withheld by the trustees from the dis-
22 tribution to which it relates.

23 “(ii) EXCEPTION WHERE FAILURE TO
24 WAIVE TREATY RIGHTS.—If an amount
25 may not be deducted and withheld under

1 clause (i) by reason of the distributee fail-
2 ing to waive any treaty right with respect
3 to such distribution—

4 “(I) the tax imposed by subpara-
5 graph (A)(ii) shall be imposed on the
6 trust and each trustee shall be person-
7 ally liable for the amount of such tax,
8 and

9 “(II) any other beneficiary of the
10 trust shall be entitled to recover from
11 the distributee the amount of such tax
12 imposed on the other beneficiary.

13 “(F) DISPOSITION.—If a trust ceases to be
14 a qualified trust at any time, a covered expa-
15 triate disposes of an interest in a qualified
16 trust, or a covered expatriate holding an inter-
17 est in a qualified trust dies, then, in lieu of the
18 tax imposed by subparagraph (A)(ii), there is
19 hereby imposed a tax equal to the lesser of—

20 “(i) the tax determined under para-
21 graph (1) as if the day before the expatria-
22 tion date were the date of such cessation,
23 disposition, or death, whichever is applica-
24 ble, or

1 “(ii) the balance in the tax deferred
2 account immediately before such date.

3 Such tax shall be imposed on the trust and
4 each trustee shall be personally liable for the
5 amount of such tax and any other beneficiary
6 of the trust shall be entitled to recover from the
7 covered expatriate or the estate the amount of
8 such tax imposed on the other beneficiary.

9 “(G) DEFINITIONS AND SPECIAL RULE.—

10 For purposes of this paragraph—

11 “(i) QUALIFIED TRUST.—The term
12 ‘qualified trust’ means a trust—

13 “(I) which is organized under,
14 and governed by, the laws of the
15 United States or a State, and

16 “(II) with respect to which the
17 trust instrument requires that at least
18 1 trustee of the trust be an individual
19 citizen of the United States or a do-
20 mestic corporation.

21 “(ii) VESTED INTEREST.—The term
22 ‘vested interest’ means any interest which,
23 as of the day before the expatriation date,
24 is vested in the beneficiary.

1 “(iii) NONVESTED INTEREST.—The
2 term ‘nonvested interest’ means, with re-
3 spect to any beneficiary, any interest in a
4 trust which is not a vested interest. Such
5 interest shall be determined by assuming
6 the maximum exercise of discretion in
7 favor of the beneficiary and the occurrence
8 of all contingencies in favor of the bene-
9 ficiary.

10 “(iv) ADJUSTMENTS.—The Secretary
11 may provide for such adjustments to the
12 bases of assets in a trust or a deferred tax
13 account, and the timing of such adjust-
14 ments, in order to ensure that gain is
15 taxed only once.

16 “(3) DETERMINATION OF BENEFICIARIES’ IN-
17 TEREST IN TRUST.—

18 “(A) DETERMINATIONS UNDER PARA-
19 GRAPH (1).—For purposes of paragraph (1), a
20 beneficiary’s interest in a trust shall be based
21 upon all relevant facts and circumstances, in-
22 cluding the terms of the trust instrument and
23 any letter of wishes or similar document, histor-
24 ical patterns of trust distributions, and the ex-

1 istence of and functions performed by a trust
2 protector or any similar advisor.

3 “(B) OTHER DETERMINATIONS.—For pur-
4 poses of this section—

5 “(i) CONSTRUCTIVE OWNERSHIP.—If
6 a beneficiary of a trust is a corporation,
7 partnership, trust, or estate, the share-
8 holders, partners, or beneficiaries shall be
9 deemed to be the trust beneficiaries for
10 purposes of this section.

11 “(ii) TAXPAYER RETURN POSITION.—
12 A taxpayer shall clearly indicate on its in-
13 come tax return—

14 “(I) the methodology used to de-
15 termine that taxpayer’s trust interest
16 under this section, and

17 “(II) if the taxpayer knows (or
18 has reason to know) that any other
19 beneficiary of such trust is using a
20 different methodology to determine
21 such beneficiary’s trust interest under
22 this section.

23 “(g) TERMINATION OF DEFERRALS, ETC.—In the
24 case of any covered expatriate, notwithstanding any other
25 provision of this title—

1 “(1) any period during which recognition of in-
2 come or gain is deferred shall terminate on the day
3 before the expatriation date, and

4 “(2) any extension of time for payment of tax
5 shall cease to apply on the day before the expatria-
6 tion date and the unpaid portion of such tax shall
7 be due and payable at the time and in the manner
8 prescribed by the Secretary.

9 “(h) 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) TAX ON GIFTS AND BEQUESTS RECEIVED BY
13 UNITED STATES CITIZENS AND RESIDENTS FROM EXPA-
14 TRIATES.—

15 (1) IN GENERAL.—Subtitle B of the Internal
16 Revenue Code of 1986 (relating to estate and gift
17 taxes) is amended by inserting after chapter 13 the
18 following new chapter:

19 **“CHAPTER 13A—GIFTS AND BEQUESTS**
20 **FROM EXPATRIATES**

 “Sec. 2681. Imposition of tax.

21 **“SEC. 2681. IMPOSITION OF TAX.**

22 “(a) IN GENERAL.—If, during any calendar year, any
23 United States citizen or resident receives any covered gift

1 or bequest, there is hereby imposed a tax equal to the
2 product of—

3 “(1) the highest rate of tax specified in the
4 table contained in section 2001(c) as in effect on the
5 date of such receipt, and

6 “(2) the value of such covered gift or bequest.

