

Calendar No. 288

109TH CONGRESS
1ST SESSION**S. 2020**

To provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 2005

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

A BILL

To provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006.

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

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

4 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Tax Relief Act of 2005”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-
8 wise expressly provided, whenever in this Act an amend-
9 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference
 2 shall be considered to be made to a section or other provi-
 3 sion of the Internal Revenue Code of 1986.

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

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

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

Subtitle A—Gulf Opportunity Zone Benefits

Sec. 101. Gulf Opportunity Zone benefits.

Sec. 102. Expansion of Hope Scholarship and Lifetime Learning Credit for stu-
dents in the Gulf Opportunity Zone.

Sec. 103. Extension of special rules for mortgage revenue bonds.

Subtitle B—Tax Benefits Related to Hurricanes Rita and Wilma

Sec. 111. Extension of certain emergency tax relief for Hurricane Katrina to
Hurricanes Rita and Wilma.

TITLE II—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Multi-Year Extensions

Sec. 201. Extension of increased expensing for small business.

Sec. 202. Credit for elective deferrals and IRA contributions.

Sec. 203. Above-the-line deduction for higher education.

Sec. 204. Extension and modification of new markets tax credit.

Subtitle B—One-Year Extensions

Sec. 211. Election to deduct State and local general sales taxes.

Sec. 212. Extension of alternative minimum tax exemption amount for individ-
uals.

Sec. 213. Allowance of nonrefundable personal credits against regular and al-
ternative minimum tax liability.

Sec. 214. Extension and modification of research credit.

Sec. 215. Work Opportunity Tax credit and Welfare-to-Work credit.

Sec. 216. Qualified zone academy bonds.

Sec. 217. Deduction for corporate donations of computer technology and equip-
ment.

Sec. 218. Above-the-line deduction for certain expenses of elementary and sec-
ondary school teachers.

Sec. 219. Expensing of brownfields remediation costs.

Sec. 220. Tax incentives for investment in the District of Columbia.

Sec. 221. Indian employment tax credit.

Sec. 222. Accelerated depreciation for business property on Indian reservation.

Sec. 223. Fifteen-year straight-line cost recovery for qualified leasehold im-
provements and qualified restaurant improvements.

Subtitle C—Application of EGTRRA Sunset

Sec. 231. Application of EGTRRA sunset to this title.

TITLE III—PROVISIONS RELATING TO CHARITABLE DONATIONS

Subtitle A—Charitable Giving Incentives

- Sec. 301. Charitable deduction for nonitemizers.
- Sec. 302. Tax-free distributions from individual retirement plans for charitable purposes.
- Sec. 303. Modification of charitable deduction for contributions of food inventory.
- Sec. 304. Basis adjustment to stock of S corporation contributing property.
- Sec. 305. Modification of charitable deduction for contributions of book inventory.
- Sec. 306. Modification of tax treatment of certain payments to controlling exempt organizations and public disclosure of information relating to unrelated business income.

Subtitle B—Reforming Charitable Organizations

PART I—GENERAL REFORMS

- Sec. 311. Tax involvement by exempt organizations in tax shelter transactions.
- Sec. 312. Excise tax on certain acquisitions of interests in insurance contracts in which certain exempt organizations hold an interest.
- Sec. 313. Increase in penalty excise taxes on public charities, social welfare organizations, and private foundations.
- Sec. 314. Reform of charitable contributions of certain easements on buildings in registered historic districts.
- Sec. 315. Charitable contributions of taxidermy property.
- Sec. 316. Recapture of tax benefit for charitable contributions of exempt use property not used for an exempt use.
- Sec. 317. Limitation of deduction for charitable contributions of clothing and household items.
- Sec. 318. Modification of substantiation and recordkeeping requirements for certain charitable contributions.
- Sec. 319. Contributions of fractional interests in tangible personal property.
- Sec. 320. Provisions relating to substantial and gross overstatements of valuations of charitable deduction property.
- Sec. 321. Additional standards for credit counseling organizations.

PART II—IMPROVED ACCOUNTABILITY OF DONOR ADVISED FUNDS

- Sec. 331. Excise tax on sponsoring organizations of donor advised funds for failure to meet distribution requirements.
- Sec. 332. Prohibited transactions.
- Sec. 333. Treatment of charitable contribution deductions to donor advised funds.
- Sec. 334. Returns of, and applications for recognition by, sponsoring organizations.

PART III—IMPROVED ACCOUNTABILITY OF SUPPORTING ORGANIZATIONS

- Sec. 341. Requirements for supporting organizations.
- Sec. 342. Excise tax on supporting organizations for failure to meet distribution requirements.

- Sec. 343. Excess benefit transactions.
- Sec. 344. Excess business holdings of supporting organizations.
- Sec. 345. Treatment of amounts paid to supporting organizations by private foundations.
- Sec. 346. Returns of supporting organizations.

TITLE IV—MISCELLANEOUS PROVISIONS

- Sec. 401. Restructuring of New York Liberty Zone tax credits.
- Sec. 402. Modification to S corporation passive investment income rules.
- Sec. 403. Modification of effective date of disregard of certain capital expenditures for purposes of qualified small issue bonds.
- Sec. 404. Premiums for mortgage insurance.

TITLE V—REVENUE OFFSET PROVISIONS

Subtitle A—Provisions Designed to Curtail Tax Shelters

- Sec. 501. Understatement of taxpayer's liability by income tax return preparer.
- Sec. 502. Modifications of suspension of interest and penalties where Internal Revenue Service fails to contact taxpayer.
- Sec. 503. Frivolous tax submissions.

Subtitle B—Economic Substance Doctrine

- Sec. 511. Clarification of economic substance doctrine.
- Sec. 512. Penalty for understatements attributable to transactions lacking economic substance, etc.
- Sec. 513. Denial of deduction for interest on underpayments attributable to noneconomic substance transactions.

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

- Sec. 521. Waiver of user fee for installment agreements using automated withdrawals.
- Sec. 522. Termination of installment agreements.
- Sec. 523. Partial payments required with submission of offers-in-compromise.

Subtitle D—Penalties and Fines

- Sec. 531. Increase in criminal monetary penalty limitation for the underpayment or overpayment of tax due to fraud.
- Sec. 532. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangements.
- Sec. 533. Denial of deduction for certain fines, penalties, and other amounts.
- Sec. 534. Denial of deduction for punitive damages.
- Sec. 535. Increase in penalty for bad checks and money orders.

Subtitle E—Provisions to Discourage Expatriation

- Sec. 541. Tax treatment of inverted entities.
- Sec. 542. Revision of tax rules on expatriation of individuals.

Subtitle F—Miscellaneous Provisions

- Sec. 551. Treatment of contingent payment convertible debt instruments.

- Sec. 552. Grant of Treasury regulatory authority to address foreign tax credit transactions involving inappropriate separation of foreign taxes from related foreign income.
- Sec. 553. Repeal of special property exception to leasing provisions of the American Jobs Creation Act of 2004.
- Sec. 554. Application of earnings stripping rules to partners which are corporations.
- Sec. 555. Limitation of employer deduction for certain entertainment expenses.
- Sec. 556. Increase in age of minor children whose unearned income is taxed as if parent's income.
- Sec. 557. Loan and redemption requirements on pooled financing requirements.
- Sec. 558. Reporting of interest on tax-exempt bonds.
- Sec. 559. Modification of credit for producing fuel from a nonconventional source.
- Sec. 560. Modification of individual estimated tax safe harbor.
- Sec. 561. Revaluation of LIFO inventories of large integrated oil companies.
- Sec. 562. Elimination of amortization of geological and geophysical expenditures for major integrated oil companies.

1 TITLE I—TAX BENEFITS FOR

2 AREAS AFFECTED BY HURRI-

3 CANES KATRINA, RITA, AND

4 WILMA

5 Subtitle A—Gulf Opportunity Zone

6 Benefits

7 SEC. 101. GULF OPPORTUNITY ZONE BENEFITS.

8 (a) IN GENERAL.—Chapter 1 is amended by adding

9 at the end the following new subchapter:

10 “Subchapter Z—Hurricane Relief Benefits

“Sec. 1400N. Definitions.

“Sec. 1400O. Tax benefits for Gulf Opportunity Zone.

11 “SEC. 1400N. DEFINITIONS.

12 “For purposes of this subchapter—

13 “(1) GULF OPPORTUNITY ZONE.—The term

14 ‘Gulf Opportunity Zone’ or ‘GO Zone’ means that

15 portion of the Hurricane Katrina disaster area de-

1 terminated by the President to warrant individual or
2 individual and public assistance from the Federal
3 Government under the Robert T. Stafford Disaster
4 Relief and Emergency Assistance Act by reason of
5 Hurricane Katrina.

6 “(2) HURRICANE KATRINA DISASTER AREA.—
7 The term ‘Hurricane Katrina disaster area’ means
8 an area with respect to which a major disaster has
9 been declared by the President before September 14,
10 2005, under section 401 of such Act by reason of
11 Hurricane Katrina.

12 “(3) RITA GO ZONE.—The term ‘Rita GO Zone’
13 means that portion of the Hurricane Rita disaster
14 area determined by the President to warrant indi-
15 vidual or individual and public assistance from the
16 Federal Government under such Act by reason of
17 Hurricane Rita.

18 “(4) HURRICANE RITA DISASTER AREA.—The
19 term ‘Hurricane Rita disaster area’ means an area
20 with respect to which a major disaster has been de-
21 clared by the President before October 6, 2005,
22 under section 401 of such Act by reason of Hurri-
23 cane Rita.

24 “(5) WILMA GO ZONE.—The term ‘Wilma GO
25 Zone’ means that portion of the Hurricane Wilma

1 disaster area determined by the President to war-
 2 rant individual or individual and public assistance
 3 from the Federal Government under such Act by
 4 reason of Hurricane Wilma.

5 “(6) HURRICANE WILMA DISASTER AREA.—The
 6 term ‘Hurricane Wilma disaster area’ means an area
 7 with respect to which a major disaster has been de-
 8 clared by the President before October 25, 2005,
 9 under section 401 of such Act by reason of Hurri-
 10 cane Wilma.

11 **“SEC. 14000. TAX BENEFITS FOR GULF OPPORTUNITY**
 12 **ZONE.**

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

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

17 “(A) the depreciation deduction provided
 18 by section 167(a) for the taxable year in which
 19 such property is placed in service shall include
 20 an allowance equal to 50 percent of the ad-
 21 justed basis of such property, and

22 “(B) the adjusted basis of the qualified
 23 Gulf Opportunity Zone property shall be re-
 24 duced by the amount of such deduction before
 25 computing the amount otherwise allowable as a

depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

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

“(A) IN GENERAL.—The term ‘qualified Gulf Opportunity Zone property’ means property—

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

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

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

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

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

1 “(v) which is placed in service by the
 2 taxpayer on or before the termination date.
 3 The term ‘termination date’ means December
 4 31, 2007 (December 31, 2008, in the case of
 5 nonresidential real property and residential
 6 rental property).

7 “(B) EXCEPTIONS.—

8 “(i) ALTERNATIVE DEPRECIATION
 9 PROPERTY.—The term ‘qualified Gulf Op-
 10 portunity Zone property’ shall not include
 11 any property described in section
 12 168(k)(2)(D)(i).

13 “(ii) TAX-EXEMPT BOND-FINANCED
 14 PROPERTY.—Such term shall not include
 15 any property any portion of which is fi-
 16 nanced with the proceeds of any obligation
 17 the interest on which is exempt from tax
 18 under section 103.

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

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

4 “(C) SPECIAL RULES.—For purposes of
5 this subsection, rules similar to the rules of sec-
6 tion 168(k)(2)(E) shall apply, except that—

7 “(i) clause (i) thereof shall be applied
8 by substituting ‘after August 27, 2005,
9 and before the termination date (as de-
10 fined in section 1400O(a)(2))’ for ‘after
11 September 10, 2001, and before January
12 1, 2005’,

13 “(ii) clauses (ii), (iii), and (iv) thereof
14 shall be applied by substituting ‘August
15 27, 2005’ for ‘September 10, 2001’ each
16 place it appears, and

17 “(iii) clause (iv) thereof shall be ap-
18 plied by substituting ‘qualified Gulf Oppor-
19 tunity Zone property’ for ‘qualified prop-
20 erty’.

21 “(D) ALLOWANCE AGAINST ALTERNATIVE
22 MINIMUM TAX.—For purposes of this sub-
23 section, rules similar to the rules of section
24 168(k)(2)(G) shall apply.

1 “(3) RECAPTURE.—For purposes of this sub-
2 section, rules similar to the rules under section
3 179(d)(10) shall apply with respect to any qualified
4 Gulf Opportunity Zone property which ceases to be
5 qualified Gulf Opportunity Zone property.

6 “(b) INCREASE IN EXPENSING UNDER SECTION
7 179.—

8 “(1) IN GENERAL.—For purposes of section
9 179—

10 “(A) the \$100,000 amount in section
11 179(b)(1) for the taxable year shall be in-
12 creased by the lesser of—

13 “(i) \$100,000, or

14 “(ii) the cost of section 179 property
15 (as defined in section 179(d)) which is
16 qualified Gulf Opportunity Zone property
17 placed in service during the taxable year,
18 and

19 “(B) the \$400,000 amount in section
20 179(b)(2) for the taxable year shall be in-
21 creased by the lesser of—

22 “(i) \$600,000, or

23 “(ii) the cost of section 179 property
24 (as so defined) which is qualified Gulf Op-

1 portunity Zone property placed in service
2 during the taxable year.

3 “(2) QUALIFIED GULF OPPORTUNITY ZONE
4 PROPERTY.—For purposes of this subsection, the
5 term ‘qualified Gulf Opportunity Zone property’ has
6 the meaning given such term by subsection (a)(2).

7 “(3) COORDINATION WITH EMPOWERMENT
8 ZONES AND RENEWAL COMMUNITIES.—For purposes
9 of sections 1397A and 1400J, qualified Gulf Oppor-
10 tunity Zone property shall not be treated as quali-
11 fied zone property or qualified renewal property for
12 any taxable year, unless the taxpayer elects not to
13 have this subsection apply to all such qualified Gulf
14 Opportunity Zone property placed in service by the
15 taxpayer during the taxable year.

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

20 “(c) TAX-EXEMPT BOND FINANCING.—

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

24 “(2) QUALIFIED GULF OPPORTUNITY ZONE
25 BOND.—For purposes of this subsection, the term

1 ‘qualified Gulf Opportunity Zone Bond’ means any
2 bond issued as part of an issue if—

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

6 “(B) such bond is issued by the State of
7 Alabama, Louisiana, or Mississippi (or any po-
8 litical subdivision thereof),

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

11 “(D) such bond is issued after the date of
12 the enactment of this section and before Janu-
13 ary 1, 2011.

14 “(3) LIMITATION ON AGGREGATE AMOUNT OF
15 BONDS DESIGNATED.—The maximum aggregate face
16 amount of bonds which may be designated under
17 this subsection shall not exceed the product of
18 \$2,500 multiplied by the portion of the State popu-
19 lation which is in the Gulf Opportunity Zone (as de-
20 termined on the basis of the most recent census esti-
21 mate of resident population released by the Bureau
22 of Census before August 28, 2005).

23 “(4) SPECIAL RULES.—In applying this title to
24 any qualified Gulf Opportunity Zone Bond, the fol-
25 lowing modifications shall apply:

1 “(A) Section 143 (relating to mortgage
2 revenue bonds: qualified mortgage bond and
3 qualified veterans’ mortgage bond) shall be ap-
4 plied—

5 “(i) by treating any residence in the
6 Gulf Opportunity Zone as a targeted area
7 residence,

8 “(ii) by applying subsection (f)(3)
9 without regard to subparagraph (A) there-
10 of, and

11 “(iii) by substituting ‘\$150,000’ for
12 ‘\$15,000’ in subsection (k)(4) thereof.

13 “(B) Section 146 (relating to volume cap)
14 shall not apply.

15 “(C) Section 57(a)(5) shall not apply.

16 “(5) SEPARATE ISSUE TREATMENT OF POR-
17 TIONS OF AN ISSUE.—This subsection shall not
18 apply to the portion of an issue which (if issued as
19 a separate issue) would be treated as a qualified
20 bond or as a bond that is not a private activity bond
21 (determined without regard to paragraph (1)), if the
22 issuer elects to so treat such portion.

23 “(d) ADVANCE REFUNDINGS OF CERTAIN TAX-EX-
24 EMPT BONDS.—

1 “(1) IN GENERAL.—With respect to a bond de-
 2 scribed in paragraph (2) issued as part of an issue
 3 90 percent (95 percent in the case of a bond de-
 4 scribed in paragraph (2)(B)) or more of the net pro-
 5 ceeds (as defined in section 150(a)(3)) of which were
 6 used to finance facilities located within the Gulf Op-
 7 portunity Zone (or property which is functionally re-
 8 lated and subordinate to facilities located within the
 9 Gulf Opportunity Zone), one additional advanced re-
 10 funding after the date of the enactment of this sec-
 11 tion and before January 1, 2007, shall be allowed
 12 under the applicable rules of section 149(d) if—

13 “(A) the chief executive officer of the
 14 issuer of the bond designates the advance re-
 15 funding bond for purposes of this subsection,
 16 and

17 “(B) the requirements of paragraph (3)
 18 are met.

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

22 “(A) a State or local bond (as defined in
 23 section 103(e)(1)) other than a private activity
 24 bond (as defined in section 141(a)) issued by

1 the State of Alabama, Louisiana, or Mississippi
 2 (or any political subdivision thereof), or

3 “(B) a qualified 501(c)(3) bond (as de-
 4 fined in section 145(a)) issued by or on behalf
 5 of any such State or political subdivision.

6 “(3) ADDITIONAL REQUIREMENTS.—The re-
 7 quirements of this paragraph are met with respect
 8 to any advance refunding of a bond described in
 9 paragraph (2) if—

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

13 “(B) the advance refunding bond is the
 14 only other outstanding bond with respect to the
 15 refunded bond, and

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

19 “(e) LOW-INCOME HOUSING CREDIT.—

20 “(1) INCREASE IN STATE HOUSING CREDIT
 21 CEILING.—

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

24 “(i) the amount otherwise determined
 25 under subclause (I) of section

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

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

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

“(i) IN GENERAL.—If the amount determined under section 42(h)(3)(C)(ii)(I), as increased under subparagraph (A)(i), for any calendar year for any State described in subparagraph (A) exceeds the aggregate housing credit dollar amount allocated during such calendar year by such

1 State, such State may elect to treat as a
 2 carryforward to the following calendar year
 3 an amount equal to lesser of—

4 “(I) the amount of such excess,

5 or

6 “(II) the amount by which the
 7 amount determined under section
 8 42(h)(3)(C)(ii)(I) for such calendar
 9 year was increased under subpara-
 10 graph (A)(i)).

11 “(ii) USE OF CARRYFORWARD.—If
 12 any State elects a carryforward under
 13 clause (i), any housing credit dollar
 14 amount allocated by such State during the
 15 calendar year following the calendar year
 16 in which the carryforward arose shall not
 17 be considered so allocated for purposes of
 18 section 42(h)(3)(C) and section
 19 42(h)(3)(D) to the extent such housing
 20 credit dollar amount does not exceed the
 21 amount of the carryforward elected.

22 “(2) DIFFICULT DEVELOPMENT AREA.—

23 “(A) IN GENERAL.—For purposes of sec-
 24 tion 42—

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

4 “(I) shall be treated as a difficult
 5 development area designated under
 6 subclause (I) of section
 7 42(d)(5)(C)(iii), and

8 “(II) shall not be taken into ac-
 9 count for purposes of applying the
 10 limitation under subclause (II) of such
 11 section, and

12 “(ii) subsection (b)(2)(B) thereof shall
 13 be applied with respect to any such prop-
 14 erty placed in service in the Gulf Oppor-
 15 tunity Zone by substituting ‘91 percent’
 16 and ‘39 percent’ for ‘70 percent’ and ‘30
 17 percent’, respectively.

18 “(B) APPLICATION.—Subparagraph (A)
 19 shall apply only to—

20 “(i) housing credit dollar amounts al-
 21 located during the period beginning on
 22 January 1, 2006, and ending on December
 23 31, 2008, and

24 “(ii) buildings placed in service during
 25 such period to the extent that paragraph

1 (1) of section 42(h) does not apply to any
2 building by reason of paragraph (4) there-
3 of, but only with respect to bonds issued
4 after December 31, 2005.

5 “(f) TREATMENT OF REPRESENTATIONS REGARDING
6 INCOME ELIGIBILITY FOR PURPOSES OF QUALIFIED RES-
7 IDENTIAL RENTAL PROJECT REQUIREMENTS.—For pur-
8 poses of determining if any residential rental project meets
9 the requirements of section 142(d)(1) and if any certifi-
10 cation with respect to such project meets the requirements
11 under section 142(d)(7), the operator of the project may
12 rely on the representations of any individual applying for
13 tenancy in such project that such individual’s income will
14 not exceed the applicable income limits of section
15 142(d)(1) upon commencement of the individual’s tenancy
16 if such tenancy begins during the 6-month period begin-
17 ning on and after the date such individual was displaced
18 by reason of Hurricane Katrina.

19 “(g) APPLICATION OF NEW MARKETS TAX CREDIT
20 TO INVESTMENTS IN COMMUNITY DEVELOPMENT ENTI-
21 TIES SERVING GULF OPPORTUNITY ZONE.—For purposes
22 of section 45D—

23 “(1) a qualified community development entity
24 shall be eligible for an allocation under subsection
25 (f)(2) thereof of the increase in the new markets tax

1 credit limitation described in paragraph (2) only if
2 a significant mission of such entity is the recovery
3 and redevelopment of the Gulf Opportunity Zone,

4 “(2) the new markets tax credit limitation oth-
5 erwise determined under subsection (f)(1) thereof
6 shall be increased by an amount equal to—

7 “(A) \$300,000,000 for 2005 and 2006, to
8 be allocated among qualified community devel-
9 opment entities to make qualified low-income
10 community investments within the Gulf Oppor-
11 tunity Zone, and

12 “(B) \$400,000,000 for 2007, to be so allo-
13 cated, and

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

17 “(h) TREATMENT OF NET OPERATING LOSSES AT-
18 TRIBUTABLE TO GULF OPPORTUNITY ZONE LOSSES.—

19 “(1) IN GENERAL.—If a portion of any net op-
20 erating loss of the taxpayer for any taxable year is
21 a qualified Gulf Opportunity Zone loss, the following
22 rules shall apply:

23 “(A) EXTENSION OF CARRYBACK PE-
24 RIOD.—Section 172(b)(1) shall be applied with
25 respect to such portion—

1 “(i) by substituting ‘5 taxable years’
 2 for ‘2 taxable years’ in subparagraph
 3 (A)(i), and

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

8 “(B) SUSPENSION OF 90 PERCENT AMT
 9 LIMITATION.—Section 56(d)(1) shall be applied
 10 by increasing the amount determined under
 11 subparagraph (A)(ii)(I) thereof by the sum of
 12 the carrybacks and carryovers of any net oper-
 13 ating loss attributable to such portion.

14 “(2) QUALIFIED GULF OPPORTUNITY ZONE
 15 LOSS.—For purposes of paragraph (1), the term
 16 ‘qualified Gulf Opportunity Zone loss’ means the
 17 lesser of—

18 “(A) the amount of the net operating loss
 19 for the taxable year, or

20 “(B) the aggregate amount of the fol-
 21 lowing deductions for such taxable year:

22 “(i) Any deduction for any qualified
 23 Gulf Opportunity Zone casualty loss.

24 “(ii) Any deduction for moving ex-
 25 penses paid or incurred after August 27,

2005, and before January 1, 2008, and allowable under this chapter to any taxpayer in connection with the employment of any individual—

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

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

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

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

“(iii) Any deduction for expenses paid or incurred after August 27, 2005, and before January 1, 2008, and allowable under this chapter to temporarily house any em-

1 ployee of the taxpayer whose principal
 2 place of employment is in the Gulf Oppor-
 3 tunity Zone.

4 “(iv) Any deduction for depreciation
 5 (or amortization in lieu of depreciation) al-
 6 lowable under this chapter with respect to
 7 any qualified Gulf Opportunity Zone prop-
 8 erty (as defined in subsection (a)(2)) for
 9 the taxable year such property is placed in
 10 service.

11 “(v) Any deduction for repair ex-
 12 penses (including expenses for removal of
 13 debris) allowable under this chapter paid
 14 or incurred after August 27, 2005, and be-
 15 fore January 1, 2008, with respect to any
 16 damage attributable to Hurricane Katrina
 17 and in connection with property which is
 18 located in the Gulf Opportunity Zone.

19 “(3) QUALIFIED GULF OPPORTUNITY ZONE
 20 CASUALTY LOSS.—

21 “(A) IN GENERAL.—For purposes of para-
 22 graph (2)(B)(i), the term ‘qualified Gulf Oppor-
 23 tunity Zone casualty loss’ means any uncom-
 24 pensated section 1231 loss (as defined in sec-

tion 1231(a)(3)(B)) of property located in the
Gulf Opportunity Zone if—

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

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

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

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

“(4) SPECIAL RULES.—For purposes of paragraph (1), rules similar to the rules of paragraphs

1 (2) and (3) of section 172(i) shall apply with respect
2 to such portion.

3 “(i) TREATMENT OF PUBLIC UTILITY PROPERTY
4 DISASTER LOSSES.—

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

8 “(A) section 165(i) shall be applied by sub-
9 stituting ‘the fifth taxable year immediately
10 preceding’ for ‘the taxable year immediately
11 preceding’,

12 “(B) an application for a tentative
13 carryback adjustment of the tax for any prior
14 taxable year affected by the application of sub-
15 paragraph (A) may be made under section
16 6411, and

17 “(C) section 6611 shall not apply to any
18 overpayment attributable to such loss.

19 “(2) ELIGIBLE PUBLIC UTILITY PROPERTY
20 LOSS.—For purposes of this subsection—

21 “(A) IN GENERAL.—The term ‘eligible
22 public utility property loss’ means any loss with
23 respect to public utility property located in the
24 Gulf Opportunity Zone and attributable to Hur-
25 ricane Katrina.

1 “(B) PUBLIC UTILITY PROPERTY.—The
 2 term ‘public utility property’ has the meaning
 3 given such term by section 168(i)(10) without
 4 regard to the matter following subparagraph
 5 (D) thereof.

6 “(3) WAIVER OF LIMITATIONS.—If refund or
 7 credit of any overpayment of tax resulting from the
 8 application of paragraph (1) is prevented at any
 9 time before the close of the 1-year period beginning
 10 on the date of the enactment of this section by the
 11 operation of any law or rule of law (including res ju-
 12 dicata), such refund or credit may nevertheless be
 13 made or allowed if claim therefor is filed before the
 14 close of such period.

15 “(j) SPECIAL RULE FOR GULF OPPORTUNITY ZONE
 16 PUBLIC UTILITY CASUALTY LOSSES.—

17 “(1) IN GENERAL.—The amount described in
 18 section 172(f)(1)(A) for any taxable year shall be in-
 19 creased by the amount of the Gulf Opportunity Zone
 20 public utility casualty loss for such year.

21 “(2) GULF OPPORTUNITY ZONE PUBLIC UTIL-
 22 ITY CASUALTY LOSS.—For purposes of this sub-
 23 section, the term ‘Gulf Opportunity Zone public util-
 24 ity casualty loss’ means any casualty loss of public

1 utility property (as defined in section 168(i)(10)) lo-
 2 cated in the Gulf Opportunity Zone if—

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

5 “(B) such loss is attributable to Hurricane
 6 Katrina, and

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

9 “(3) REDUCTION FOR GAINS FROM INVOLUN-
 10 TARY CONVERSION.—The amount of Gulf Oppor-
 11 tunity Zone public utility casualty loss which would
 12 (but for this paragraph) be taken into account under
 13 paragraph (1) for any taxable year shall be reduced
 14 by the amount of any gain recognized by the tax-
 15 payer for such year from the involuntary conversion
 16 by reason of Hurricane Katrina of public utility
 17 property (as so defined) located in the Gulf Oppor-
 18 tunity Zone.

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

24 “(5) ELECTION.—Any election under paragraph
 25 (2)(C) shall be made in such manner as may be pre-

1 scribed by the Secretary and shall be made by the
 2 due date (including extensions of time) for filing the
 3 taxpayer's return for the taxable year of the loss.
 4 Such election, once made for any taxable year, shall
 5 be irrevocable for such taxable year.

6 “(k) SPECIAL RULES FOR SMALL TIMBER PRO-
 7 DUCERS.—

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

16 “(A) the limitation which would (but for
 17 this subsection) apply under such subpara-
 18 graph, or

19 “(B) the amount of reforestation expendi-
 20 tures (as defined in section 194(c)(3)) paid or
 21 incurred by the taxpayer with respect to such
 22 qualified timber property during the specified
 23 portion of the taxable year.

24 “(2) 5 YEAR NOL CARRYBACK OF CERTAIN TIM-
 25 BER LOSSES.—For purposes of determining farming

1 loss under section 172(i), income and deductions
 2 which are allocable to the specified portion of the
 3 taxable year and which are attributable to qualified
 4 timber property any portion of which is located in
 5 the Gulf Opportunity Zone, in that portion of the
 6 Rita GO Zone which is not part of the Gulf Oppor-
 7 tunity Zone, or in the Wilma GO Zone shall be
 8 treated as attributable to farming businesses.

9 “(3) RULES NOT APPLICABLE TO CERTAIN EN-
 10 TITIES.—Paragraphs (1) and (2) shall not apply to
 11 any taxpayer which—

12 “(A) is a corporation the stock of which is
 13 publicly traded on an established securities
 14 market, or

15 “(B) is a real estate investment trust.

16 “(4) RULES NOT APPLICABLE TO LARGE TIM-
 17 BER PRODUCERS.—Paragraphs (1) and (2) shall not
 18 apply with respect to any qualified timber property
 19 unless—

20 “(A) such property was held by the tax-
 21 payer—

22 “(i) on August 28, 2005, in the case
 23 of qualified timber property any portion of
 24 which is located in the Gulf Opportunity
 25 Zone,

1 “(ii) on September 23, 2005, in the
2 case of qualified timber property (other
3 than property described in subclause (I))
4 any portion of which is located in that por-
5 tion of the Rita GO Zone which is not part
6 of the Gulf Opportunity Zone, or

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

12 “(B) such taxpayer held not more than
13 500 acres of qualified timber property on such
14 date.

15 “(5) DEFINITIONS.—For purposes of this sub-
16 section—

17 “(A) SPECIFIED PORTION.—The term
18 ‘specified portion’ means—

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

24 “(ii) in the case of qualified timber
25 property located in the Rita GO Zone and

no part of which is located in the Gulf Opportunity Zone, that portion of the taxable year which is on or after September 23, 2005, and before January 1, 2007, and

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

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

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

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

“(2) GULF OPPORTUNITY ZONE CLEAN-UP COST.—For purposes of this subsection, the term ‘Gulf Opportunity Zone clean-up cost’ means any amount paid or incurred during the period beginning on August 28, 2005, and ending on December 31,

1 2007, for the removal of debris from, or the demoli-
 2 tion of structures on, real property which is located
 3 in the Gulf Opportunity Zone and which is—

4 “(A) held by the taxpayer for use in a
 5 trade or business or for the production of in-
 6 come, or

7 “(B) property described in section
 8 1221(a)(1) in the hands of the taxpayer.

9 For purposes of the preceding sentence, amounts
 10 paid or incurred shall be taken into account only to
 11 the extent that such amount would (but for para-
 12 graph (1)) be chargeable to capital account.

13 “(m) EXTENSION OF EXPENSING FOR ENVIRON-
 14 MENTAL REMEDIATION COSTS.—With respect to any
 15 qualified environmental remediation expenditure (as de-
 16 fined in section 198(b)) paid or incurred on or after Au-
 17 gust 28, 2005, in connection with a qualified contaminated
 18 site located in the Gulf Opportunity Zone, section 198 (re-
 19 lating to expensing of environmental remediation costs)
 20 shall be applied—

21 “(1) by substituting ‘December 31, 2007’ for
 22 ‘December 31, 2006’ in subsection (h) thereof, and

23 “(2) except as provided in section 198(d)(2), by
 24 treating petroleum products (as defined in section
 25 4612(a)(3)) as a hazardous substance.

1 “(n) GULF OPPORTUNITY ZONE.—For purposes of
2 this section, the term ‘Gulf Opportunity Zone’ means an
3 area—

4 “(1) with respect to which a major disaster has
5 been declared by the President under section 401 of
6 the Robert T. Stafford Disaster Relief and Emer-
7 gency Assistance Act as a result of Hurricane
8 Katrina, and

9 “(2) which is determined by the President to
10 warrant individual assistance, or individual and pub-
11 lic assistance, from the Federal Government under
12 such Act.”

13 (b) CLERICAL AMENDMENTS.—The table of sub-
14 chapters for chapter 1 is amended by adding at the end
15 the following new item:

“SUBCHAPTER Z—HURRICANE RELIEF BENEFITS.”.

16 **SEC. 102. EXPANSION OF HOPE SCHOLARSHIP AND LIFE-**
17 **TIME LEARNING CREDIT FOR STUDENTS IN**
18 **THE GULF OPPORTUNITY ZONE.**

19 In the case of an individual who attends an eligible
20 educational institution (as defined in section 25A(f)(2) of
21 the Internal Revenue Code of 1986) located in the Gulf
22 Opportunity Zone (as defined in section 1400N(1) of such
23 Code) for any taxable year beginning during 2005 or
24 2006—

1 (1) in applying section 25A of the Internal Rev-
 2 enue Code of 1986, the term “qualified tuition and
 3 related expenses” shall include any costs which are
 4 qualified higher education expenses (as defined in
 5 section 529(e)(3) of such Code),

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

10 (3) section 25A(c)(1) of such Code shall be ap-
 11 plied by substituting “40 percent” for “20 percent”.

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

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

17 **Subtitle B—Tax Benefits Related to**
 18 **Hurricanes Rita and Wilma**

19 **SEC. 111. EXTENSION OF CERTAIN EMERGENCY TAX RE-**
 20 **LIEF FOR HURRICANE KATRINA TO HURRI-**
 21 **CANES RITA AND WILMA.**

22 (a) IN GENERAL.—Subchapter Z of chapter 1, as
 23 added by this Act, is amended by adding at the end the
 24 following new sections:

1 **“SEC. 1400P. SPECIAL RULES FOR MORTGAGE REVENUE**
 2 **BONDS.**

3 “(a) IN GENERAL.—In the case of financing provided
 4 with respect to residences in the GO Zone, the Rita GO
 5 Zone, or the Wilma GO Zone, section 143 shall be ap-
 6 plied—

7 “(1) by treating any residence in the GO Zone,
 8 the Rita GO Zone, or the Wilma GO Zone as a tar-
 9 geted area residence,

10 “(2) by applying subsection (f)(3) without re-
 11 gard to subparagraph (A) thereof, and

12 “(3) by substituting ‘\$150,000’ for ‘\$15,000’ in
 13 subsection (k)(4) thereof.