7 “(b) TAX TO BE PAID BY RECIPIENT.—The tax im-
8 posed by subsection (a) on any covered gift or bequest
9 shall be paid by the person receiving such gift or bequest.

10 “(c) EXCEPTION FOR CERTAIN GIFTS.—Subsection
11 (a) shall apply only to the extent that the covered gifts
12 and bequests received during the calendar year exceed
13 \$10,000.

14 “(d) TAX REDUCED BY FOREIGN GIFT OR ESTATE
15 TAX.—The tax imposed by subsection (a) on any covered
16 gift or bequest shall be reduced by the amount of any gift
17 or estate tax paid to a foreign country with respect to such
18 covered gift or bequest.

19 “(e) COVERED GIFT OR BEQUEST.—

20 “(1) IN GENERAL.—For purposes of this chap-
21 ter, the term ‘covered gift or bequest’ means—

22 “(A) any property acquired by gift directly
23 or indirectly from an individual who, at the
24 time of such acquisition, was an expatriate, and

1 “(B) any property acquired by bequest, de-
2 vise, or inheritance directly or indirectly from
3 an individual who, at the time of death, was an
4 expatriate.

5 “(2) EXCEPTIONS FOR TRANSFERS OTHERWISE
6 SUBJECT TO ESTATE OR GIFT TAX.—Such term shall
7 not include—

8 “(A) any property shown on a timely filed
9 return of tax imposed by chapter 12 which is a
10 taxable gift by the expatriate, and

11 “(B) any property shown on a timely filed
12 return of tax imposed by chapter 11 of the es-
13 tate of the expatriate.

14 “(3) TRANSFERS IN TRUST.—Any covered gift
15 or bequest which is made in trust shall be treated
16 as made to the beneficiaries of such trust in propor-
17 tion to their respective interests in such trust (as de-
18 termined under section 877A(f)(3)).

19 “(f) EXPATRIATE.—For purposes of this section, the
20 term ‘expatriate’ has the meaning given to such term by
21 section 877A(e)(1).”.

22 (2) CLERICAL AMENDMENT.—The table of
23 chapters for subtitle B of such Code is amended by
24 inserting after the item relating to chapter 13 the
25 following new item:

 “Chapter 13A. Gifts and bequests from expatriates.”

1 (c) DEFINITION OF TERMINATION OF UNITED
2 STATES CITIZENSHIP.—Section 7701(a) of such Code is
3 amended by adding at the end the following new para-
4 graph:

5 “(47) TERMINATION OF UNITED STATES CITI-
6 ZENSHIP.—

7 “(A) IN GENERAL.—An individual shall
8 not cease to be treated as a United States citi-
9 zen before the date on which the individual’s
10 citizenship is treated as relinquished under sec-
11 tion 877A(e)(3).

12 “(B) DUAL CITIZENS.—Under regulations
13 prescribed by the Secretary, subparagraph (A)
14 shall not apply to an individual who became at
15 birth a citizen of the United States and a citi-
16 zen of another country.”

17 (d) CONFORMING AMENDMENT.—Paragraph (1) of
18 section 6039G(d) of such Code is amended by inserting
19 “or 877A” after “section 877”.

20 (e) CLERICAL AMENDMENT.—The table of sections
21 for subpart A of part II of subchapter N of chapter 1
22 of such Code is amended by inserting after the item relat-
23 ing to section 877 the following new item:

 “Sec. 877A. Tax responsibilities of expatriation.”.

24 (f) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as provided in this
2 subsection, the amendments made by this section
3 shall apply to expatriates (within the meaning of
4 section 877A(e) of the Internal Revenue Code of
5 1986, as added by this section) whose expatriation
6 date (as so defined) occurs on or after March 9,
7 2000.

8 (2) GIFTS AND BEQUESTS.—Chapter 13A of
9 the Internal Revenue Code of 1986 (as added by
10 subsection (b)) shall apply to covered gifts and be-
11 quests (as defined in section 2681 of such Code, as
12 so added) received on or after March 9, 2000.

13 **PART II—DISALLOWANCE OF NONECONOMIC TAX**
14 **ATTRIBUTES**

15 **Subpart A—Disallowance of Noneconomic Tax At-**
16 **tributes; Increase in Penalty With Respect to**
17 **Disallowed Noneconomic Tax Attributes**

18 **SEC. 266. DISALLOWANCE OF NONECONOMIC TAX AT-**
19 **TRIBUTES.**

20 Section 7701 of the Internal Revenue Code of 1986
21 is amended by redesignating subsection (m) as subsection
22 (n) and by inserting after subsection (l) the following new
23 subsection:

24 “(m) DISALLOWANCE OF NONECONOMIC TAX AT-
25 TRIBUTES.—

1 “(1) IN GENERAL.—In determining liability for
2 any tax under subtitle A, noneconomic tax attributes
3 shall not be allowed.

4 “(2) NONECONOMIC TAX ATTRIBUTE.—For
5 purposes of this subsection, a noneconomic tax at-
6 tribute is any deduction, loss, or credit claimed to
7 result from any transaction unless—

8 “(A) the transaction changes in a mean-
9 ingful way (apart from Federal income tax con-
10 sequences) the taxpayer’s economic position,
11 and

12 “(B)(i) the present value of the reasonably
13 expected potential income from the transaction
14 (and the taxpayer’s risk of loss from the trans-
15 action) are substantial in relationship to the
16 present value of the tax benefits claimed, or

17 “(ii) in the case of a transaction which is
18 in substance the borrowing of money or the ac-
19 quisition of financial capital, the deductions
20 claimed with respect to the transaction for any
21 period are not significantly in excess of the eco-
22 nomic return for such period realized by the
23 person lending the money or providing the fi-
24 nancial capital.