14 “(b) APPLICATION.—Subsection (a) shall not apply
 15 to financing provided after December 31, 2010.

16 **“SEC. . SPECIAL RULES FOR USE OF RETIREMENT FUNDS.**

17 “(a) TAX-FAVORED WITHDRAWALS FROM RETIRE-
 18 MENT PLANS.—

19 “(1) IN GENERAL.—Section 72(t) shall not
 20 apply to any qualified hurricane distribution.

21 “(2) AGGREGATE DOLLAR LIMITATION.—

22 “(A) IN GENERAL.—For purposes of this
 23 subsection, the aggregate amount of distribu-
 24 tions received by an individual which may be
 25 treated as qualified hurricane distributions for

any taxable year shall not exceed the excess (if any) of—

“(i) \$100,000, over

“(ii) the aggregate amounts treated as qualified hurricane distributions received by such individual for all prior taxable years.

“(B) TREATMENT OF PLAN DISTRIBUTIONS.—If a distribution to an individual would (without regard to subparagraph (A)) be a qualified hurricane distribution, a plan shall not be treated as violating any requirement of this title merely because the plan treats such distribution as a qualified hurricane distribution, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds \$100,000.

“(C) CONTROLLED GROUP.—For purposes of subparagraph (B), the term ‘controlled group’ means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

“(3) AMOUNT DISTRIBUTED MAY BE REPAYED.—

“(A) IN GENERAL.—Any individual who receives a qualified hurricane distribution may, at any time during the 3-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate amount not to exceed the amount of such distribution to an eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), as the case may be.

“(B) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS OTHER THAN IRAS.—For purposes of this title, if a contribution is made pursuant to subparagraph (A) with respect to a qualified hurricane distribution from an eligible retirement plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received the qualified hurricane distribution in an eligible rollover distribution (as defined in section 402(c)(4)) and as having transferred the amount to the eligible retirement

plan in a direct trustee to trustee transfer within 60 days of the distribution.

“(C) TREATMENT OF REPAYMENTS FOR DISTRIBUTIONS FROM IRAS.—For purposes of this title, if a contribution is made pursuant to subparagraph (A) with respect to a qualified hurricane distribution from an individual retirement plan (as defined by section 7701(a)(37)), then, to the extent of the amount of the contribution, the qualified hurricane distribution shall be treated as a distribution described in section 408(d)(3) and as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

“(4) DEFINITIONS.—For purposes of this subsection—

“(A) QUALIFIED HURRICANE DISTRIBUTION.—Except as provided in paragraph (2), the term ‘qualified hurricane distribution’ means—

“(i) any distribution from an eligible retirement plan made on or after August 25, 2005, and before January 1, 2007, to an individual whose principal place of

1 abode on August 28, 2005, is located in
2 the Hurricane Katrina disaster area and
3 who has sustained an economic loss by rea-
4 son of Hurricane Katrina,

5 “(ii) any distribution (which is not de-
6 scribed in clause (i)) from an eligible re-
7 tirement plan made on or after September
8 23, 2005, and before January 1, 2007, to
9 an individual whose principal place of
10 abode on September 23, 2005, is located in
11 the Hurricane Rita disaster area and who
12 has sustained an economic loss by reason
13 of Hurricane Rita, and

14 “(iii) any distribution (which is not
15 described in clause (i) or (ii)) from an eli-
16 gible retirement plan made on or after Oc-
17 tober 23, 2005, and before January 1,
18 2007, to an individual whose principal
19 place of abode on October 23, 2005, is lo-
20 cated in the Hurricane Wilma disaster
21 area and who has sustained an economic
22 loss by reason of Hurricane Wilma.

23 “(B) ELIGIBLE RETIREMENT PLAN.—The
24 term ‘eligible retirement plan’ shall have the

1 meaning given such term by section
 2 402(c)(8)(B).

3 “(5) INCOME INCLUSION SPREAD OVER 3-YEAR
 4 PERIOD.—

5 “(A) IN GENERAL.—In the case of any
 6 qualified hurricane distribution, unless the tax-
 7 payer elects not to have this paragraph apply
 8 for any taxable year, any amount required to be
 9 included in gross income for such taxable year
 10 shall be so included ratably over the 3-taxable
 11 year period beginning with such taxable year.

12 “(B) SPECIAL RULE.—For purposes of
 13 subparagraph (A), rules similar to the rules of
 14 subparagraph (E) of section 408A(d)(3) shall
 15 apply.

16 “(6) SPECIAL RULES.—

17 “(A) EXEMPTION OF DISTRIBUTIONS FROM
 18 TRUSTEE TO TRUSTEE TRANSFER AND WITH-
 19 HOLDING RULES.—For purposes of sections
 20 401(a)(31), 402(f), and 3405, qualified hurri-
 21 cane distributions shall not be treated as eligi-
 22 ble rollover distributions.

23 “(B) QUALIFIED HURRICANE DISTRIBUTI-
 24 TIONS TREATED AS MEETING PLAN DISTRIBUTI-
 25 ON REQUIREMENTS.—For purposes this title,

1 a qualified hurricane distribution shall be treat-
 2 ed as meeting the requirements of sections
 3 401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11),
 4 and 457(d)(1)(A).

5 “(b) RECONTRIBUTIONS OF WITHDRAWALS FOR
 6 HOME PURCHASES.—

7 “(1) RECONTRIBUTIONS.—

8 “(A) IN GENERAL.—Any individual who
 9 received a qualified distribution may, during the
 10 applicable period, make one or more contribu-
 11 tions in an aggregate amount not to exceed the
 12 amount of such qualified distribution to an eli-
 13 gible retirement plan (as defined in section
 14 402(c)(8)(B)) of which such individual is a ben-
 15 eficiary and to which a rollover contribution of
 16 such distribution could be made under section
 17 402(c), 403(a)(4), 403(b)(8), or 408(d)(3), as
 18 the case may be.

19 “(B) TREATMENT OF REPAYMENTS.—
 20 Rules similar to the rules of subparagraphs (B)
 21 and (C) of subsection (a)(3) shall apply for pur-
 22 poses of this subsection.

23 “(2) QUALIFIED DISTRIBUTION.—For purposes
 24 of this subsection—

“(A) IN GENERAL.—The term ‘qualified distribution’ means any qualified Katrina distribution, any qualified Rita distribution, and any qualified Wilma distribution.

“(B) QUALIFIED KATRINA DISTRIBUTION.—The term ‘qualified Katrina distribution’ means any distribution—

“(i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F),

“(ii) received after February 28, 2005, and before August 29, 2005, and

“(iii) which was to be used to purchase or construct a principal residence in the Hurricane Katrina disaster area, but which was not so purchased or constructed on account of Hurricane Katrina.

“(C) QUALIFIED RITA DISTRIBUTION.—The term ‘qualified Rita distribution’ means any distribution (other than a qualified Katrina distribution)—

“(i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but

only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F),

“(ii) received after February 28, 2005, and before September 24, 2005, and

“(iii) which was to be used to purchase or construct a principal residence in the Hurricane Rita disaster area, but which was not so purchased or constructed on account of Hurricane Rita.

“(D) QUALIFIED WILMA DISTRIBUTION.—

The term ‘qualified Wilma distribution’ means any distribution (other than a qualified Katrina distribution or a qualified Rita distribution)—

“(i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F),

“(ii) received after February 28, 2005, and before October 24, 2005, and

“(iii) which was to be used to purchase or construct a principal residence in the Hurricane Wilma disaster area, but

1 which was not so purchased or constructed
 2 on account of Hurricane Wilma.

3 “(3) APPLICABLE PERIOD.—For purposes of
 4 this subsection, the term ‘applicable period’ means—

5 “(A) with respect to any qualified Katrina
 6 distribution, the period beginning on August
 7 25, 2005, and ending on February 28, 2006,

8 “(B) with respect to any qualified Rita dis-
 9 tribution, the period beginning on September
 10 23, 2005, and ending on February 28, 2006,
 11 and

12 “(C) with respect to any qualified Wilma
 13 distribution, the period beginning on October
 14 23, 2005, and ending on February 28, 2006.

15 “(c) LOANS FROM QUALIFIED PLANS.—

16 “(1) INCREASE IN LIMIT ON LOANS NOT TREAT-
 17 ED AS DISTRIBUTIONS.—In the case of any loan
 18 from a qualified employer plan (as defined under
 19 section 72(p)(4)) to a qualified individual made dur-
 20 ing the applicable period—

21 “(A) clause (i) of section 72(p)(2)(A) shall
 22 be applied by substituting ‘\$100,000’ for
 23 ‘\$50,000’, and

24 “(B) clause (ii) of such section shall be ap-
 25 plied by substituting ‘the present value of the

1 nonforfeitable accrued benefit of the employee
 2 under the plan’ for ‘one-half of the present
 3 value of the nonforfeitable accrued benefit of
 4 the employee under the plan’.

5 “(2) DELAY OF REPAYMENT.—In the case of a
 6 qualified individual with an outstanding loan on or
 7 after the qualified beginning date from a qualified
 8 employer plan (as defined in section 72(p)(4))—

9 “(A) if the due date pursuant to subpara-
 10 graph (B) or (C) of section 72(p)(2) for any re-
 11 payment with respect to such loan occurs dur-
 12 ing the period beginning on the qualified begin-
 13 ning date and ending on December 31, 2006,
 14 such due date shall be delayed for 1 year,

15 “(B) any subsequent repayments with re-
 16 spect to any such loan shall be appropriately
 17 adjusted to reflect the delay in the due date
 18 under paragraph (1) and any interest accruing
 19 during such delay, and

20 “(C) in determining the 5-year period and
 21 the term of a loan under subparagraph (B) or
 22 (C) of section 72(p)(2), the period described in
 23 subparagraph (A) shall be disregarded.

24 “(3) QUALIFIED INDIVIDUAL.—For purposes of
 25 this subsection—

1 “(A) IN GENERAL.—The term ‘qualified
2 individual’ means any qualified Hurricane
3 Katrina individual, any qualified Hurricane
4 Rita individual, and any qualified Hurricane
5 Wilma individual.

6 “(B) QUALIFIED HURRICANE KATRINA IN-
7 DIVIDUAL.—The term ‘qualified Hurricane
8 Katrina individual’ means an individual whose
9 principal place of abode on August 28, 2005, is
10 located in the Hurricane Katrina disaster area
11 and who has sustained an economic loss by rea-
12 son of Hurricane Katrina.

13 “(C) QUALIFIED HURRICANE RITA INDI-
14 VIDUAL.—The term ‘qualified Hurricane Rita
15 individual’ means an individual (other than a
16 qualified Hurricane Katrina individual) whose
17 principal place of abode on September 23,
18 2005, is located in the Hurricane Rita disaster
19 area and who has sustained an economic loss by
20 reason of Hurricane Rita.

21 “(D) QUALIFIED HURRICANE WILMA INDI-
22 VIDUAL.—The term ‘qualified Hurricane Wilma
23 individual’ means an individual (other than a
24 qualified Hurricane Katrina individual or a
25 qualified Hurricane Rita individual) whose prin-

1 ciplal place of abode on October 23, 2005, is lo-
 2 cated in the Hurricane Wilma disaster area and
 3 who has sustained an economic loss by reason
 4 of Hurricane Wilma.

5 “(4) APPLICABLE PERIOD; QUALIFIED BEGIN-
 6 NING DATE.—For purposes of this subsection—

7 “(A) HURRICANE KATRINA.—In the case
 8 of any qualified Hurricane Katrina individual—

9 “(i) the applicable period is the period
 10 beginning on September 24, 2005, and
 11 ending on December 31, 2006, and

12 “(ii) the qualified beginning date is
 13 August 25, 2005.

14 “(B) HURRICANE RITA.—In the case of
 15 any qualified Hurricane Rita individual—

16 “(i) the applicable period is the period
 17 beginning on the date of the enactment of
 18 this subsection and ending on December
 19 31, 2006, and

20 “(ii) the qualified beginning date is
 21 September 23, 2005.

22 “(C) HURRICANE WILMA.—In the case of
 23 any qualified Hurricane Wilma individual—

24 “(i) the applicable period is the period
 25 beginning on the date of the enactment of

1 this subsection and ending on December
2 31, 2006, and

3 “(ii) the qualified beginning date is
4 October 23, 2005.

5 **“SEC. 1400R. EMPLOYMENT RELIEF.**

6 “(a) EMPLOYEE RETENTION CREDIT FOR EMPLOY-
7 ERS AFFECTED BY HURRICANE KATRINA.—

8 “(1) IN GENERAL.—For purposes of section 38,
9 in the case of an eligible employer, the Hurricane
10 Katrina employee retention credit for any taxable
11 year is an amount equal to 40 percent of the quali-
12 fied wages with respect to each eligible employee of
13 such employer for such taxable year. For purposes
14 of the preceding sentence, the amount of qualified
15 wages which may be taken into account with respect
16 to any individual shall not exceed \$6,000.

17 “(2) DEFINITIONS.—For purposes of this sub-
18 section—

19 “(A) ELIGIBLE EMPLOYER.—The term ‘eli-
20 gible employer’ means any employer—

21 “(i) which conducted an active trade
22 or business on August 28, 2005, in the
23 Gulf Opportunity Zone, and

24 “(ii) with respect to whom the trade
25 or business described in clause (i) is inop-

1 erable on any day after August 28, 2005,
2 and before January 1, 2006, as a result of
3 damage sustained by reason of Hurricane
4 Katrina.

5 “(B) ELIGIBLE EMPLOYEE.—The term ‘el-
6 igible employee’ means with respect to an eligi-
7 ble employer an employee whose principal place
8 of employment on August 28, 2005, with such
9 eligible employer was in the Gulf Opportunity
10 Zone.

11 “(C) QUALIFIED WAGES.—The term
12 ‘qualified wages’ means wages (as defined in
13 section 51(c)(1), but without regard to section
14 3306(b)(2)(B)) paid or incurred by an eligible
15 employer with respect to an eligible employee on
16 any day after August 28, 2005, and before Jan-
17 uary 1, 2006, which occurs during the period—

18 “(i) beginning on the date on which
19 the trade or business described in subpara-
20 graph (A) first became inoperable at the
21 principal place of employment of the em-
22 ployee immediately before Hurricane
23 Katrina, and

24 “(ii) ending on the date on which such
25 trade or business has resumed significant

1 operations at such principal place of em-
 2 ployment.

3 Such term shall include wages paid without re-
 4 gard to whether the employee performs no serv-
 5 ices, performs services at a different place of
 6 employment than such principal place of em-
 7 ployment, or performs services at such principal
 8 place of employment before significant oper-
 9 ations have resumed.

10 “(3) CERTAIN RULES TO APPLY.—For purposes
 11 of this subsection, rules similar to the rules of sec-
 12 tions 51(i)(1), 52, and 280C(a) shall apply.

13 “(4) EMPLOYEE NOT TAKEN INTO ACCOUNT
 14 MORE THAN ONCE.—An employee shall not be treat-
 15 ed as an eligible employee for purposes of this sub-
 16 section for any period with respect to any employer
 17 if such employer is allowed a credit under section 51
 18 with respect to such employee for such period.

19 “(b) EMPLOYEE RETENTION CREDIT FOR EMPLOY-
 20 ERS AFFECTED BY HURRICANE RITA.—

21 “(1) IN GENERAL.—For purposes of section 38,
 22 in the case of an eligible employer, the Hurricane
 23 Rita employee retention credit for any taxable year
 24 is an amount equal to 40 percent of the qualified
 25 wages with respect to each eligible employee of such

1 employer for such taxable year. For purposes of the
 2 preceding sentence, the amount of qualified wages
 3 which may be taken into account with respect to any
 4 individual shall not exceed \$6,000.

5 “(2) DEFINITIONS.—For purposes of this sub-
 6 section—

7 “(A) ELIGIBLE EMPLOYER.—The term ‘eli-
 8 gible employer’ means any employer—

9 “(i) which conducted an active trade
 10 or business on September 23, 2005, in the
 11 Rita GO Zone, and

12 “(ii) with respect to whom the trade
 13 or business described in clause (i) is inop-
 14 erable on any day after September 23,
 15 2005, and before January 1, 2006, as a re-
 16 sult of damage sustained by reason of
 17 Hurricane Rita.

18 “(B) ELIGIBLE EMPLOYEE.—The term ‘el-
 19 igible employee’ means with respect to an eligi-
 20 ble employer an employee whose principal place
 21 of employment on September 23, 2005, with
 22 such eligible employer was in the Rita GO
 23 Zone.

24 “(C) QUALIFIED WAGES.—The term
 25 ‘qualified wages’ means wages (as defined in

1 section 51(c)(1), but without regard to section
2 3306(b)(2)(B)) paid or incurred by an eligible
3 employer with respect to an eligible employee on
4 any day after September 23, 2005, and before
5 January 1, 2006, which occurs during the pe-
6 riod—

7 “(i) beginning on the date on which
8 the trade or business described in subpara-
9 graph (A) first became inoperable at the
10 principal place of employment of the em-
11 ployee immediately before Hurricane Rita,
12 and

13 “(ii) ending on the date on which such
14 trade or business has resumed significant
15 operations at such principal place of em-
16 ployment.

17 Such term shall include wages paid without re-
18 gard to whether the employee performs no serv-
19 ices, performs services at a different place of
20 employment than such principal place of em-
21 ployment, or performs services at such principal
22 place of employment before significant oper-
23 ations have resumed.

1 “(3) CERTAIN RULES TO APPLY.—For purposes
2 of this subsection, rules similar to the rules of sec-
3 tions 51(i)(1), 52, and 280C(a) shall apply.

4 “(4) EMPLOYEE NOT TAKEN INTO ACCOUNT
5 MORE THAN ONCE.—An employee shall not be treat-
6 ed as an eligible employee for purposes of this sub-
7 section for any period with respect to any employer
8 if such employer is allowed a credit under subsection
9 (a) or section 51 with respect to such employee for
10 such period.

11 “(c) EMPLOYEE RETENTION CREDIT FOR EMPLOY-
12 ERS AFFECTED BY HURRICANE WILMA.—

13 “(1) IN GENERAL.—For purposes of section 38,
14 in the case of an eligible employer, the Hurricane
15 Wilma employee retention credit for any taxable year
16 is an amount equal to 40 percent of the qualified
17 wages with respect to each eligible employee of such
18 employer for such taxable year. For purposes of the
19 preceding sentence, the amount of qualified wages
20 which may be taken into account with respect to any
21 individual shall not exceed \$6,000.

22 “(2) DEFINITIONS.—For purposes of this sub-
23 section—

24 “(A) ELIGIBLE EMPLOYER.—The term ‘eli-
25 gible employer’ means any employer—

1 “(i) which conducted an active trade
2 or business on October 23, 2005, in the
3 Wilma GO Zone, and

4 “(ii) with respect to whom the trade
5 or business described in clause (i) is inop-
6 erable on any day after October 23, 2005,
7 and before January 1, 2006, as a result of
8 damage sustained by reason of Hurricane
9 Wilma.

10 “(B) ELIGIBLE EMPLOYEE.—The term ‘el-
11 igible employee’ means with respect to an eligi-
12 ble employer an employee whose principal place
13 of employment on October 23, 2005, with such
14 eligible employer was in the Wilma GO Zone.

15 “(C) QUALIFIED WAGES.—The term
16 ‘qualified wages’ means wages (as defined in
17 section 51(c)(1), but without regard to section
18 3306(b)(2)(B)) paid or incurred by an eligible
19 employer with respect to an eligible employee on
20 any day after October 23, 2005, and before
21 January 1, 2006, which occurs during the pe-
22 riod—

23 “(i) beginning on the date on which
24 the trade or business described in subpara-
25 graph (A) first became inoperable at the

1 principal place of employment of the em-
2 ployee immediately before Hurricane
3 Wilma, and

4 “(ii) ending on the date on which such
5 trade or business has resumed significant
6 operations at such principal place of em-
7 ployment.

8 Such term shall include wages paid without re-
9 gard to whether the employee performs no serv-
10 ices, performs services at a different place of
11 employment than such principal place of em-
12 ployment, or performs services at such principal
13 place of employment before significant oper-
14 ations have resumed.

15 “(3) CERTAIN RULES TO APPLY.—For purposes
16 of this subsection, rules similar to the rules of sec-
17 tions 51(i)(1), 52, and 280C(a) shall apply.

18 “(4) EMPLOYEE NOT TAKEN INTO ACCOUNT
19 MORE THAN ONCE.—An employee shall not be treat-
20 ed as an eligible employee for purposes of this sub-
21 section for any period with respect to any employer
22 if such employer is allowed a credit under subsection
23 (a) or section 51 with respect to such employee for
24 such period.

1 **“SEC. 1400S. ADDITIONAL TAX RELIEF PROVISIONS.**

2 “(a) TEMPORARY SUSPENSION OF LIMITATIONS ON
3 CHARITABLE CONTRIBUTIONS.—

4 “(1) IN GENERAL.—Except as otherwise pro-
5 vided in paragraph (2), section 170(b) shall not
6 apply to qualified contributions and such contribu-
7 tions shall not be taken into account for purposes of
8 applying subsections (b) and (d) of section 170 to
9 other contributions.

10 “(2) TREATMENT OF EXCESS CONTRIBU-
11 TIONS.—For purposes of section 170—

12 “(A) INDIVIDUALS.—In the case of an in-
13 dividual—

14 “(i) LIMITATION.—Any qualified con-
15 tribution shall be allowed only to the ex-
16 tent that the aggregate of such contribu-
17 tions does not exceed the excess of the tax-
18 payer’s contribution base (as defined in
19 subparagraph (F) of section 170(b)(1))
20 over the amount of all other charitable
21 contributions allowed under section
22 170(b)(1).

23 “(ii) CARRYOVER.—If the aggregate
24 amount of qualified contributions made in
25 the contribution year (within the meaning
26 of section 170(d)(1)) exceeds the limitation

1 of clause (i), such excess shall be added to
 2 the excess described in the portion of sub-
 3 paragraph (A) of such section which pre-
 4 cedes clause (i) thereof for purposes of ap-
 5 plying such section.

6 “(B) CORPORATIONS.—In the case of a
 7 corporation—

8 “(i) LIMITATION.—Any qualified con-
 9 tribution shall be allowed only to the ex-
 10 tent that the aggregate of such contribu-
 11 tions does not exceed the excess of the tax-
 12 payer’s taxable income (as determined
 13 under paragraph (2) of section 170(b))
 14 over the amount of all other charitable
 15 contributions allowed under such para-
 16 graph.

17 “(ii) CARRYOVER.—Rules similar to
 18 the rules of subparagraph (A)(ii) shall
 19 apply for purposes of this subparagraph.

20 “(3) EXCEPTION TO OVERALL LIMITATION ON
 21 ITEMIZED DEDUCTIONS.—So much of any deduction
 22 allowed under section 170 as does not exceed the
 23 qualified contributions paid during the taxable year
 24 shall not be treated as an itemized deduction for
 25 purposes of section 68.

1 “(4) QUALIFIED CONTRIBUTIONS.—

2 “(A) IN GENERAL.—For purposes of this
3 subsection, the term ‘qualified contribution’
4 means any charitable contribution (as defined
5 in section 170(c)) if—

6 “(i) such contribution is paid during
7 the period beginning on August 28, 2005,
8 and ending on December 31, 2005, in cash
9 to an organization described in section
10 170(b)(1)(A) (other than an organization
11 described in section 509(a)(3)),

12 “(ii) in the case of a contribution paid
13 by a corporation, such contribution is for
14 relief efforts related to Hurricane Katrina,
15 Hurricane Rita, or Hurricane Wilma, and

16 “(iii) the taxpayer has elected the ap-
17 plication of this subsection with respect to
18 such contribution.

19 “(B) EXCEPTION.—Such term shall not in-
20 clude a contribution if the contribution is for
21 establishment of a new, or maintenance in an
22 existing, segregated fund or account with re-
23 spect to which the donor (or any person ap-
24 pointed or designated by such donor) has, or
25 reasonably expects to have, advisory privileges

1 with respect to distributions or investments by
 2 reason of the donor's status as a donor.

3 “(C) APPLICATION OF ELECTION TO PART-
 4 NERSHIPS AND S CORPORATIONS.—In the case
 5 of a partnership or S corporation, the election
 6 under subparagraph (A)(iii) shall be made sepa-
 7 rately by each partner or shareholder.

8 “(b) SUSPENSION OF CERTAIN LIMITATIONS ON
 9 PERSONAL CASUALTY LOSSES.—Paragraphs (1) and
 10 (2)(A) of section 165(h) shall not apply to losses described
 11 in section 165(c)(3)—

12 “(1) which arise in the Hurricane Katrina dis-
 13 aster area on or after August 25, 2005, and which
 14 are attributable to Hurricane Katrina,

15 “(2) which arise in the Hurricane Rita disaster
 16 area on or after September 23, 2005, and which are
 17 attributable to Hurricane Rita, or

18 “(3) which arise in the Hurricane Wilma dis-
 19 aster area on or after October 23, 2005, and which
 20 are attributable to Hurricane Wilma.

21 In the case of any other losses, section 165(h)(2)(A) shall
 22 be applied without regard to the losses referred to in the
 23 preceding sentence.”.

24 (b) CONFORMING AMENDMENTS.—

1 (1) Subsection (b) of section 38 is amended by
 2 striking “and” at the end of paragraph (25), by
 3 striking the period at the end of paragraph (26) and
 4 inserting a comma, and by adding at the end the fol-
 5 lowing new paragraphs:

6 “(27) the Hurricane Katrina employee reten-
 7 tion credit determined under section 1400R(a),

8 “(28) the Hurricane Rita employee retention
 9 credit determined under section 1400R(b), and

10 “(29) the Hurricane Wilma employee retention
 11 credit determined under section 1400R(c).”.

12 (2) The table of sections for subchapter Z of
 13 chapter 1 is amended by adding at the end the fol-
 14 lowing new items:

“Sec. 1400P. Special rules for mortgage revenue bonds.

“Sec. 1400Q. Special rules for use of retirement funds.

“Sec. 140RQ. Employment relief.

“Sec. 1400S. Additional tax relief provisions.”.

15 (3) The following provisions of the Katrina
 16 Emergency Tax Relief Act of 2005 are hereby re-
 17 pealed:

18 (A) Title I.

19 (B) Sections 202, 301, and 402.

1 **TITLE II—EXTENSION OF**
 2 **EXPIRING PROVISIONS**
 3 **Subtitle A—Multi-Year Extensions**

4 **SEC. 201. EXTENSION OF INCREASED EXPENSING FOR**
 5 **SMALL BUSINESS.**

6 Section 179 is amended by striking “2008” each
 7 place it appears and inserting “2010”.

8 **SEC. 202. CREDIT FOR ELECTIVE DEFERRALS AND IRA**
 9 **CONTRIBUTIONS.**

10 Section 25B(h) is amended by striking “2006” and
 11 inserting “2009”.

12 **SEC. 203. ABOVE-THE-LINE DEDUCTION FOR HIGHER EDU-**
 13 **CATION.**

14 (a) IN GENERAL.—Section 222(e) is amended by
 15 striking “2005” and inserting “2009”.

16 (b) CONFORMING AMENDMENTS.—Section
 17 222(b)(2)(B) is amended—

18 (1) by striking “a taxable year beginning in
 19 2004 or 2005” and inserting “any taxable year be-
 20 ginning after 2003”, and

21 (2) by striking “2004 AND 2005” and inserting
 22 “AFTER 2003”.

1 **SEC. 204. EXTENSION AND MODIFICATION OF NEW MAR-**
 2 **KETS TAX CREDIT.**

3 (a) EXTENSION.—Section 45D(f)(1)(D) is amended
 4 by striking “and 2007” and inserting “, 2007, and 2008”.

5 (b) REGULATIONS REGARDING NON-METROPOLITAN
 6 COUNTIES.—Section 45D(i) is amended by striking “and”
 7 at the end of paragraph (4), by striking the period at the
 8 end of paragraph (5) and inserting “, and”, and by adding
 9 at the end by the following new paragraph:

10 “(6) which ensure that non-metropolitan coun-
 11 ties receive a proportional allocation of qualified eq-
 12 uity investments.”.

13 **Subtitle B—One-Year Extensions**

14 **SEC. 211. ELECTION TO DEDUCT STATE AND LOCAL GEN-**
 15 **ERAL SALES TAXES.**

16 Section 164(b)(5)(I) is amended by striking “2006”
 17 and inserting “2007”.

18 **SEC. 212. EXTENSION OF ALTERNATIVE MINIMUM TAX EX-**
 19 **EMPTION AMOUNT FOR INDIVIDUALS.**

20 (a) IN GENERAL.—Subparagraphs (A) and (B) of
 21 section 55(d)(1) are each amended by striking “and 2005”
 22 and inserting “2005, and 2006”.

23 (b) INFLATION ADJUSTMENT FOR 2006.—Section
 24 55(d) is amended by adding at the end the following new
 25 paragraph:

1 “(4) INFLATION ADJUSTMENT.—In the case of
 2 any taxable year beginning in calendar year 2006,
 3 the \$58,000 and \$40,250 amounts contained in sub-
 4 paragraphs (A) and (B) of paragraph (1) shall be
 5 increased by an amount equal to—

6 “(A) such dollar amount, multiplied by

7 “(B) the cost-of-living adjustment deter-
 8 mined under section 1(f)(3) for the calendar
 9 year in which the taxable year begins, deter-
 10 mined by substituting ‘calendar year 2004’ for
 11 ‘calendar year 1992’ in subparagraph (B)
 12 thereof.

13 Any increase determined under the preceding sen-
 14 tence shall be rounded to the nearest multiple of
 15 \$50.”.

16 **SEC. 213. ALLOWANCE OF NONREFUNDABLE PERSONAL**
 17 **CREDITS AGAINST REGULAR AND ALTER-**
 18 **NATIVE MINIMUM TAX LIABILITY.**

19 (a) IN GENERAL.—Paragraph (2) of section 26(a) is
 20 amended—

21 (1) by striking “2005” in the heading and in-
 22 serting “2006”, and

23 (2) by striking “or 2005” and inserting “2005,
 24 or 2006”.

25 (b) CONFORMING PROVISIONS.—

1 (1) Section 30B(g) is amended by adding at the
2 end the following new paragraph:

3 “(3) SPECIAL RULE FOR 2006.—For purposes of
4 any taxable year beginning during 2006, the credit
5 allowed under subsection (a) (after the application of
6 paragraph (1)) shall not exceed the excess of—

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

10 “(B) the sum of the credits allowable
11 under subpart A and this subpart (other than
12 this section and section 30C).”.

13 (2) Section 30C(d) is amended by adding at the
14 end the following new paragraph:

15 “(3) SPECIAL RULE FOR 2006.—For purposes of
16 any taxable year beginning during 2006, the credit
17 allowed under subsection (a) (after the application of
18 paragraph (1)) shall not exceed the excess of—

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

22 “(B) the sum of the credits allowable
23 under subpart A and this subpart (other than
24 this section).”.

1 (3) Section 904(h) is amended by striking “or
2 2005” and inserting “2005, or 2006”.

3 (4) The amendments made by sections 201(b),
4 202(f), and 618(b) of the Economic Growth and Tax
5 Relief Reconciliation Act of 2001 shall not apply to
6 taxable years beginning during 2006.

7 **SEC. 214. EXTENSION AND MODIFICATION OF RESEARCH**
8 **CREDIT.**

9 (a) EXTENSION.—

10 (1) IN GENERAL.—Section 41(h)(1)(B) is
11 amended by striking “2005” and inserting “2006”.

12 (2) CONFORMING AMENDMENT.—Section
13 45C(b)(1)(D) is amended by striking “2005” and
14 inserting “2006”.

15 (b) INCREASE IN RATES OF ALTERNATIVE INCRE-
16 MENTAL CREDIT.—Subparagraph (A) of section 41(c)(4)
17 (relating to election of alternative incremental credit) is
18 amended—

19 (1) by striking “2.65 percent” and inserting “3
20 percent”,

21 (2) by striking “3.2 percent” and inserting “4
22 percent”, and

23 (3) by striking “3.75 percent” and inserting “5
24 percent”.

1 (c) ALTERNATIVE SIMPLIFIED CREDIT FOR QUALI-
 2 FIED RESEARCH EXPENSES.—

3 (1) IN GENERAL.—Subsection (c) of section 41
 4 (relating to base amount) is amended by redesignig-
 5 nating paragraphs (5) and (6) as paragraphs (6)
 6 and (7), respectively, and by inserting after para-
 7 graph (4) the following new paragraph:

8 “(5) ELECTION OF ALTERNATIVE SIMPLIFIED
 9 CREDIT.—

10 “(A) IN GENERAL.—At the election of the
 11 taxpayer, the credit determined under sub-
 12 section (a)(1) shall be equal to 12 percent of so
 13 much of the qualified research expenses for the
 14 taxable year as exceeds 50 percent of the aver-
 15 age qualified research expenses for the 3 tax-
 16 able years preceding the taxable year for which
 17 the credit is being determined.

18 “(B) SPECIAL RULE IN CASE OF NO
 19 QUALIFIED RESEARCH EXPENSES IN ANY OF 3
 20 PRECEDING TAXABLE YEARS.—

21 “(i) TAXPAYERS TO WHICH SUBPARA-
 22 GRAPH APPLIES.—The credit under this
 23 paragraph shall be determined under this
 24 subparagraph if the taxpayer has no quali-
 25 fied research expenses in any 1 of the 3

1 taxable years preceding the taxable year
 2 for which the credit is being determined.

3 “(ii) CREDIT RATE.—The credit de-
 4 termined under this subparagraph shall be
 5 equal to 6 percent of the qualified research
 6 expenses for the taxable year.

7 “(C) ELECTION.—An election under this
 8 paragraph shall apply to the taxable year for
 9 which made and all succeeding taxable years
 10 unless revoked with the consent of the Sec-
 11 retary. An election under this paragraph may
 12 not be made for any taxable year to which an
 13 election under paragraph (4) applies.”.

14 (2) COORDINATION WITH ELECTION OF ALTER-
 15 NATIVE INCREMENTAL CREDIT.—

16 (A) IN GENERAL.—Section 41(c)(4)(B)
 17 (relating to election) is amended by adding at
 18 the end the following: “An election under this
 19 paragraph may not be made for any taxable
 20 year to which an election under paragraph (5)
 21 applies.”.

22 (B) TRANSITION RULE.—In the case of an
 23 election under section 41(c)(4) of the Internal
 24 Revenue Code of 1986 which applies to the tax-
 25 able year which includes the date of the enact-

ment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by subsection (a)) for such year.

(d) FUNDED RESEARCH.—Subparagraph (H) of section 41(d)(4) is amended to read as follows:

“(H) FUNDED RESEARCH.—

“(i) IN GENERAL.—Any funded research.