1 “(3) PRESUMPTION OF NONECONOMIC TAX AT-
2 TRIBUTES.—For purposes of paragraph (2), the fol-
3 lowing factors shall give rise to a presumption that
4 a transaction fails to meet the requirements of para-
5 graph (2):

6 “(A) The fact that the payments, liabil-
7 ities, or assets that purport to create a loss (or
8 other benefit) for tax purposes are not reflected
9 to any meaningful extent on the taxpayer’s
10 books and records for financial reporting pur-
11 poses.

12 “(B) The fact that the transaction results
13 in an allocation of income or gain to a tax-indif-
14 ferent party which is substantially in excess of
15 such party’s economic income or gain from the
16 transaction.

17 “(4) TREATMENT OF BUILT-IN LOSS.—The de-
18 termination of whether a transaction results in the
19 realization of a built-in loss shall be made under
20 subtitle A as if this subsection had not been enacted.
21 For purposes of the preceding sentence, the term
22 ‘built-in loss’ means any loss or deduction to the ex-
23 tent that such loss or deduction had economically
24 been incurred before such transaction is entered into

1 and to the extent that the loss or deduction was eco-
2 nomically borne by the taxpayer.

3 “(5) DEFINITION AND SPECIAL RULES.—For
4 purposes of this subsection—

5 “(A) TAX-INDIFFERENT PARTY.—The
6 term ‘tax-indifferent party’ means any person
7 or entity exempt from tax under subtitle A. A
8 person shall be treated as a tax-indifferent
9 party with respect to a transaction if, by reason
10 of such person’s method of accounting, the
11 items taken into account with respect to the
12 transaction have no substantial impact on such
13 person’s liability under subtitle A.

14 “(B) SERIES OF RELATED TRANS-
15 ACTION.—A transaction which is part of a se-
16 ries of related transactions shall be treated as
17 meeting the requirements of paragraph (2) only
18 if—

19 “(i) such transaction meets such re-
20 quirements without regard to the other
21 transactions, and

22 “(ii) such transactions, if treated as 1
23 transaction, would meet such requirements.

1 A similar rule shall apply to a multiple step
2 transaction with each step being treated as a
3 separate related transaction.

4 “(C) NORMAL BUSINESS TRANSACTIONS.—
5 In the case of a transaction which is an integral
6 part of a taxpayer’s trade or business and
7 which is entered into in the normal course of
8 such trade or business, the determination of the
9 potential income from such transaction shall be
10 made by taking into account its relationship to
11 the overall trade or business of the taxpayer.

12 “(D) TREATMENT OF FEES.—In deter-
13 mining whether there is risk of loss from a
14 transaction (and the amount thereof), potential
15 loss of fees and other transaction expenses shall
16 be disregarded.

17 “(E) TREATMENT OF ECONOMIC RETURN
18 ENHANCEMENTS.—The following shall be treat-
19 ed as economic returns and not tax benefits:

20 “(i) The credit under section 29 (re-
21 lating to credit for producing fuel from a
22 nonconventional source).

23 “(ii) The credit under section 42 (re-
24 lating to low-income housing credit).

1 “(iii) The credit under section 45 (re-
2 relating to electricity produced from certain
3 renewable resources).

4 “(iv) The credit under section 1397E
5 (relating to credit to holders of qualified
6 zone academy bonds) or any similar pro-
7 gram hereafter enacted.

8 “(v) Any other tax benefit specified in
9 regulations.

10 “(F) EXCEPTIONS FOR NONBUSINESS
11 TRANSACTIONS.—

12 “(i) INDIVIDUALS.—In the case of an
13 individual, this subsection shall only apply
14 to transactions entered into in connection
15 with a trade or business or activity en-
16 gaged in for profit.

17 “(ii) CHARITABLE TRANSFERS.—This
18 subsection shall not apply in determining
19 the amount allowable as a deduction under
20 section 170, 545(b)(2), 556(b)(2), or
21 642(e).

22 “(6) ECONOMIC SUBSTANCE DOCTRINE, ETC.,
23 NOT AFFECTED.—The provisions of this subsection
24 shall not be construed as altering or supplanting any
25 rule of law referred to in section 6662(i)(2)(B) and

1 the requirements of this subsection shall be con-
 2 strued as being in addition to any such rule of law.”

3 **SEC. 267. INCREASE IN SUBSTANTIAL UNDERPAYMENT**
 4 **PENALTY WITH RESPECT TO DISALLOWED**
 5 **NONECONOMIC TAX ATTRIBUTES.**

6 (a) IN GENERAL.—Section 6662 of the Internal Rev-
 7 enue Code of 1986 (relating to imposition of accuracy-re-
 8 lated penalty) is amended by adding at the end the fol-
 9 lowing new subsection:

10 “(i) INCREASE IN PENALTY IN CASE OF DIS-
 11 ALLOWED NONECONOMIC TAX ATTRIBUTES.—

12 “(1) IN GENERAL.—In the case of the portion
 13 of the underpayment to which this subsection
 14 applies—

15 “(A) subsection (a) shall be applied with
 16 respect to such portion by substituting ‘40 per-
 17 cent’ for ‘20 percent’, and

18 “(B) subsection (d)(2)(B) and section
 19 6664(c) shall not apply.

20 “(2) UNDERPAYMENTS TO WHICH SUBSECTION
 21 APPLIES.—This subsection shall apply to an under-
 22 payment to which this section applies by reason of
 23 paragraph (1) or (2) of subsection (b) but—

24 “(A) only to the extent that such under-
 25 payment is attributable to—

1 “(i) the disallowance of any non-
2 economic tax attribute (determined under
3 section 7701(m)), or

4 “(ii) the disallowance of any other
5 benefit—

6 “(I) because of a lack of eco-
7 nomic substance or business purpose
8 for the transaction giving rise to the
9 claimed benefit,

10 “(II) because the form of the
11 transaction did not reflect its sub-
12 stance, or

13 “(III) because of any other simi-
14 lar rule of law, and

15 “(B) only if the underpayment so attrib-
16 utable exceeds \$1,000,000.