“(ii) FUNDED RESEARCH.—For purposes of clause (i), the term ‘funded research’ means any research to the extent funded by any grant, contract, or otherwise—

“(I) by another person, or

“(II) by any governmental entity.

“(iii) TREATMENT OF PAYMENTS UNDER GOVERNMENT CONTRACTS.—For purposes of determining the amount of funding of research under any government contract, all payments under such contract shall be taken into account, including all payments under any subcontracting agreement or similar contract which includes

1 funding for research which would be treat-
2 ed as funded by a governmental entity if
3 under the prime contract.

4 “(iv) EXCEPTION FOR GOVERNMENT
5 CONTRACTS CONTAINING NO NEW AND SIG-
6 NIFICANT PERFORMANCE SPECIFICA-
7 TIONS.—

8 “(I) IN GENERAL.—Clause (iii)
9 shall not apply with respect to any
10 government contract containing no
11 new and significant performance spec-
12 ifications, except if the contractor
13 does not retain substantial rights to
14 the research.

15 “(II) TREATMENT OF CON-
16 TRACT.—For purposes of subclause
17 (I), no contract shall be treated as
18 having new and significant perform-
19 ance specifications if the contractor
20 reasonably expects that the costs of
21 all qualified research (including costs
22 reasonably expected to be incurred by
23 subcontractors and independent con-
24 tractors) will not exceed 10 percent of

1 the total costs of performing under
 2 the contract.

3 “(III) TREATMENT AS SEPARATE
 4 CONTRACTS.—For purposes of sub-
 5 clause (II), options under a contract
 6 which may be exercised at the discre-
 7 tion of the governmental unit shall be
 8 treated as separate contracts.

9 “(v) INCIDENTAL RESEARCH.—Clause
 10 (iii) shall not apply to any research under-
 11 taken by any government contractor unless
 12 the research is required to meet the con-
 13 tract’s performance specifications.”.

14 (e) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to taxable years ending after De-
 16 cember 31, 2005.

17 **SEC. 215. WORK OPPORTUNITY TAX CREDIT AND WELFARE-**
 18 **TO-WORK CREDIT.**

19 (a) IN GENERAL.—Section 51(c)(4)(B) is amended
 20 by striking “2005” and inserting “2006”.

21 (b) ELIGIBILITY OF EX-FELONS DETERMINED
 22 WITHOUT REGARD TO FAMILY INCOME.—Paragraph (4)
 23 of section 51(d) is amended by adding “and” at the end
 24 of subparagraph (A), by striking “, and” at the end of

1 subparagraph (B) and inserting a period, and by striking
 2 all that follows subparagraph (B).

3 (c) INCREASE IN MAXIMUM AGE FOR ELIGIBILITY OF
 4 FOOD STAMP RECIPIENTS.—Clause (i) of section
 5 51(d)(8)(A) is amended by striking “25” and inserting
 6 “40”.

7 (d) INCREASE IN MAXIMUM AGE FOR DESIGNATED
 8 COMMUNITY RESIDENTS.—

9 (1) IN GENERAL.—Paragraph (5) of section
 10 51(d) is amended to read as follows:

11 “(5) DESIGNATED COMMUNITY RESIDENTS.—

12 “(A) IN GENERAL.—The term ‘designated
 13 community resident’ means any individual who
 14 is certified by the designated local agency—

15 “(i) as having attained age 18 but not
 16 age 40 on the hiring date, and

17 “(ii) as having his principal place of
 18 abode within an empowerment zone, enter-
 19 prise community, or renewal community.

20 “(B) INDIVIDUAL MUST CONTINUE TO RE-
 21 SIDE IN ZONE OR COMMUNITY.—In the case of
 22 a designated community resident, the term
 23 ‘qualified wages’ shall not include wages paid or
 24 incurred for services performed while the indi-
 25 vidual’s principal place of abode is outside an

1 empowerment zone, enterprise community, or
 2 renewal community.”

3 (2) CONFORMING AMENDMENT.—Subparagraph
 4 (D) of section 51(d)(1) is amended to read as fol-
 5 lows:

6 “(D) a designated community resident,”.

7 (e) CONSOLIDATION OF WORK OPPORTUNITY CRED-
 8 IT WITH WELFARE-TO-WORK CREDIT.—

9 (1) IN GENERAL.—Paragraph (1) of section
 10 51(d) is amended by striking “or” at the end of sub-
 11 paragraph (G), by striking the period at the end of
 12 subparagraph (H) and inserting “, or”, and by add-
 13 ing at the end the following new subparagraph:

14 “(I) a long-term family assistance recipi-
 15 ent.”

16 (2) LONG-TERM FAMILY ASSISTANCE RECIPI-
 17 ENT.—Subsection (d) of section 51 is amended by
 18 redesignating paragraphs (10) through (12) as para-
 19 graphs (11) through (13), respectively, and by in-
 20 serting after paragraph (9) the following new para-
 21 graph:

22 “(10) LONG-TERM FAMILY ASSISTANCE RECIPI-
 23 ENT.—The term ‘long-term family assistance recipi-
 24 ent’ means any individual who is certified by the
 25 designated local agency—

1 “(A) as being a member of a family receiv-
 2 ing assistance under a IV–A program (as de-
 3 fined in paragraph (2)(B)) for at least the 18-
 4 month period ending on the hiring date,

5 “(B)(i) as being a member of a family re-
 6 ceiving such assistance for 18 months beginning
 7 after August 5, 1997, and

8 “(ii) as having a hiring date which is not
 9 more than 2 years after the end of the earliest
 10 such 18-month period, or

11 “(C)(i) as being a member of a family
 12 which ceased to be eligible for such assistance
 13 by reason of any limitation imposed by Federal
 14 or State law on the maximum period such as-
 15 sistance is payable to a family, and

16 “(ii) as having a hiring date which is not
 17 more than 2 years after the date of such ces-
 18 sation.”

19 (3) INCREASED CREDIT FOR EMPLOYMENT OF
 20 LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Sec-
 21 tion 51 is amended by inserting after subsection (d)
 22 the following new subsection:

23 “(e) CREDIT FOR SECOND-YEAR WAGES FOR EM-
 24 PLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPI-
 25 ENTS.—

1 “(1) IN GENERAL.—With respect to the em-
 2 ployment of a long-term family assistance recipi-
 3 ent—

4 “(A) the amount of the work opportunity
 5 credit determined under this section for the tax-
 6 able year shall include 50 percent of the quali-
 7 fied second-year wages for such year, and

8 “(B) in lieu of applying subsection (b)(3),
 9 the amount of the qualified first-year wages,
 10 and the amount of qualified second-year wages,
 11 which may be taken into account with respect
 12 to such a recipient shall not exceed \$10,000 per
 13 year.

14 “(2) QUALIFIED SECOND-YEAR WAGES.—For
 15 purposes of this subsection, the term ‘qualified sec-
 16 ond-year wages’ means qualified wages—

17 “(A) which are paid to a long-term family
 18 assistance recipient, and

19 “(B) which are attributable to service ren-
 20 dered during the 1-year period beginning on the
 21 day after the last day of the 1-year period with
 22 respect to such recipient determined under sub-
 23 section (b)(2).

24 “(3) SPECIAL RULES FOR AGRICULTURAL AND
 25 RAILWAY LABOR.—If such recipient is an employee

1 to whom subparagraph (A) or (B) of subsection
 2 (h)(1) applies, rules similar to the rules of such sub-
 3 paragraphs shall apply except that—

4 “(A) such subparagraph (A) shall be ap-
 5 plied by substituting ‘\$10,000’ for ‘\$6,000’, and

6 “(B) such subparagraph (B) shall be ap-
 7 plied by substituting ‘\$833.33’ for ‘\$500’.”

8 (4) REPEAL OF SEPARATE WELFARE-TO-WORK
 9 CREDIT.—

10 (A) IN GENERAL.—Section 51A is hereby
 11 repealed.

12 (B) CLERICAL AMENDMENT.—The table of
 13 sections for subpart F of part IV of subchapter
 14 A of chapter 1 is amended by striking the item
 15 relating to section 51A.

16 (f) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to individuals who begin work for
 18 the employer after December 31, 2005.

19 **SEC. 216. QUALIFIED ZONE ACADEMY BONDS.**

20 (a) IN GENERAL.—Paragraph (1) of section
 21 1397E(e) is amended by striking “and 2005” and insert-
 22 ing “2005, and 2006”.

23 (b) FORM OF PRIVATE BUSINESS CONTRIBUTIONS.—
 24 Section 1397E(d)(2)(B) is amended by striking “any con-

1 tribution” and all that follows and inserting “any cash or
2 cash equivalent contribution”.

3 (c) SPECIAL RULES RELATING TO AMORTIZATION,
4 EXPENDITURES, ARBITRAGE, AND REPORTING.—

5 (1) IN GENERAL.—Section 1397E is amend-
6 ed—

7 (A) in subsection (d)(1), by striking “and”
8 at the end of subparagraph (C)(iii), by striking
9 the period at the end of subparagraph (D) and
10 inserting “, and”, and by adding at the end the
11 following new subparagraph:

12 “(E) the issue meets the requirements of
13 subsections (f), (g), (h), and (i).”, and

14 (B) by redesignating subsections (f), (g),
15 (h), and (i) as subsection (j), (k), (l), and (m),
16 respectively, and by inserting after subsection
17 (e) the following new subsections:

18 “(f) RATABLE PRINCIPAL AMORTIZATION RE-
19 QUIRED.—An issue shall be treated as meeting the re-
20 quirements of this subsection if such issue provides for
21 an equal amount of principal to be paid by the issuer dur-
22 ing each calendar year that the issue is outstanding.

23 “(g) SPECIAL RULES RELATING TO EXPENDI-
24 TURES.—

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

4 “(A) at least 95 percent of the proceeds
5 from the sale of the issue are to be spent for
6 1 or more qualified purposes with respect to
7 qualified zone academies within the 5-year pe-
8 riod beginning on the date of issuance of the
9 qualified zone academy bond,

10 “(B) a binding commitment with a third
11 party to spend at least 10 percent of the pro-
12 ceeds from the sale of the issue will be incurred
13 within the 6-month period beginning on the
14 date of issuance of the qualified zone academy
15 bond, and

16 “(C) such purposes will be completed with
17 due diligence and the proceeds from the sale of
18 the issue will be spent with due diligence.

19 “(2) EXTENSION OF PERIOD.—Upon submis-
20 sion of a request prior to the expiration of the period
21 described in paragraph (1)(A), the Secretary may
22 extend such period if the issuer establishes that the
23 failure to satisfy the 5-year requirement is due to
24 reasonable cause and the related purposes will con-
25 tinue to proceed with due diligence.

1 “(3) FAILURE TO SPEND REQUIRED AMOUNT
 2 OF BOND PROCEEDS WITHIN 5 YEARS.—To the ex-
 3 tent that less than 95 percent of the proceeds of
 4 such issue are expended by the close of the 5-year
 5 period beginning on the date of issuance (or if an
 6 extension has been obtained under paragraph (2), by
 7 the close of the extended period), the issuer shall re-
 8 deem all of the nonqualified bonds within 90 days
 9 after the end of such period. For purposes of this
 10 paragraph, the amount of the nonqualified bonds re-
 11 quired to be redeemed shall be determined in the
 12 same manner as under section 142.

13 “(h) SPECIAL RULES RELATING TO ARBITRAGE.—
 14 An issue shall be treated as meeting the requirements of
 15 this subsection if the issuer satisfies the arbitrage require-
 16 ments of section 148 with respect to proceeds of the issue.
 17 “(i) REPORTING.—Issuers of qualified academy zone
 18 bonds shall submit reports similar to the reports required
 19 under section 149(e).”.

20 (2) CONFORMING AMENDMENTS.—

21 (A) Section 1397E(d)(3) is amended by in-
 22 serting “without regard to the requirements of
 23 subsection (f) and” after “Such present value
 24 shall be determined”.

1 (B) Section 54(l)(3)(B) is amended by
 2 striking “section 1397E(i)” and inserting “sec-
 3 tion 1397E(l)”.

4 (d) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to obligations issued after Decem-
 6 ber 31, 2005.

7 **SEC. 217. DEDUCTION FOR CORPORATE DONATIONS OF**
 8 **COMPUTER TECHNOLOGY AND EQUIPMENT.**

9 Section 170(e)(6)(G) is amended by striking “2005”
 10 and inserting “2006”.

11 **SEC. 218. ABOVE-THE-LINE DEDUCTION FOR CERTAIN EX-**
 12 **PENSES OF ELEMENTARY AND SECONDARY**
 13 **SCHOOL TEACHERS.**

14 Subparagraph (D) of section 62(a)(2) is amended by
 15 striking “or 2005” and inserting “2005, or 2006”.

16 **SEC. 219. EXPENSING OF BROWNFIELDS REMEDIATION**
 17 **COSTS.**

18 (a) EXTENSION.—Subsection (h) of section 198 is
 19 amended by striking “2005” and inserting “2006”.

20 (b) EXPANSION.—

21 (1) IN GENERAL.—Section 198(d)(1) (defining
 22 hazardous substance) is amended by striking “and”
 23 at the end of subparagraph (A), by striking the pe-
 24 riod at the end of subparagraph (B) and inserting

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

3 “(C) any petroleum product (as defined in
 4 section 4612(a)(3)).”.

5 (2) EFFECTIVE DATE.—The amendments made
 6 by this subsection shall apply to expenditures paid
 7 or incurred after December 31, 2005.

8 **SEC. 220. TAX INCENTIVES FOR INVESTMENT IN THE DIS-**
 9 **TRICT OF COLUMBIA.**

10 (a) DESIGNATION OF ZONE.—Subsection (f) of sec-
 11 tion 1400 is amended by striking “2005” both places it
 12 appears and inserting “2006”.

13 (b) TAX-EXEMPT ECONOMIC DEVELOPMENT
 14 BONDS.—Subsection (b) of section 1400A is amended by
 15 striking “2005” and inserting “2006”.

16 (c) ZERO PERCENT CAPITAL GAINS RATE.—

17 (1) IN GENERAL.—Subsection (b) of section
 18 1400B is amended by striking “2006” each place it
 19 appears and inserting “2007”.

20 (2) CONFORMING AMENDMENTS.—

21 (A) Section 1400B(e)(2) is amended—

22 (i) by striking “2010” and inserting
 23 “2011”, and

24 (ii) by striking “2010” in the heading
 25 and inserting “2011”.

1 (B) Section 1400B(g)(2) is amended by
 2 striking “2010” and inserting “2011”.

3 (C) Section 1400F(d) is amended by strik-
 4 ing “2010” and inserting “2011”.

5 (d) FIRST-TIME HOMEBUYER CREDIT.—Subsection
 6 (i) of section 1400C is amended by striking “2006” and
 7 inserting “2007”.

8 **SEC. 221. INDIAN EMPLOYMENT TAX CREDIT.**

9 Section 45A(f) is amended by striking “2005” and
 10 inserting “2006”.

11 **SEC. 222. ACCELERATED DEPRECIATION FOR BUSINESS**
 12 **PROPERTY ON INDIAN RESERVATION.**

13 Section 168(j)(8) is amended by striking “2005” and
 14 inserting “2006”.

15 **SEC. 223. FIFTEEN-YEAR STRAIGHT-LINE COST RECOVERY**
 16 **FOR QUALIFIED LEASEHOLD IMPROVEMENTS**
 17 **AND QUALIFIED RESTAURANT IMPROVE-**
 18 **MENTS.**

19 Clauses (iv) and (v) of section 168(e)(3)(E) are each
 20 amended by striking “2006” and inserting “2007”.

21 **Subtitle C—Application of**
 22 **EGTRRA Sunset**

23 **SEC. 231. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.**

24 Each amendment made by this title shall be subject
 25 to title IX of the Economic Growth and Tax Relief Rec-

1 conciliation Act of 2001 to the same extent and in the same
 2 manner as the provision of such Act to which such amend-
 3 ment relates.

4 **TITLE III—PROVISIONS RELAT-** 5 **ING TO CHARITABLE DONA-** 6 **TIONS**

7 **Subtitle A—Charitable Giving** 8 **Incentives**

9 **SEC. 301. CHARITABLE DEDUCTION FOR NONITEMIZERS.**

10 (a) IN GENERAL.—Section 170 (relating to chari-
 11 table, etc., contributions and gifts) is amended by redesign-
 12 nating subsection (o) as subsection (p) and by inserting
 13 after subsection (n) the following new subsection:

14 “(o) DEDUCTION FOR INDIVIDUALS NOT ITEMIZING
 15 DEDUCTIONS.—In the case of an individual who does not
 16 itemize deductions for any taxable year beginning after
 17 December 31, 2005, and before January 1, 2008, there
 18 shall be taken into account as a direct charitable deduction
 19 under section 63 an amount equal to the amount allowable
 20 under subsection (a) for the taxable year for cash con-
 21 tributions (determined without regard to any carryover).”.

22 (b) DIRECT CHARITABLE DEDUCTION.—

23 (1) IN GENERAL.—Subsection (b) of section 63
 24 (defining taxable income) is amended by striking
 25 “and” at the end of paragraph (1), by striking the

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

4 “(3) the direct charitable deduction.”.

5 (2) DEFINITION.—Section 63 is amended by re-
 6 designating subsection (g) as subsection (h) and by
 7 inserting after subsection (f) the following new sub-
 8 section:

9 “(g) DIRECT CHARITABLE DEDUCTION.—For pur-
 10 poses of this section, the term ‘direct charitable deduction’
 11 means that portion of the amount allowable under section
 12 170(a) which is taken as a direct charitable deduction for
 13 the taxable year under section 170(o).”.

14 (3) CONFORMING AMENDMENT.—Subsection (d)
 15 of section 63 is amended by striking “and” at the
 16 end of paragraph (1), by striking the period at the
 17 end of paragraph (2) and inserting “, and”, and by
 18 adding at the end the following new paragraph:

19 “(3) the direct charitable deduction.”.

20 (c) FLOOR ON CHARITABLE CONTRIBUTIONS BY IN-
 21 DIVIDUALS.—Section 170(a) is amended by adding at the
 22 end the following new paragraph:

23 “(4) DOLLAR FLOOR ON CHARITABLE CON-
 24 TRIBUTIONS BY INDIVIDUALS.—In the case of an in-
 25 dividual, the charitable contributions of the taxpayer

1 for any taxable year shall be taken into account for
 2 purposes of determining the deduction under para-
 3 graph (1) only to the extent that the aggregate of
 4 such contributions exceeds \$210 (\$420 in the case
 5 of a joint return).”.

6 (d) EFFECTIVE DATE.—The amendments made by
 7 this section shall apply to contributions made in taxable
 8 years beginning after December 31, 2005.

9 **SEC. 302. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**
 10 **TIREMENT PLANS FOR CHARITABLE PUR-**
 11 **POSES.**

12 (a) IN GENERAL.—Subsection (d) of section 408 (re-
 13 lating to individual retirement accounts) is amended by
 14 adding at the end the following new paragraph:

15 “(8) DISTRIBUTIONS FOR CHARITABLE PUR-
 16 POSES.—

17 “(A) IN GENERAL.—No amount shall be
 18 includible in gross income by reason of a quali-
 19 fied charitable distribution.

20 “(B) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the
 21 term ‘qualified charitable distribution’ means
 22 any distribution from an individual retirement
 23 plan (other than a plan described in subsection
 24 (k) or (p) of section 408)—
 25

1 “(i) which is made on or after the
2 date that the individual for whose benefit
3 the plan is maintained has attained age
4 70½, and

5 “(ii) which is made directly by the
6 trustee—

7 “(I) to an organization described
8 in section 170(c), or

9 “(II) to a split-interest entity.

10 A distribution shall be treated as a qualified
11 charitable distribution only to the extent that
12 the distribution would be includible in gross in-
13 come without regard to subparagraph (A) and,
14 in the case of a distribution to a split-interest
15 entity, only if no person holds an income inter-
16 est in the amounts in the split-interest entity
17 attributable to such distribution other than one
18 or more of the following: the individual for
19 whose benefit such plan is maintained, the
20 spouse of such individual, or any organization
21 described in section 170(c).

22 “(C) CONTRIBUTIONS MUST BE OTHER-
23 WISE DEDUCTIBLE.—For purposes of this para-
24 graph—

1 “(i) DIRECT CONTRIBUTIONS.—A dis-
 2 tribution to an organization described in
 3 section 170(c) shall be treated as a quali-
 4 fied charitable distribution only if a deduc-
 5 tion for the entire distribution would be al-
 6 lowable under section 170 (determined
 7 without regard to subsections (a)(4) and
 8 (b) thereof and this paragraph).

9 “(ii) SPLIT-INTEREST GIFTS.—A dis-
 10 tribution to a split-interest entity shall be
 11 treated as a qualified charitable distribu-
 12 tion only if a deduction for the entire value
 13 of the interest in the distribution for the
 14 use of an organization described in section
 15 170(c) would be allowable under section
 16 170 (determined without regard to sub-
 17 sections (a)(4) and (b) thereof and this
 18 paragraph).

19 “(D) APPLICATION OF SECTION 72.—Not-
 20 withstanding section 72, in determining the ex-
 21 tent to which a distribution is a qualified chari-
 22 table distribution, the entire amount of the dis-
 23 tribution shall be treated as includible in gross
 24 income without regard to subparagraph (A) to
 25 the extent that such amount does not exceed

the aggregate amount which would have been so includible if all amounts distributed from all individual retirement plans were treated as 1 contract under paragraph (2)(A) for purposes of determining the inclusion of such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

“(E) SPECIAL RULES FOR SPLIT-INTEREST ENTITIES.—

“(i) CHARITABLE REMAINDER TRUSTS.—Notwithstanding section 664(b), distributions made from a trust described in subparagraph (G)(i) shall be treated as ordinary income in the hands of the beneficiary to whom is paid the annuity described in section 664(d)(1)(A) or the payment described in section 664(d)(2)(A).

“(ii) POOLED INCOME FUNDS.—No amount shall be includible in the gross income of a pooled income fund (as defined in subparagraph (G)(ii)) by reason of a qualified charitable distribution to such fund, and all distributions from the fund

1 which are attributable to qualified chari-
 2 table distributions shall be treated as ordi-
 3 nary income to the beneficiary.

4 “(iii) CHARITABLE GIFT ANNU-
 5 ITIES.—Qualified charitable distributions
 6 made for a charitable gift annuity shall not
 7 be treated as an investment in the con-
 8 tract.

9 “(F) DENIAL OF DEDUCTION.—Qualified
 10 charitable distributions shall not be taken into
 11 account in determining the deduction under sec-
 12 tion 170.

13 “(G) SPLIT-INTEREST ENTITY DEFINED.—
 14 For purposes of this paragraph, the term ‘split-
 15 interest entity’ means—

16 “(i) a charitable remainder annuity
 17 trust or a charitable remainder unitrust
 18 (as such terms are defined in section
 19 664(d)) which must be funded exclusively
 20 by qualified charitable distributions,

21 “(ii) a pooled income fund (as defined
 22 in section 642(c)(5)), but only if the fund
 23 accounts separately for amounts attrib-
 24 utable to qualified charitable distributions,
 25 and

1 “(iii) a charitable gift annuity (as de-
 2 fined in section 501(m)(5)).”.

3 (b) MODIFICATIONS RELATING TO INFORMATION RE-
 4 TURNS BY CERTAIN TRUSTS.—

5 (1) RETURNS.—Section 6034 (relating to re-
 6 turns by trusts described in section 4947(a)(2) or
 7 claiming charitable deductions under section 642(c))
 8 is amended to read as follows:

9 **“SEC. 6034. RETURNS BY CERTAIN TRUSTS.**

10 “(a) SPLIT-INTEREST TRUSTS.—Every trust de-
 11 scribed in section 4947(a)(2) shall furnish such informa-
 12 tion with respect to the taxable year as the Secretary may
 13 by forms or regulations require.

14 “(b) TRUSTS CLAIMING CERTAIN CHARITABLE DE-
 15 Ductions.—

16 “(1) IN GENERAL.—Every trust not required to
 17 file a return under subsection (a) but claiming a de-
 18 duction under section 642(c) for the taxable year
 19 shall furnish such information with respect to such
 20 taxable year as the Secretary may by forms or regu-
 21 lations prescribe, including—

22 “(A) the amount of the deduction taken
 23 under section 642(c) within such year,

24 “(B) the amount paid out within such year
 25 which represents amounts for which deductions

1 under section 642(c) have been taken in prior
 2 years,

3 “(C) the amount for which such deductions
 4 have been taken in prior years but which has
 5 not been paid out at the beginning of such year,

6 “(D) the amount paid out of principal in
 7 the current and prior years for the purposes de-
 8 scribed in section 642(c),

9 “(E) the total income of the trust within
 10 such year and the expenses attributable thereto,
 11 and

12 “(F) a balance sheet showing the assets, li-
 13 abilities, and net worth of the trust as of the
 14 beginning of such year.

15 “(2) EXCEPTIONS.—Paragraph (1) shall not
 16 apply to a trust for any taxable year if—

17 “(A) all the net income for such year, de-
 18 termined under the applicable principles of the
 19 law of trusts, is required to be distributed cur-
 20 rently to the beneficiaries, or

21 “(B) the trust is described in section
 22 4947(a)(1).”.

23 (2) INCREASE IN PENALTY RELATING TO FIL-
 24 ING OF INFORMATION RETURN BY SPLIT-INTEREST
 25 TRUSTS.—Paragraph (2) of section 6652(c) (relating

1 to returns by exempt organizations and by certain
 2 trusts) is amended by adding at the end the fol-
 3 lowing new subparagraph:

4 “(C) SPLIT-INTEREST TRUSTS.—In the
 5 case of a trust which is required to file a return
 6 under section 6034(a), subparagraphs (A) and
 7 (B) of this paragraph shall not apply and para-
 8 graph (1) shall apply in the same manner as if
 9 such return were required under section 6033,
 10 except that—

11 “(i) the 5 percent limitation in the
 12 second sentence of paragraph (1)(A) shall
 13 not apply,

14 “(ii) in the case of any trust with
 15 gross income in excess of \$250,000, the
 16 first sentence of paragraph (1)(A) shall be
 17 applied by substituting ‘\$100’ for ‘\$20’,
 18 and the second sentence thereof shall be
 19 applied by substituting ‘\$50,000’ for
 20 ‘\$10,000’, and

21 “(iii) the third sentence of paragraph
 22 (1)(A) shall be disregarded.

23 In addition to any penalty imposed on the trust
 24 pursuant to this subparagraph, if the person re-
 25 quired to file such return knowingly fails to file

1 the return, such penalty shall also be imposed
 2 on such person who shall be personally liable
 3 for such penalty.”.

4 (3) CONFIDENTIALITY OF NONCHARITABLE
 5 BENEFICIARIES.—Subsection (b) of section 6104
 6 (relating to inspection of annual information re-
 7 turns) is amended by adding at the end the fol-
 8 lowing new sentence: “In the case of a trust which
 9 is required to file a return under section 6034(a),
 10 this subsection shall not apply to information re-
 11 garding beneficiaries which are not organizations de-
 12 scribed in section 170(c).”.

13 (c) EFFECTIVE DATES.—

14 (1) SUBSECTION (a).—The amendment made
 15 by subsection (a) shall apply to distributions made
 16 in taxable years beginning after December 31, 2005,
 17 and before January 1, 2008.

18 (2) SUBSECTION (b).—The amendments made
 19 by subsection (b) shall apply to returns for taxable
 20 years beginning after December 31, 2005.

21 **SEC. 303. MODIFICATION OF CHARITABLE DEDUCTION FOR**
 22 **CONTRIBUTIONS OF FOOD INVENTORY.**

23 (a) IN GENERAL.—Subparagraph (C) of section
 24 170(e)(3) (relating to special rule for certain contributions
 25 of inventory and other property), as added by section 305

1 of the Katrina Emergency Tax Relief Act of 2005, is
2 amended to read as follows:

3 “(C) SPECIAL RULE FOR CONTRIBUTIONS
4 OF FOOD INVENTORY.—

5 “(i) GENERAL RULE.—In the case of
6 a charitable contribution of food from any
7 trade or business of the taxpayer, this
8 paragraph shall be applied—

9 “(I) without regard to whether
10 the contribution is made by a C cor-
11 poration, and

12 “(II) only to food that is appar-
13 ently wholesome food.

14 “(ii) LIMITATION.—In the case of a
15 taxpayer other than a C corporation, the
16 aggregate amount of such contributions for
17 any taxable year which may be taken into
18 account under this section shall not exceed
19 10 percent of the taxpayer’s aggregate net
20 income for such taxable year from all
21 trades or businesses from which such con-
22 tributions were made for such year, com-
23 puted without regard to this section.

24 “(iii) LIMITATION ON REDUCTION.—
25 In the case of any such contribution, not-

1 withstanding subparagraph (B), the
 2 amount of the reduction determined under
 3 paragraph (1)(A) shall not exceed the
 4 amount by which the fair market value of
 5 the apparently wholesome food exceeds
 6 twice the basis of such food.

7 “(iv) DETERMINATION OF BASIS.—If
 8 a taxpayer—

9 “(I) does not account for inven-
 10 tories under section 471, and

11 “(II) is not required to capitalize
 12 indirect costs under section 263A,
 13 the taxpayer may elect, solely for purposes
 14 of subparagraph (B), to treat the basis of
 15 any apparently wholesome food as being
 16 equal to 25 percent of the fair market
 17 value of such food.

18 “(v) DETERMINATION OF FAIR MAR-
 19 KET VALUE.—In the case of any such con-
 20 tribution of apparently wholesome food
 21 which, solely by reason of internal stand-
 22 ards of the taxpayer or lack of market,
 23 cannot or will not be sold, the fair market
 24 value of such contribution shall be deter-
 25 mined—

1 “(I) without regard to such inter-
 2 nal standards or such lack of market
 3 and

4 “(II) by taking into account the
 5 price at which the same or substan-
 6 tially the same food items (as to both
 7 type and quality) are sold by the tax-
 8 payer at the time of the contribution
 9 (or, if not so sold at such time, in the
 10 recent past).

11 “(vi) APPARENTLY WHOLESOME
 12 FOOD.—For purposes of this subpara-
 13 graph, the term ‘apparently wholesome
 14 food’ has the meaning given to such term
 15 by section 22(b)(2) of the Bill Emerson
 16 Good Samaritan Food Donation Act (42
 17 U.S.C. 1791(b)(2)), as in effect on the
 18 date of the enactment of this subpara-
 19 graph.”.

20 (b) EFFECTIVE DATE.—The amendment made by
 21 this section shall apply to contributions made in taxable
 22 years beginning after December 31, 2005, and before Jan-
 23 uary 1, 2008.

1 **SEC. 304. BASIS ADJUSTMENT TO STOCK OF S CORPORA-**
 2 **TION CONTRIBUTING PROPERTY.**

3 (a) IN GENERAL.—Paragraph (2) of section 1367(a)
 4 (relating to adjustments to basis of stock of shareholders,
 5 etc.) is amended by adding at the end the following new
 6 flush sentence:

7 “The decrease under subparagraph (B) by reason of
 8 a charitable contribution (as defined in section
 9 170(c)) of property shall be the amount equal to the
 10 shareholder’s pro rata share of the adjusted basis of
 11 such property.”.

12 (b) EFFECTIVE DATE.—The amendment made by
 13 this section shall apply to contributions made in taxable
 14 years beginning after December 31, 2005, and before Jan-
 15 uary 1, 2008.

16 **SEC. 305. MODIFICATION OF CHARITABLE DEDUCTION FOR**
 17 **CONTRIBUTIONS OF BOOK INVENTORY.**

18 (a) IN GENERAL.—Subparagraph (D) of section
 19 170(e)(3) (relating to special rule for certain contributions
 20 of inventory and other property), as added by section 305
 21 of the Katrina Emergency Tax Relief Act of 2005, is
 22 amended to read as follows:

23 “(D) SPECIAL RULE FOR CONTRIBUTIONS
 24 OF BOOK INVENTORY FOR EDUCATIONAL PUR-
 25 POSES.—

1 “(i) CONTRIBUTIONS OF BOOK INVEN-
 2 TORY.—In determining whether a qualified
 3 book contribution is a qualified contribu-
 4 tion, subparagraph (A) shall be applied
 5 without regard to whether—

6 “(I) the donee is an organization
 7 described in the matter preceding
 8 clause (i) of subparagraph (A), and

9 “(II) the property is to be used
 10 by the donee solely for the care of the
 11 ill, the needy, or infants.

12 “(ii) AMOUNT OF REDUCTION.—Not-
 13 withstanding subparagraph (B), the
 14 amount of the reduction determined under
 15 paragraph (1)(A) shall not exceed the
 16 amount by which the fair market value of
 17 the contributed property (as determined by
 18 the taxpayer using a bona fide published
 19 market price for such book) exceeds twice
 20 the basis of such property.

21 “(iii) QUALIFIED BOOK CONTRIBU-
 22 TION.—For purposes of this paragraph,
 23 the term ‘qualified book contribution’
 24 means a charitable contribution of books,

1 but only if the requirements of clauses (iv)
 2 and (v) are met.

3 “(iv) IDENTITY OF DONEE.—The re-
 4 quirement of this clause is met if the con-
 5 tribution is to an organization—

6 “(I) described in subclause (I) or
 7 (III) of paragraph (6)(B)(i), or

8 “(II) described in section
 9 501(c)(3) and exempt from tax under
 10 section 501(a) (other than a private
 11 foundation, as defined in section
 12 509(a), which is not an operating
 13 foundation, as defined in section
 14 4942(j)(3)), which is organized pri-
 15 marily to make books available to the
 16 general public at no cost or to operate
 17 a literacy program.

18 “(v) CERTIFICATION BY DONEE.—The
 19 requirement of this clause is met if, in ad-
 20 dition to the certifications required by sub-
 21 paragraph (A) (as modified by this sub-
 22 paragraph), the donee certifies in writing
 23 that—

24 “(I) the books are suitable, in
 25 terms of currency, content, and quan-

1 tity, for use in the donee’s educational
2 programs, and

3 “(II) the donee will use the books
4 in its educational programs.

5 “(vi) BONA FIDE PUBLISHED MARKET
6 PRICE.—For purposes of this subpara-
7 graph, the term ‘bona fide published mar-
8 ket price’ means, with respect to any book,
9 a price—

10 “(I) determined using the same
11 printing and edition,

12 “(II) determined in the usual
13 market in which such a book has been
14 customarily sold by the taxpayer, and

15 “(III) for which the taxpayer can
16 demonstrate to the satisfaction of the
17 Secretary that the taxpayer custom-
18 arily sold such books in arm’s length
19 transactions within 7 years preceding
20 the contribution of such a book.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to contributions made in taxable
23 years beginning after December 31, 2005, and before Jan-
24 uary 1, 2008.