17 “(3) INCREASE IN PENALTY NOT TO APPLY IF
18 COMPLIANCE WITH DISCLOSURE REQUIREMENTS.—

19 Paragraph (1)(A) shall not apply if the taxpayer—

20 “(A) discloses to the Secretary within 30
21 days after the closing of the transaction appro-
22 priate documents describing the transaction,
23 and

24 “(B) files with the taxpayer’s return of tax
25 imposed by subtitle A—

1 “(i) a statement verifying that such
2 disclosure has been made,

3 “(ii) a detailed description of the
4 facts, assumptions of facts, and factual
5 conclusions with respect to the business or
6 economic purposes or objectives of the
7 transaction that are relied upon to support
8 the manner in which it is reported on the
9 return,

10 “(iii) a description of the due dili-
11 gence performed to ascertain the accuracy
12 of such facts, assumptions, and factual
13 conclusions,

14 “(iv)(I) a statement (signed by the
15 senior financial officer of the corporation
16 under penalty of perjury) that the facts,
17 assumptions, or factual conclusions relied
18 upon in reporting the transaction are true
19 and correct as of the date the return is
20 filed, to the best of such officer’s knowl-
21 edge and belief, and

22 “(II) if the actual facts varied materi-
23 ally from the facts, assumptions, or factual
24 conclusions relied upon, a statement de-
25 scribing such variances,

1 “(v) copies of any written material
2 provided in connection with the offer of the
3 transaction to the taxpayer by a third
4 party,

5 “(vi) a full description of any express
6 or implied agreement or arrangement with
7 any advisor, or with any offeror, that the
8 fee payable to such person would be con-
9 tingent or subject to possible reimburse-
10 ment, and

11 “(vii) a full description of any express
12 or implied warranty from any person with
13 respect to the anticipated tax results from
14 the transaction.”

15 (b) MODIFICATIONS TO PENALTY ON SUBSTANTIAL
16 UNDERSTATEMENT OF INCOME TAX.—

17 (1) MODIFICATION OF THRESHOLD.—Subpara-
18 graph (A) of section 6662(d)(2) of such Code is
19 amended to read as follows:

20 “(A) IN GENERAL.—For purposes of this
21 section, there is a substantial understatement of
22 income tax for any taxable year if the amount
23 of the understatement for the taxable year ex-
24 ceeds the lesser of—

25 “(i) \$1,000,000, or

1 “(ii) the greater of 10 percent of the
2 tax required to be shown on the return for
3 the taxable year or \$5,000.”

4 (2) REDUCTION OF PENALTY ON ACCOUNT OF
5 DISCLOSURE NOT TO APPLY TO TAX SHELTERS.—
6 Subparagraph (C) of section 6662(d)(2) of such
7 Code is amended by striking clause (ii), by redesignig-
8 nating clause (iii) as clause (ii), and by striking
9 clause (i) and inserting the following new clause:

10 “(i) IN GENERAL.—Subparagraph (B)
11 shall not apply to any item attributable to
12 a tax shelter.”

13 (c) TREATMENT OF AMENDED RETURNS.—Sub-
14 section (a) of section 6664 of such Code is amended by
15 adding at the end the following new sentence: “For pur-
16 poses of this subsection, an amended return shall be dis-
17 regarded if such return is filed on or after the date the
18 taxpayer is first contacted by the Secretary regarding the
19 examination of the return.”

20 **SEC. 268. PENALTY ON MARKETED TAX AVOIDANCE STRAT-**
21 **EGIES WHICH HAVE NO ECONOMIC SUB-**
22 **STANCE, ETC.**

23 (a) PENALTY.—

24 (1) IN GENERAL.—Section 6700 of the Internal
25 Revenue Code of 1986 (relating to promoting abu-

1 sive tax shelters, etc.) is amended by redesignating
2 subsection (c) as subsection (d) and by inserting
3 after subsection (b) the following new subsection:

4 “(c) PENALTY ON SUBSTANTIAL PROMOTERS FOR
5 PROMOTING TAX AVOIDANCE STRATEGIES WHICH HAVE
6 NO ECONOMIC SUBSTANCE, ETC.—

7 “(1) IMPOSITION OF PENALTY.—Any substan-
8 tial promoter of a tax avoidance strategy shall pay
9 a penalty in the amount determined under para-
10 graph (2) with respect to such strategy if any tax
11 benefit attributable to such strategy (or any similar
12 strategy promoted by such promoter) is not allow-
13 able by reason of any rule of law referred to in sec-
14 tion 6662(i)(2)(A).

15 “(2) AMOUNT OF PENALTY.—The penalty
16 under paragraph (1) with respect to a promoter of
17 a tax avoidance strategy is an amount equal to 100
18 percent of the gross income derived (or to be de-
19 rived) by such promoter from such strategy.

20 “(3) TAX AVOIDANCE STRATEGY.—For pur-
21 poses of this subsection, the term ‘tax avoidance
22 strategy’ means any entity, plan, arrangement, or
23 transaction a significant purpose of the structure of
24 which is the avoidance or evasion of Federal income
25 tax.

1 “(4) SUBSTANTIAL PROMOTER.—For purposes
2 of this subsection —

3 “(A) IN GENERAL.—The term ‘substantial
4 promoter’ means, with respect to any tax avoid-
5 ance strategy, any promoter if—

6 “(i) such promoter offers such strat-
7 egy to more than 1 potential participant,
8 and

9 “(ii) such promoter may receive fees
10 in excess of \$1,000,000 in the aggregate
11 with respect to such strategy.

12 “(B) AGGREGATION RULES.—For purposes
13 of this paragraph—

14 “(i) RELATED PERSONS.—A promoter
15 and all persons related to such promoter
16 shall be treated as 1 person.

17 “(ii) SIMILAR STRATEGIES.—All simi-
18 lar tax avoidance strategies of a promoter
19 shall be treated as 1 tax avoidance strat-
20 egy.

21 “(C) PROMOTER.—The term ‘promoter’
22 means any person who participates in the pro-
23 motion, offering, or sale of the tax avoidance
24 strategy.

1 “(D) RELATED PERSON.—Persons are re-
2 lated if they bear a relationship to each other
3 which is described in section 267(b) or 707(b).

4 “(4) COORDINATION WITH SUBSECTION (a).—
5 No penalty shall be imposed by this subsection on
6 any promoter with respect to a tax avoidance strat-
7 egy if a penalty is imposed under subsection (a) on
8 such promoter with respect to such strategy.”

9 (2) CONFORMING AMENDMENT.—Subsection (d)
10 of section 6700 of such Code is amended—

11 (A) by striking “PENALTY” and inserting
12 “PENALTIES”, and

13 (B) by striking “penalty” the first place it
14 appears in the text and inserting “penalties”.

15 (b) INCREASE IN PENALTY ON PROMOTING ABUSIVE
16 TAX SHELTERS.—The first sentence of section 6700(a)
17 of such Code is amended by striking “a penalty equal to”
18 and all that follows and inserting “a penalty equal to the
19 greater of \$1,000 or 100 percent of the gross income de-
20 rived (or to be derived) by such person from such activ-
21 ity.”

22 **SEC. 269. EFFECTIVE DATES.**

23 (a) IN GENERAL.—Except as provided in subsections
24 (b) and (c), the amendments made by this subpart shall

1 apply to transactions after the date of the enactment of
2 this Act.

3 (b) SECTION 267.—The amendments made by sub-
4 sections (b) and (c) of section 267 shall apply to taxable
5 years ending after the date of the enactment of this Act.

6 (c) SECTION 268.—The amendments made by sub-
7 section (a) of section 268 shall apply to any tax avoidance
8 strategy (as defined in section 6700(c) of the Internal
9 Revenue Code of 1986, as amended by this title) interests
10 in which are offered to potential participants after the
11 date of the enactment of this Act.

12 **Subpart B—Limitations on Importation or Transfer**
13 **of Built-in Losses**

14 **SEC. 271. LIMITATION ON IMPORTATION OF BUILT-IN**
15 **LOSSES.**

16 (a) IN GENERAL.—Section 362 of the Internal Rev-
17 enue Code of 1986 (relating to basis to corporations) is
18 amended by adding at the end the following new sub-
19 section:

20 “(e) LIMITATION ON IMPORTATION OF BUILT-IN
21 LOSSES.—

22 “(1) IN GENERAL.—If in any transaction de-
23 scribed in subsection (a) or (b) there would (but for
24 this subsection) be an importation of a net built-in
25 loss, the basis of each property described in para-

1 graph (2) which is acquired in such transaction shall
2 (notwithstanding subsections (a) and (b)) be its fair
3 market value immediately after such transaction.

4 “(2) PROPERTY DESCRIBED.—For purposes of
5 paragraph (1), property is described in this para-
6 graph if—

7 “(A) gain or loss with respect to such
8 property is not subject to tax under this subtitle
9 in the hands of the transferor immediately be-
10 fore the transfer, and

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

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

19 “(3) IMPORTATION OF NET BUILT-IN LOSS.—
20 For purposes of paragraph (1), there is an importa-
21 tion of a net built-in loss in a transaction if the
22 transferee’s aggregate adjusted bases of property de-
23 scribed in paragraph (2) which is transferred in
24 such transaction would (but for this subsection) ex-

1 ceed the fair market value of such property imme-
2 diately after such transaction.”

3 (b) COMPARABLE TREATMENT WHERE LIQUIDA-
4 TION.—Paragraph (1) of section 334(b) of such Code (re-
5 lating to liquidation of subsidiary) is amended to read as
6 follows:

7 “(1) IN GENERAL.—If property is received by a
8 corporate distributee in a distribution in a complete
9 liquidation to which section 332 applies (or in a
10 transfer described in section 337(b)(1)), the basis of
11 such property in the hands of such distributee shall
12 be the same as it would be in the hands of the trans-
13 feror; except that the basis of such property in the
14 hands of such distributee shall be the fair market
15 value of the property at the time of the
16 distribution—

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

20 “(B) in any case in which the liquidating
21 corporation is a foreign corporation, the cor-
22 porate distributee is a domestic corporation,
23 and the corporate distributee’s aggregate ad-
24 justed bases of property described in section
25 362(e)(2) which is distributed in such liquida-

1 tion would (but for this subparagraph) exceed
2 the fair market value of such property imme-
3 diately after such liquidation.”

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

7 **SEC. 272. DISALLOWANCE OF PARTNERSHIP LOSS TRANS-**
8 **FERS.**

9 (a) TREATMENT OF CONTRIBUTED PROPERTY WITH
10 BUILT-IN LOSS.—Paragraph (1) of section 704(c) of the
11 Internal Revenue Code of 1986 is amended by striking
12 “and” at the end of subparagraph (A), by striking the
13 period at the end of subparagraph (B) and inserting “,
14 and”, and by adding at the end the following:

15 “(C) if any property so contributed has a
16 built-in loss—

17 “(i) such built-in loss shall be taken
18 into account only in determining the
19 amount of items allocated to the contrib-
20 uting partner, and

21 “(ii) except as provided in regulations,
22 in determining the amount of items allo-
23 cated to other partners, the basis of the
24 contributed property in the hands of the
25 partnership shall be treated as being equal

1 to its fair market value immediately after
2 the contribution.