1 **SEC. 306. MODIFICATION OF TAX TREATMENT OF CERTAIN**
 2 **PAYMENTS TO CONTROLLING EXEMPT ORGA-**
 3 **NIZATIONS AND PUBLIC DISCLOSURE OF IN-**
 4 **FORMATION RELATING TO UNRELATED BUSI-**
 5 **NESS INCOME.**

6 (a) MODIFICATION OF SECTION 512(B)(13).—

7 (1) IN GENERAL.—Paragraph (13) of section
 8 512(b) (relating to special rules for certain amounts
 9 received from controlled entities) is amended by re-
 10 designating subparagraph (E) as subparagraph (F)
 11 and by inserting after subparagraph (D) the fol-
 12 lowing new subparagraph:

13 “(E) PARAGRAPH TO APPLY ONLY TO EX-
 14 CESS PAYMENTS.—

15 “(i) IN GENERAL.—Subparagraph (A)
 16 shall apply only to the portion of a speci-
 17 fied payment received or accrued by the
 18 controlling organization that exceeds the
 19 amount which would have been paid or ac-
 20 crued if such payment met the require-
 21 ments prescribed under section 482.

22 “(ii) ADDITION TO TAX FOR VALU-
 23 ATION MISSTATEMENTS.—The tax imposed
 24 by this chapter on the controlling organiza-
 25 tion shall be increased by an amount equal
 26 to 20 percent of the larger of—

1 “(I) such excess determined with-
 2 out regard to any amendment or sup-
 3 plement to a return of tax, or

4 “(II) such excess determined
 5 with regard to all such amendments
 6 and supplements.”.

7 (2) EFFECTIVE DATE.—

8 (A) IN GENERAL.—The amendment made
 9 by this subsection shall apply to payments re-
 10 ceived or accrued after December 31, 2000.

11 (B) PAYMENTS SUBJECT TO BINDING CON-
 12 TRACT TRANSITION RULE.—If the amendments
 13 made by section 1041 of the Taxpayer Relief
 14 Act of 1997 did not apply to any amount re-
 15 ceived or accrued in the first 2 taxable years
 16 beginning on or after the date of the enactment
 17 of the Taxpayer Relief Act of 1997 under any
 18 contract described in subsection (b)(2) of such
 19 section, such amendments also shall not apply
 20 to amounts received or accrued under such con-
 21 tract before January 1, 2001.

22 (b) PUBLIC AVAILABILITY OF UNRELATED BUSINESS
 23 INCOME TAX RETURNS.—

24 (1) IN GENERAL.—Subparagraph (A) of section
 25 6104(d)(1) is amended by redesignating clauses (ii)

and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following new clause:

“(ii) any annual return filed under section 6011 which relates to any tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations) by such organization,”.

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

(c) CERTIFICATION OF UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN ORGANIZATIONS.—

(1) IN GENERAL.—Section 6011, as amended by section 311 of this Act, is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) RETURNS OF CERTAIN ORGANIZATIONS RELATING TO UNRELATED BUSINESS TAXABLE INCOME.—

“(1) IN GENERAL.—Every applicable exempt organization shall include with the return under subsection (a) for the taxable year a statement by an independent auditor or an independent counsel which meets the requirements of paragraph (2).

1 “(2) STATEMENT.—A statement meets the re-
2 quirement of this paragraph if the statement—

3 “(A) contains a certification that—

4 “(i) the information contained in the
5 return—

6 “(I) has been reviewed by the
7 auditor or counsel, and

8 “(II) to the best of the auditor’s
9 or counsel’s knowledge, is accurate,
10 and

11 “(ii) to the best of the auditor’s or
12 counsel’s knowledge, the allocation of ex-
13 penses between the unrelated trades and
14 business of the organization and the activi-
15 ties related to the purpose or function con-
16 stituting the basis of the organization’s ex-
17 emption under section 501 complies with
18 the requirements set forth by the Secretary
19 under section 512, and

20 “(B) indicates—

21 “(i) whether the auditor or counsel
22 has provided a tax opinion to the organiza-
23 tion regarding—

1 “(I) the classification of any
 2 trade or business of the organization
 3 as an unrelated trade or business, or

4 “(II) the treatment of any in-
 5 come as unrelated business taxable in-
 6 come, and

7 “(ii) a description of any material
 8 facts with respect to any such opinion.

9 “(3) APPLICABLE EXEMPT ORGANIZATION.—

10 For purposes of this subsection, the term ‘applicable
 11 exempt organization’ means any organization
 12 which—

13 “(A) is described in section 501(c)(3),

14 “(B) has—

15 “(i) gross income and receipts of not
 16 less than \$10,000,000 for the taxable year,
 17 or

18 “(ii) gross assets of not less than
 19 \$10,000,000 on the last day of the taxable
 20 year, and

21 “(C) is subject to the tax imposed under
 22 section 511 for the taxable year.”.

23 (2) PENALTY.—

24 (A) IN GENERAL.—Part I of subchapter B
 25 of chapter 68 (relating to assessable penalties),

1 as amended by section 316 of this Act, is
 2 amended by adding at the end the following
 3 new section:

4 **“SEC. 6720C. UNRELATED BUSINESS INCOME REQUIRE-**
 5 **MENTS.**

6 “(a) IN GENERAL.—Any applicable exempt organiza-
 7 tion (as defined in section 6011(h)(3)) which fails to file
 8 a statement required under section 6011(h) shall pay a
 9 penalty in an amount equal to $\frac{1}{2}$ percent of the gross rev-
 10 enue amount of such organization for the taxable year to
 11 which such statement relates.

12 “(b) GROSS REVENUE AMOUNT.—For purposes of
 13 subsection (a), the term ‘gross revenue amount’ means,
 14 with respect to any taxable year, the gross income and
 15 receipts of the organization determined without regard to
 16 any contributions or grants received by the organization.

17 “(c) REASONABLE CAUSE.—No penalty shall be im-
 18 posed under this section with respect to any failure if it
 19 is shown that such failure is due to reasonable cause.”.

20 (B) CONFORMING AMENDMENT.—The
 21 table of sections of part I of subchapter B of
 22 chapter 68, as amended by section 316 of this
 23 Act, is amended by adding after the item relat-
 24 ing to section 6720B the following new item:

“Sec. 6720C. Unrelated business income requirements.”.

1 (3) EFFECTIVE DATE.—The amendments made
 2 by this subsection shall apply to returns for taxable
 3 years beginning after the date of the enactment of
 4 this Act.

5 **Subtitle B—Reforming Charitable** 6 **Organizations**

7 **PART I—GENERAL REFORMS**

8 **SEC. 311. TAX INVOLVEMENT BY EXEMPT ORGANIZATIONS** 9 **IN TAX SHELTER TRANSACTIONS.**

10 (a) IMPOSITION OF EXCISE TAX.—

11 (1) IN GENERAL.—Chapter 42 (relating to pri-
 12 vate foundations and certain other tax-exempt orga-
 13 nizations) is amended by adding at the end the fol-
 14 lowing new subchapter:

15 **“Subchapter F—Tax Shelter Transactions**

“Sec. 4965. Excise tax on certain tax-exempt entities entering into prohibited
 tax shelter transactions.

16 **“SEC. 4965. EXCISE TAX ON CERTAIN TAX-EXEMPT ENTITIES** 17 **ENTERING INTO PROHIBITED TAX SHELTER** 18 **TRANSACTIONS.**

19 “(a) PARTICIPATION IN AND APPROVAL OF PROHIB-
 20 ITED TRANSACTIONS.—

21 “(1) TAX-EXEMPT ENTITY.—

22 “(A) IN GENERAL.—If any tax-exempt en-
 23 tity (other than a tax-exempt entity described
 24 in paragraph (4), (5), (6), or (7) of subsection

(c)) is a party to a prohibited tax shelter transaction at any time during the taxable year and knows or has reason to know such transaction is a prohibited tax shelter transaction, such entity shall pay a tax for such taxable year in the amount determined under subsection (b)(1)(A).

“(B) POST-TRANSACTION DETERMINATION.—If any tax-exempt entity (other than a tax-exempt entity described in paragraph (4), (5), (6), or (7) of subsection (c)) is a party to a subsequently listed transaction at any time during the taxable year, such entity shall pay a tax in the amount determined under subsection (b)(1)(B).

“(2) ENTITY MANAGER.—If any entity manager of a tax-exempt entity approves such entity as (or otherwise causes such entity to be) a party to a prohibited tax shelter transaction at any time during the taxable year and knows or has reason to know that the transaction is a prohibited tax shelter transaction, such manager shall pay a tax for such taxable year in the amount determined under subsection (b)(2).

“(3) REASONABLE CAUSE EXCEPTION.—No tax shall be imposed under paragraph (1)(A) or (2) if it

1 is shown that the participation of the tax-exempt en-
2 tity in the transaction was not willful and was due
3 to reasonable cause.

4 “(b) AMOUNT OF TAX.—

5 “(1) ENTITY.—In the case of a tax-exempt en-
6 tity—

7 “(A) IN GENERAL.—The amount of the
8 tax imposed under subsection (a)(1)(A) on the
9 entity with respect to a taxable year shall be
10 the greater of—

11 “(i) 100 percent of the entity’s net in-
12 come (after taking into account any tax
13 imposed by this subtitle with respect to the
14 prohibited tax shelter transaction) for such
15 taxable year which is attributable to the
16 prohibited tax shelter transaction, or

17 “(ii) 75 percent of the proceeds re-
18 ceived by the entity which are attributable
19 to the prohibited tax shelter transaction.

20 “(B) POST-TRANSACTION DETERMINA-
21 TION.—The amount of the tax imposed under
22 subsection (a)(1)(B) on the entity with respect
23 to any taxable year shall be an amount equal to
24 the product of—

1 “(i) the highest rate of tax under sec-
2 tion 11, and

3 “(ii) the greater of—

4 “(I) the entity’s net income
5 (after taking into account any tax im-
6 posed by this subtitle with respect to
7 the subsequently listed transaction)
8 for such taxable year which is attrib-
9 utable to the subsequently listed
10 transaction and which is properly allo-
11 cable to the period beginning on the
12 later of the date such transaction is
13 identified by guidance as a listed
14 transaction by the Secretary or the
15 first day of the taxable year, or

16 “(II) 75 percent of the proceeds
17 received by the entity which are at-
18 tributable to the subsequently listed
19 transaction and which are properly al-
20 locable to the period beginning on the
21 later of the date such transaction is
22 identified by guidance as a listed
23 transaction by the Secretary or the
24 first day of the taxable year.

1 “(2) ENTITY MANAGER.—In the case of each
2 entity manager to whom subsection (a)(2) applies,
3 the amount of the tax under such subsection shall
4 be \$20,000 for each approval.

5 “(c) TAX-EXEMPT ENTITY.—For purposes of this
6 section, the term ‘tax-exempt entity’ means an entity
7 which is—

8 “(1) described in section 501(c) or 501(d),

9 “(2) described in section 170(c) (other than an
10 agency or instrumentality of the United States) to
11 which paragraph (1) of this subsection does not
12 apply,

13 “(3) an Indian tribal government (within the
14 meaning of section 7701(a)(40)),

15 “(4) described in paragraph (1), (2), or (3) of
16 section 4979(e),

17 “(5) a program described in section 529,

18 “(6) an eligible deferred compensation plan de-
19 scribed in section 457(b) which is maintained by an
20 employer described in section 4457(e)(1)(A), or

21 “(7) an arrangement described in section
22 4973(a).

23 “(d) ENTITY MANAGER.—For purposes of this sec-
24 tion, the term ‘entity manager’ means—

1 “(1) with respect to a tax-exempt entity de-
 2 scribed in paragraph (3) or (4) of section 501(c)—

3 “(A) in the case of an entity other than a
 4 private foundation, an organization manager
 5 (as defined in section 4958(f)(2)), and

6 “(B) in the case of a private foundation, a
 7 foundation manager (as defined in section
 8 4946(b)), and

9 “(2) in all other cases, the person with author-
 10 ity or responsibility similar to that exercised by an
 11 officer, director, or trustee of an organization.

12 “(e) PROHIBITED TAX SHELTER TRANSACTION;
 13 SUBSEQUENTLY LISTED TRANSACTION.—For purposes of
 14 this section—

15 “(1) PROHIBITED TAX SHELTER TRANS-
 16 ACTION.—

17 “(A) IN GENERAL.—The term ‘prohibited
 18 tax shelter transaction’ means—

19 “(i) any listed transaction, or

20 “(ii) any prohibited reportable trans-
 21 action if the tax-exempt entity knows or
 22 has reason to know that such transaction
 23 is a reportable transaction.

1 “(B) LISTED TRANSACTION.—The term
2 ‘listed transaction’ has the meaning given such
3 term by section 6707A(c)(2).

4 “(C) PROHIBITED REPORTABLE TRANS-
5 ACTION.—The term ‘prohibited reportable
6 transaction’ means any confidential transaction
7 or any transaction with contractual protection
8 (as defined under regulations prescribed by the
9 Secretary) which is a reportable transaction (as
10 defined in section 6707A(c)(1)).

11 “(2) SUBSEQUENTLY LISTED TRANSACTION.—
12 The term ‘subsequently listed transaction’ means
13 any transaction to which a tax-exempt entity is a
14 party and which is determined by the Secretary to
15 be a listed transaction at any time after the entity
16 has entered into the transaction.

17 “(f) REGULATORY AUTHORITY.—The Secretary is
18 authorized to promulgate regulations which provide guid-
19 ance regarding the determination of the allocation of net
20 income of a tax-exempt entity attributable to a transaction
21 to various periods, including before and after the listing
22 of the transaction or the date which is 90 days after the
23 date of the enactment of this section.

24 “(g) COORDINATION WITH OTHER TAXES AND PEN-
25 ALTIES.—The tax imposed by this section is in addition

1 to any other tax, addition to tax, or penalty imposed under
 2 this title.”.

3 (2) CONFORMING AMENDMENT.—The table of
 4 subchapters of chapter 42 is amended by adding at
 5 the end the following new item:

“SUBCHAPTER F. TAX SHELTER TRANSACTIONS.”.

6 (b) DISCLOSURE REQUIREMENTS.—

7 (1) DISCLOSURE BY ORGANIZATION TO THE IN-
 8 TERNAL REVENUE SERVICE.—

9 (A) IN GENERAL.—Section 6033(a) (relat-
 10 ing to organizations required to file) is amended
 11 by redesignating paragraph (2) as paragraph
 12 (3), and by inserting after paragraph (1) the
 13 following new paragraph:

14 “(2) PARTICIPATION IN CERTAIN REPORTABLE
 15 TRANSACTIONS.—Every tax-exempt entity described
 16 in section 4965(c) shall file (in such form and man-
 17 ner and at such time as determined by the Sec-
 18 retary) a disclosure of—

19 “(A) such entity’s participation in any pro-
 20 hibited tax shelter transaction (as defined in
 21 section 4965(e)), and

22 “(B) the identity of any other party par-
 23 ticipating in such transaction which is known
 24 by such tax-exempt entity.”.

1 (B) CONFORMING AMENDMENT.—Section
 2 6033(a)(1) is amended by striking “paragraph
 3 (2)” and inserting “paragraph (3)”.

4 (2) DISCLOSURE BY OTHER TAXPAYERS TO THE
 5 TAX-EXEMPT ENTITY.—Section 6011 (relating to
 6 general requirement of return, statement, or list) is
 7 amended by redesignating subsection (g) as sub-
 8 section (h) and by inserting after subsection (f) the
 9 following new subsection:

10 “(g) DISCLOSURE OF REPORTABLE TRANSACTION TO
 11 TAX-EXEMPT ENTITY.—Any taxable party to a prohibited
 12 tax shelter transaction (as defined in section 4965(e)(1))
 13 shall by statement disclose to any tax-exempt entity (as
 14 defined in section 4965(c)) which is a party to such trans-
 15 action that such transaction is such a prohibited tax shel-
 16 ter transaction.”.

17 (c) PENALTY FOR NONDISCLOSURE.—

18 (1) IN GENERAL.—Section 6652(c) (relating to
 19 returns by exempt organizations and by certain
 20 trusts), as amended by section 302, is amended by
 21 redesignating paragraphs (2), (3), and (4) as para-
 22 graphs (3), (4), and (5), respectively, and by insert-
 23 ing after paragraph (1) the following new para-
 24 graph:

25 “(2) DISCLOSURE UNDER SECTION 6033.—

1 “(A) PENALTY ON ORGANIZATIONS.—In
 2 the case of a failure to file a disclosure required
 3 under section 6033(a)(2), there shall be paid by
 4 the tax-exempt entity (the entity manager in
 5 the case of a tax-exempt entity described in
 6 paragraph (4), (5), (6), or (7) of section
 7 4965(c)) \$100 for each day during which such
 8 failure continues. The maximum penalty under
 9 this subparagraph on failures with respect to
 10 any 1 disclosure shall not exceed \$50,000.

11 “(B) PERSONS.—

12 “(i) IN GENERAL.—The Secretary
 13 may make a written demand on any tax-
 14 exempt entity subject to penalty under
 15 subparagraph (A) specifying therein a rea-
 16 sonable future date by which the disclosure
 17 shall be filed for purposes of this subpara-
 18 graph.

19 “(ii) FAILURE TO COMPLY WITH DE-
 20 MAND.—If any person fails to comply with
 21 any demand under clause (i) on or before
 22 the date specified in such demand, there
 23 shall be paid by such person failing to so
 24 comply \$100 for each day after the expira-
 25 tion of the time specified in such demand

1 during which such failure continues. The
 2 maximum penalty imposed under this sub-
 3 paragraph on all tax-exempt entities for
 4 failures with respect to any 1 disclosure
 5 shall not exceed \$10,000.