3 For purposes of subparagraph (C), the term ‘built-
4 in loss’ means the excess of the adjusted basis of the
5 property over its fair market value immediately after
6 the contribution.”

7 (b) ADJUSTMENT TO BASIS OF PARTNERSHIP PROP-
8 ERTY ON TRANSFER OF PARTNERSHIP INTEREST IF
9 THERE IS SUBSTANTIAL BUILT-IN LOSS.—

10 (1) ADJUSTMENT REQUIRED.—Subsection (a)
11 of section 743 of such Code (relating to optional ad-
12 justment to basis of partnership property) is amend-
13 ed by inserting before the period “or unless the part-
14 nership has a substantial built-in loss immediately
15 after such transfer”.

16 (2) ADJUSTMENT.—Subsection (b) of section
17 743 of such Code is amended by inserting “or with
18 respect to which there is a substantial built-in loss
19 immediately after such transfer” after “section 754
20 is in effect”.

21 (3) SUBSTANTIAL BUILT-IN LOSS.—Section 743
22 of such Code is amended by adding at the end the
23 following new subsection:

24 “(d) SUBSTANTIAL BUILT-IN LOSS.—For purposes
25 of this section, a partnership has a substantial built-in loss

1 with respect to a transfer of an interest in a partnership
 2 if the transferee partner's proportionate share of the ad-
 3 justed basis of the partnership property exceeds 110 per-
 4 cent of the basis of such partner's interest in the partner-
 5 ship."

6 (4) CLERICAL AMENDMENTS.—

7 (A) The section heading for section 743 of
 8 such Code is amended to read as follows:

9 **"SEC. 743. ADJUSTMENT TO BASIS OF PARTNERSHIP PROP-**
 10 **ERTY WHERE SECTION 754 ELECTION OR**
 11 **SUBSTANTIAL BUILT-IN LOSS."**

12 (B) The table of sections for subpart C of
 13 part II of subchapter K of chapter 1 of such
 14 Code is amended by striking the item relating
 15 to section 743 and inserting the following new
 16 item:

"Sec. 743. Adjustment to basis of partnership property where sec-
 tion 754 election or substantial built-in loss."

17 (c) **ADJUSTMENT TO BASIS OF UNDISTRIBUTED**
 18 **PARTNERSHIP PROPERTY IF THERE IS SUBSTANTIAL**
 19 **BASIS REDUCTION.—**

20 (1) **ADJUSTMENT REQUIRED.—**Subsection (a)
 21 of section 734 of such Code (relating to optional ad-
 22 justment to basis of undistributed partnership prop-
 23 erty) is amended by inserting before the period "or
 24 unless there is a substantial downward adjustment".

1 (2) ADJUSTMENT.—Subsection (b) of section
2 734 of such Code is amended by inserting “or unless
3 there is a substantial downward adjustment” after
4 “section 754 is in effect”.

5 (3) SUBSTANTIAL DOWNWARD ADJUSTMENT.—
6 Section 734 of such Code is amended by adding at
7 the end the following new subsection:

8 “(d) SUBSTANTIAL DOWNWARD ADJUSTMENT.—For
9 purposes of this section, there is a substantial downward
10 adjustment with respect to a distribution if the sum of
11 the amounts described in subparagraphs (A) and (B) of
12 subsection (b)(2) exceeds 10 percent of the aggregate ad-
13 justed basis of partnership property immediately after the
14 distribution.”

15 (4) CLERICAL AMENDMENTS.—

16 (A) The section heading for section 734 of
17 such Code is amended to read as follows:

18 **“SEC. 734. ADJUSTMENT TO BASIS OF UNDISTRIBUTED**
19 **PARTNERSHIP PROPERTY WHERE SECTION**
20 **754 ELECTION OR SUBSTANTIAL BASIS RE-**
21 **DUCTION.”**

22 (B) The table of sections for subpart B of
23 part II of subchapter K of chapter 1 of such
24 Code is amended by striking the item relating

1 to section 734 and inserting the following new
 2 item:

“Sec. 734. Adjustment to basis of undistributed partnership prop-
 erty where section 754 election or substantial basis
 reduction.”

3 (d) EFFECTIVE DATES.—

4 (1) SUBSECTION (a).—The amendment made
 5 by subsection (a) shall apply to contributions made
 6 after the date of the enactment of this Act.

7 (2) SUBSECTION (b).—The amendments made
 8 by subsection (a) shall apply to transfers after the
 9 date of the enactment of this Act.

10 (3) SUBSECTION (c).—The amendments made
 11 by subsection (a) shall apply to distributions after
 12 the date of the enactment of this Act.

13 **PART III—ESTATE AND GIFT TAX OFFSETS**

14 **SEC. 276. VALUATION RULES FOR TRANSFERS INVOLVING**
 15 **NONBUSINESS ASSETS.**

16 (a) IN GENERAL.—Section 2031 of the Internal Rev-
 17 enue Code of 1986 (relating to definition of gross estate)
 18 is amended by redesignating subsection (d) as subsection
 19 (e) and by inserting after subsection (c) the following new
 20 subsection:

21 “(d) VALUATION RULES FOR CERTAIN TRANSFERS
 22 OF NONBUSINESS ASSETS.—For purposes of this chapter
 23 and chapter 12—

1 “(1) IN GENERAL.—In the case of the transfer
2 of any interest in an entity other than an interest
3 which is actively traded (within the meaning of sec-
4 tion 1092), the value of such interest shall be deter-
5 mined by taking into account—

6 “(A) the value of such interest’s propor-
7 tionate share of the nonbusiness assets of such
8 entity (and no valuation discount shall be al-
9 lowed with respect to such nonbusiness assets),
10 plus

11 “(B) the value of such entity determined
12 without regard to the value taken into account
13 under subparagraph (A).

14 “(2) NONBUSINESS ASSETS.—For purposes of
15 this subsection—

16 “(A) IN GENERAL.—The term ‘nonbusi-
17 ness asset’ means any asset which is not used
18 in the active conduct of 1 or more trades or
19 businesses.

20 “(B) EXCEPTION FOR CERTAIN PASSIVE
21 ASSETS.—Except as provided in subparagraph
22 (C), a passive asset shall not be treated for pur-
23 poses of subparagraph (A) as used in the active
24 conduct of a trade or business unless—

1 “(i) the asset is property described in
2 paragraph (1) or (4) of section 1221(a) or
3 is a hedge with respect to such property,
4 or

5 “(ii) the asset is real property used in
6 the active conduct of 1 or more real prop-
7 erty trades or businesses (within the mean-
8 ing of section 469(c)(7)(C)) in which the
9 transferor materially participates and with
10 respect to which the transferor meets the
11 requirements of section 469(c)(7)(B)(ii).

12 For purposes of clause (ii), material participa-
13 tion shall be determined under the rules of sec-
14 tion 469(h), except that section 469(h)(3) shall
15 be applied without regard to the limitation to
16 farming activity.

17 “(C) EXCEPTION FOR WORKING CAP-
18 ITAL.—Any asset (including a passive asset)
19 which is held as a part of the reasonably re-
20 quired working capital needs of a trade or busi-
21 ness shall be treated as used in the active con-
22 duct of a trade or business.

23 “(3) PASSIVE ASSET.—For purposes of this
24 subsection, the term ‘passive asset’ means any—

25 “(A) cash or cash equivalents,

1 “(B) except to the extent provided by the
2 Secretary, stock in a corporation or any other
3 equity, profits, or capital interest in any entity,

4 “(C) evidence of indebtedness, option, for-
5 ward or futures contract, notional principal con-
6 tract, or derivative,

7 “(D) asset described in clause (iii), (iv), or
8 (v) of section 351(e)(1)(B),

9 “(E) annuity,

10 “(F) real property used in 1 or more real
11 property trades or businesses (as defined in sec-
12 tion 469(e)(7)(C)),

13 “(G) asset (other than a patent, trade-
14 mark, or copyright) which produces royalty in-
15 come,

16 “(H) commodity,

17 “(I) collectible (within the meaning of sec-
18 tion 401(m)), or

19 “(J) any other asset specified in regula-
20 tions prescribed by the Secretary.

21 “(4) LOOK-THRU RULES.—

22 “(A) IN GENERAL.—If a nonbusiness asset
23 of an entity consists of a 10-percent interest in
24 any other entity, this subsection shall be ap-
25 plied by disregarding the 10-percent interest

1 and by treating the entity as holding directly its
2 ratable share of the assets of the other entity.
3 This subparagraph shall be applied successively
4 to any 10-percent interest of such other entity
5 in any other entity.

6 “(B) 10-PERCENT INTEREST.—The term
7 ‘10-percent interest’ means—

8 “(i) in the case of an interest in a cor-
9 poration, ownership of at least 10 percent
10 (by vote or value) of the stock in such cor-
11 poration,

12 “(ii) in the case of an interest in a
13 partnership, ownership of at least 10 per-
14 cent of the capital or profits interest in the
15 partnership, and

16 “(iii) in any other case, ownership of
17 at least 10 percent of the beneficial inter-
18 ests in the entity.

19 “(5) COORDINATION WITH SUBSECTION (b).—
20 Subsection (b) shall apply after the application of
21 this subsection.”

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

1 **SEC. 277. CORRECTION OF TECHNICAL ERROR AFFECTING**
2 **LARGEST ESTATES.**

3 (a) **IN GENERAL.**—Paragraph (2) of section 2001(c)
4 of the Internal Revenue Code of 1986 is amended by strik-
5 ing “\$10,000,000” and all that follows and inserting
6 “\$10,000,000. The amount of the increase under the pre-
7 ceding sentence shall not exceed the sum of the applicable
8 credit amount under section 2010(c) (as increased by sec-
9 tion 2010A) and \$359,200.”

10 (b) **EFFECTIVE DATE.**—The amendment made by
11 this section shall apply to estates of decedents dying, and
12 gifts made, after December 31, 2000.

13 **PART IV—OTHER OFFSETS**

14 **SEC. 281. CONSISTENT AMORTIZATION PERIODS FOR IN-**
15 **TANGIBLES.**

16 (a) **START-UP EXPENDITURES.**—

17 (1) **ALLOWANCE OF DEDUCTION.**—Paragraph
18 (1) of section 195(b) of the Internal Revenue Code
19 of 1986 (relating to start-up expenditures) is amend-
20 ed to read as follows:

21 “(1) **ALLOWANCE OF DEDUCTION.**—If a tax-
22 payer elects the application of this subsection with
23 respect to any start-up expenditures—

24 “(A) the taxpayer shall be allowed a deduc-
25 tion for the taxable year in which the active

1 trade or business begins in an amount equal to
2 the lesser of—

3 “(i) the amount of start-up expendi-
4 tures with respect to the active trade or
5 business, or

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

9 “(B) the remainder of such start-up ex-
10 penditures shall be allowed as a deduction rat-
11 ably over the 180-month period beginning with
12 the month in which the active trade or business
13 begins.”

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

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

20 “(a) ELECTION TO DEDUCT.—If a corporation elects
21 the application of this subsection (in accordance with reg-
22 ulations prescribed by the Secretary) with respect to any
23 organizational expenditures—

1 “(1) the corporation shall be allowed a deduc-
2 tion for the taxable year in which the corporation be-
3 gins business in an amount equal to the lesser of—

4 “(A) the amount of organizational expendi-
5 tures with respect to the taxpayer, or

6 “(B) \$5,000, reduced (but not below zero)
7 by the amount by which such organizational ex-
8 penditures exceed \$50,000, and

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

13 (c) TREATMENT OF ORGANIZATIONAL AND SYNDICA-
14 TION FEES OR PARTNERSHIPS.—Section 709(b) of such
15 Code (relating to amortization of organization fees) is
16 amended by redesignating paragraph (2) as paragraph (4)
17 and by amending paragraph (1) to read as follows:

18 “(1) ALLOWANCE OF DEDUCTION.—If a tax-
19 payer elects the application of this subsection (in ac-
20 cordance with regulations prescribed by the Sec-
21 retary) with respect to any organizational
22 expenses—

23 “(A) the taxpayer shall be allowed a deduc-
24 tion for the taxable year in which the partner-

1 ship begins business in an amount equal to the
2 lesser of—

3 “(i) the amount of organizational ex-
4 penses with respect to the partnership, or

5 “(ii) \$5,000, reduced (but not below
6 zero) by the amount by which such organi-
7 zational expenses exceed \$50,000, and

8 “(B) the remainder of such organizational
9 expenses shall be allowed as a deduction ratably
10 over the 180-month period beginning with the
11 month in which the partnership begins busi-
12 ness.

13 “(2) DISPOSITIONS BEFORE CLOSE OF AMORTI-
14 ZATION PERIOD.—In any case in which a partner-
15 ship is liquidated before the end of the period to
16 which paragraph (1)(B) applies, any deferred ex-
17 penses attributable to the partnership which were
18 not allowed as a deduction by reason of this section
19 may be deducted to the extent allowable under sec-
20 tion 165.”

21 (d) CONFORMING AMENDMENT.—Subsection (b) of
22 section 709 of such Code is amended by striking “AMORTI-
23 ZATION” and inserting “DEDUCTION” in the heading.

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

4 **SEC. 282. MODIFICATION OF FOREIGN TAX CREDIT CARRY-**
5 **OVER RULES.**

6 (a) IN GENERAL.—Section 904(c) of the Internal
7 Revenue Code of 1986 (relating to limitation on credit)
8 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, 2000.

16 **SEC. 283. RECOGNITION OF GAIN ON TRANSFERS TO SWAP**
17 **FUNDS.**

18 (a) INTERESTS SIMILAR TO PREFERRED STOCK
19 TREATED AS STOCK.—Clause (vi) of section 351(e)(1)(B)
20 of the Internal Revenue Code of 1986 (relating to transfer
21 of property to an investment company) is amended to read
22 as follows:

23 “(vi) except as otherwise provided in
24 regulations prescribed by the Secretary—

1 “(I) any interest in an entity if
2 the return on such interest is limited
3 and preferred, and

4 “(II) interests (not described in
5 subclause (I)) in any entity if substan-
6 tially all of the assets of such entity
7 consist (directly or indirectly) of any
8 assets described in subclause (I), any
9 preceding clause, or clause (viii).”

10 (b) CERTAIN TRANSFERS DEEMED TO BE TO IN-
11 VESTMENT COMPANIES.—Subsection (e) of section 351 of
12 such Code is amended by adding at the end the following
13 new paragraph:

14 “(3) TRANSFERS OF MARKETABLE SECURITIES
15 TO CERTAIN CORPORATIONS.—A transfer of property
16 to a corporation if—

17 “(A) such property is marketable securities
18 (as defined in section 731(c)(2)), other than a
19 diversified portfolio of securities,

20 “(B) such corporation—

21 “(i) is registered under the Invest-
22 ment Company Act of 1940 as an invest-
23 ment company, or is exempt from registra-
24 tion as a investment company under sec-
25 tion 3(c)(7) of such Act because interests

1 in such corporation are offered to qualified
2 purchasers within the meaning of section
3 2(a)(51) of such Act, or

4 “(ii) is formed or availed of for pur-
5 poses of allowing persons who have signifi-
6 cant blocks of marketable securities with
7 unrealized appreciation to diversify those
8 holdings without recognition of gain, and

9 “(C) the transfer results, directly or indi-
10 rectly, in diversification of the transferor’s in-
11 terest.”

12 (c) TRANSFERS TO PARTNERSHIPS.—Subsection (b)
13 of section 721 of such Code is amended to read as follows:

14 “(b) SPECIAL RULE.—Subsection (a) shall not apply
15 to gain realized on a transfer of property to a partnership
16 if, were the partnership incorporated—

17 “(1) such partnership would be treated as an
18 investment company (within the meaning of section
19 351), or

20 “(2) section 351 would not apply to such trans-
21 fer by reason of section 351(e)(3).”

22 (d) EFFECTIVE DATE.—

23 (1) IN GENERAL.—The amendments made by
24 this section shall apply to transfers after March 8,
25 2000.

1 (2) BINDING CONTRACTS.—The amendments
2 made by this section shall not apply to any transfer
3 pursuant to a written binding contract in effect on
4 August 4, 1999, and at all times thereafter before
5 such transfer if such contract provides for the trans-
6 fer of a fixed amount of property.

○