6 “(C) DEFINITIONS.—Any term used in
 7 this section which is also used in section 4965
 8 shall have the meaning given such term under
 9 section 4965.”.

10 (2) CONFORMING AMENDMENT.—Subparagraph
 11 (A) of section 6652(c)(1) of such Code is amended
 12 by striking “6033” each place it appears in the text
 13 and heading thereof and inserting “6033(a)(1)”.

14 (d) EFFECTIVE DATES.—

15 (1) IN GENERAL.—Except as provided in para-
 16 graph (2), the amendments made by this section
 17 shall apply to transactions after the date of the en-
 18 actment of this Act, except that no tax under section
 19 4965(a) of the Internal Revenue Code of 1986 (as
 20 added by this section) shall apply with respect to in-
 21 come that is properly allocable to any period on or
 22 before the date which is 90 days after such date of
 23 enactment.

24 (2) DISCLOSURE.—The amendments made by
 25 subsections (b) and (c) shall apply to disclosures the

1 due date for which are after the date of the enact-
 2 ment of this Act.

3 **SEC. 312. EXCISE TAX ON CERTAIN ACQUISITIONS OF IN-**
 4 **TERESTS IN INSURANCE CONTRACTS IN**
 5 **WHICH CERTAIN EXEMPT ORGANIZATIONS**
 6 **HOLD AN INTEREST.**

7 (a) IMPOSITION OF TAX.—

8 (1) IN GENERAL.—Subchapter F of chapter 42
 9 (relating to tax shelter transactions), as added by
 10 this Act, is amended by adding at the end the fol-
 11 lowing new section:

12 **“SEC. 4966. EXCISE TAX ON ACQUISITION OF INTERESTS IN**
 13 **INSURANCE CONTRACTS IN WHICH CERTAIN**
 14 **EXEMPT ORGANIZATIONS HOLD AN INTER-**
 15 **EST.**

16 “(a) IMPOSITION OF TAX.—If there is a taxable ac-
 17 quisition of any interest in an applicable insurance con-
 18 tract, there is hereby imposed on the person acquiring the
 19 interest a tax equal to 100 percent of the acquisition costs
 20 of the interest.

21 “(b) TAXABLE ACQUISITION.—For purposes of this
 22 section—

23 “(1) IN GENERAL.—The term ‘taxable acquisi-
 24 tion’ means the acquisition of any direct or indirect
 25 interest in an applicable insurance contract by—

1 “(A) an applicable exempt organization, or

2 “(B) a person other than an applicable ex-
3 empt organization if such interest in the hands
4 of such person is not an interest described in
5 clause (i), (ii), (iii), or (iv) of paragraph (2)(B).

6 “(2) APPLICABLE INSURANCE CONTRACT.—

7 “(A) IN GENERAL.—The term ‘applicable
8 insurance contract’ means any life insurance,
9 annuity, or endowment contract with respect to
10 which both an applicable exempt organization
11 and a person other than an applicable exempt
12 organization have directly or indirectly held an
13 interest in the contract (whether or not at the
14 same time).

15 “(B) EXCEPTIONS.—Such term shall not
16 include a life insurance, annuity, or endowment
17 contract if—

18 “(i) all persons directly or indirectly
19 holding any interest in the contract (other
20 than applicable exempt organizations) have
21 an insurable interest in the insured under
22 the contract independent of any interest of
23 an applicable exempt organization in the
24 contract,

1 “(ii) the sole interest in the contract
2 of each person other than an applicable ex-
3 empt organization is as a named bene-
4 ficiary,

5 “(iii) the sole interest in the contract
6 of each person other than an applicable ex-
7 empt organization is—

8 “(I) as a beneficiary of a trust
9 holding an interest in the contract,
10 but only if the person’s designation as
11 such beneficiary was made without
12 consideration and solely on a purely
13 gratuitous basis, or

14 “(II) as a trustee who holds an
15 interest in the contract in a fiduciary
16 capacity solely for the benefit of appli-
17 cable exempt organizations or persons
18 otherwise described in clauses (i), (ii),
19 and (iv) or subclause (I) of this
20 clause, or

21 “(iv) except as provided in subpara-
22 graph (C), the sole interest in the contract
23 of each person other than an applicable ex-
24 empt organization is as a lender with re-
25 spect to the contract and the contract cov-

ers only 1 individual and such individual is
 an officer, director, or employee of the ap-
 plicable exempt organization with an inter-
 est in the contract.

“(C) RESTRICTIONS ON EXCEPTION FOR
 LENDERS.—

“(i) NUMERICAL LIMIT.—The number
 of contracts that may be taken into ac-
 count under subparagraph (B)(iv) with re-
 spect to officers, directors, or employees of
 the applicable exempt organization with in-
 terests in the contracts shall not exceed the
 greater of—

“(I) the lesser of 5 percent of the
 total officers, directors, and employees
 of the organization or 20, or

“(II) 5.

“(ii) AGGREGATE INDEBTEDNESS.—
 The exception under subparagraph (B)(iv)
 shall apply only to the extent that the ag-
 gregate amount of the indebtedness with
 respect to 1 or more contracts covering a
 single individual does not exceed \$50,000.

“(D) SECRETARIAL AUTHORITY.—The
 Secretary may exempt a contract from treat-

ment as an applicable insurance contract based on specific factors, including factors such as whether the transaction is at arms length, whether economic benefits to the applicable exempt organization substantially exceed the economic benefits to all other persons with an interest in the contract (determined without regard to whether, or the extent to which, such organization has paid or contributed with respect to the contract), and the likelihood of abuse.

“(3) DEFINITION AND RULE RELATING TO ACQUISITION COSTS.—

“(A) ACQUISITION COSTS DEFINED.—The term ‘acquisition costs’ means the direct or indirect costs of acquiring an interest in an applicable insurance contract. Such term shall include any fees, commissions, charges, or other amounts paid in connection with the acquisition, whether or not paid to the issuer of the contract.

“(B) TIMING OF PAYMENTS.—Except as provided in regulations, if acquisition costs of any acquisition are paid or incurred in more than 1 calendar year, the tax imposed by sub-

1 section (a) with respect to the acquisition shall
 2 be imposed each time the costs are so paid or
 3 incurred.

4 “(4) RULES RELATING TO INTERESTS.—

5 “(A) IN GENERAL.—An interest in the
 6 contract includes any right with respect to the
 7 contract, whether as an owner, beneficiary, or
 8 otherwise.

9 “(B) INDIRECT INTERESTS.—

10 “(i) IN GENERAL.—Except as pro-
 11 vided in clause (ii), an indirect interest in
 12 a contract includes an interest in an entity
 13 which directly or indirectly holds an inter-
 14 est in the contract.

15 “(ii) PORTFOLIO INVESTMENTS.—If
 16 an applicable exempt organization holds an
 17 interest in a contract solely because the or-
 18 ganization holds, as part of a diversified
 19 investment strategy, a de minimis interest
 20 in an entity which directly or indirectly
 21 holds the interest in the contract, such in-
 22 direct interest in the contract shall not be
 23 taken into account for purposes of this sec-
 24 tion.

1 “(C) EXCHANGED CONTRACTS.—In the
 2 case of an exchange of an applicable insurance
 3 contract on which no gain or loss is recognized
 4 under section 1035, any interest in any of the
 5 contracts involved in the exchange shall be
 6 treated as an interest in all such contracts.

7 “(5) INCREASE IN INTEREST.—If a person in-
 8 creases an interest in an applicable insurance con-
 9 tract, the increase shall be treated as a separate ac-
 10 quisition for purposes of this section.

11 “(6) PRIOR ACQUISITIONS.—Except as provided
 12 in regulations, if a person acquires an interest in a
 13 contract before the contract is treated as an applica-
 14 ble insurance contract, the acquisition shall be treat-
 15 ed as a taxable acquisition of an interest in an appli-
 16 cable insurance contract as of the date the contract
 17 becomes an applicable insurance contract.

18 “(c) APPLICABLE EXEMPT ORGANIZATION.—For
 19 purposes of this section, the term ‘applicable exempt orga-
 20 nization’ means—

21 “(1) an organization described in section
 22 170(c),

23 “(2) an organization described in section
 24 168(h)(2)(A)(iv), or

1 “(3) an organization not described in paragraph
2 (1) or (2) which is described in section 2055(a) or
3 section 2522(a).

4 “(d) TAX NOT TREATED AS INVESTMENT IN THE
5 CONTRACT.—For purposes of section 72, the tax imposed
6 by this section shall not be included in investment in the
7 contract.

8 “(e) REGULATIONS.—The Secretary shall prescribe
9 such regulations as may be necessary to carry out the pro-
10 visions of this section. Such regulations may include regu-
11 lations which—

12 “(1) provide, for purposes of subsection (b)(6),
13 appropriate rules for the application of this section
14 in any case where an interest is acquired before a
15 contract becomes an applicable insurance contract,

16 “(2) prevent, in cases the Secretary determines
17 appropriate, the imposition of more than one tax
18 under this section if the same interest is acquired
19 more than once, and

20 “(3) are designed to prevent avoidance of the
21 purposes of this section, including through the use
22 of intermediaries.”.

23 (2) CONFORMING AMENDMENT.—The table of
24 sections for subchapter F of chapter 42, as added by

1 this Act, is amended by adding at the end the fol-
 2 lowing new item:

“Sec. 4966. Excise tax on acquisition of interests in insurance contracts
 in which certain exempt organizations hold an interest.”.

3 (b) REPORTING REQUIREMENTS.—

4 (1) IN GENERAL.—Subpart B of part III of
 5 subchapter A of chapter 61 (relating to information
 6 concerning transactions with other persons), as
 7 amended by this Act, is amended by adding at the
 8 end the following new section:

9 **“SEC. 6050V. RETURNS RELATING TO APPLICABLE INSUR-**
 10 **ANCE CONTRACTS IN WHICH CERTAIN EX-**
 11 **EMPT ORGANIZATIONS HOLD INTERESTS.**

12 “(a) REQUIREMENTS OF REPORTING.—

13 “(1) EXEMPT ORGANIZATIONS.—Each—

14 “(A) applicable exempt organization which
 15 acquires (within the meaning of section 4966)
 16 an interest in any applicable insurance contract,
 17 and

18 “(B) other person which makes an acquisi-
 19 tion of such an interest if such acquisition is
 20 taxable under section 4966,

21 shall make the return described in subsection (c).

22 “(2) TRANSFERS.—If a person (including an
 23 applicable exempt organization) acquires an interest
 24 in an applicable insurance contract in an acquisition

1 which is taxable under section 4966 and then trans-
2 fers such interest to 1 or more other persons, each
3 person acquiring all or a portion of such interest
4 shall make the return described in subsection (c).

5 “(b) TIME FOR MAKING RETURN.—Any organization
6 or person required to make a return under subsection (a)
7 shall file such return at such time as may be established
8 by the Secretary with respect to—

9 “(1) in the case of a person described in sub-
10 section (a)(1), the calendar year in which the acqui-
11 sition occurs, any calendar year in which acquisition
12 costs are paid or incurred, and any other calendar
13 years specified by the Secretary, and

14 “(2) in the case of a person described in sub-
15 section (a)(2), the calendar year in which the trans-
16 fer occurs.

17 “(c) FORM AND MANNER OF RETURNS.—A return
18 is described in this subsection if such return—

19 “(1) is in such form as the Secretary pre-
20 scribes,

21 “(2) in the case of—

22 “(A) a return required under subsection
23 (a)(1)(A), contains the name, address, and tax-
24 payer identification number of the applicable
25 exempt organization, the issuer of the applica-

1 ble insurance contract, and any person acquir-
 2 ing an interest in the contract if the acquisition
 3 is taxable under section 4966,

4 “(B) a return required under subsection
 5 (a)(1)(B), contains the name, address, and tax-
 6 payer identification number of the person ac-
 7 quiring an interest in the applicable insurance
 8 contract if the acquisition is taxable under sec-
 9 tion 4966, any applicable exempt organization
 10 holding an interest in the contract, and the
 11 issuer of the contract, and

12 “(C) a return required under subsection
 13 (a)(2), contains the name, address, and tax-
 14 payer identification number of the transferor
 15 and transferee, and

16 “(3) contains such other information as the
 17 Secretary may prescribe.

18 “(d) STATEMENTS TO BE FURNISHED TO PERSONS
 19 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—
 20 Every person required to make a return under subsection
 21 (a) shall furnish to each person whose taxpayer identifica-
 22 tion information is required to be included in such return
 23 under subsection (c) a written statement showing—

1 “(1) the name and address of the person re-
 2 quired to make such return and the telephone num-
 3 ber of the information contact for such person, and

4 “(2) the taxpayer identity and other informa-
 5 tion required to be shown on the return with respect
 6 to such person.

7 The written statement required under the preceding sen-
 8 tence shall be furnished on or before the date specified
 9 by the Secretary.

10 “(e) DEFINITIONS.—For purposes of this section,
 11 any term used in this section which is also used in section
 12 4966 shall have the meaning given such term by section
 13 4966.”.

14 (2) PENALTIES.—

15 (A) IN GENERAL.—Section 6724(d) is
 16 amended—

17 (i) in paragraph (1)(B), by redesign-
 18 nating clauses (xiii) through (xviii) as
 19 clauses (xiv) through (xix) and by inserting
 20 after clause (xii) the following new clause:

21 “(xiii) section 6050V (relating to re-
 22 turns relating to applicable insurance con-
 23 tracts in which certain exempt organiza-
 24 tions hold interests),”, and

1 (ii) in paragraph (3), by striking
2 “and” at the end of subparagraph (C), by
3 striking the period at the end of subpara-
4 graph (D) and inserting “, and”, and by
5 adding at the end the following new sub-
6 paragraph:

7 “(E) the statement required by subsection
8 (d) of section 6050V (relating to returns relat-
9 ing to applicable insurance contracts in which
10 certain exempt organizations hold interests).”.

11 (B) INTENTIONAL DISREGARD.—Section
12 6721(e)(2) is amended by striking “or” at the
13 end of subparagraph (B), by striking “and” at
14 the end of subparagraph (C) and inserting
15 “or”, and by adding at the end the following
16 new subparagraph:

17 “(D) in the case of a return required to be
18 filed under section 6050V, the amount of tax
19 imposed under section 4966 which has not been
20 paid with respect to items required to be in-
21 cluded on the return, and”.

22 (3) CONFORMING AMENDMENT.—The table of
23 sections for subpart B of part III of subchapter A
24 of chapter 61, as amended by this Act, is amended
25 by adding at the end the following new item:

“Sec. 6050V. Returns relating to applicable insurance contracts in which certain exempt organizations hold interests.”.

1 (c) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendments made by
3 this section shall apply to contracts issued after May
4 3, 2005.

5 (2) REPORTING OF EXISTING CONTRACTS.—In
6 the case of any life insurance, annuity, or endow-
7 ment contract—

8 (A) which was issued on or before May 3,
9 2005,

10 (B) with respect to which an applicable ex-
11 empt organization (as defined in section 4966
12 of the Internal Revenue Code of 1986, as added
13 by this section) holds an interest on May 3,
14 2005, and

15 (C) which would be treated as an applica-
16 ble insurance contract (as so defined) if issued
17 after May 3, 2005,

18 such organization shall, not later than the date
19 which is 1 year after the date of the enactment of
20 this Act, report to the Secretary of the Treasury
21 with respect to such contract. Such report shall be
22 in such form and manner, and contain such informa-
23 tion, as the Secretary may prescribe. The Secretary
24 shall submit such reports, along with any rec-

1 ommendations for legislation as the Secretary con-
 2 siders appropriate, to the Committee on Ways and
 3 Means of the House of Representatives and to the
 4 Committee on Finance of the Senate within 6
 5 months of the date such reports are required to be
 6 filed.

7 **SEC. 313. INCREASE IN PENALTY EXCISE TAXES ON PUBLIC**
 8 **CHARITIES, SOCIAL WELFARE ORGANIZA-**
 9 **TIONS, AND PRIVATE FOUNDATIONS.**

10 (a) TAXES ON SELF-DEALING AND EXCESS BENEFIT
 11 TRANSACTIONS.—

12 (1) IN GENERAL.—Section 4941(a) (relating to
 13 initial taxes) is amended—

14 (A) in paragraph (1), by striking “5 per-
 15 cent” and inserting “10 percent”, and

16 (B) in paragraph (2), by striking “2½
 17 percent” and inserting “5 percent”.

18 (2) INCREASE IN TAX IF SELF-DEALING IN-
 19 CLUDES COMPENSATION TO DISQUALIFIED PER-
 20 SON.—Section 4941(a)(1) is amended by adding at
 21 the end the following new sentence: “If the act of
 22 self-dealing includes acts described in subsection
 23 (d)(1)(D), ‘25 percent’ shall be substituted for ‘10
 24 percent’, except that the Secretary may abate under
 25 section 4962 (determined without regard to the ex-

1 ception under subsection (b) thereof) not more than
 2 15 percentage points of such tax.”.

3 (3) INCREASED LIMITATION FOR MANAGERS ON
 4 SELF-DEALING.—Section 4941(c)(2) is amended by
 5 striking “\$10,000” each place it appears in the text
 6 and in the heading and inserting “\$20,000”.

7 (4) INCREASED LIMITATION FOR MANAGERS ON
 8 EXCESS BENEFIT TRANSACTIONS.—Section
 9 4958(d)(2) is amended by striking “\$10,000” and
 10 inserting “\$20,000”.

11 (b) TAXES ON FAILURE TO DISTRIBUTE INCOME.—
 12 Section 4942(a) (relating to initial tax) is amended by
 13 striking “15 percent” and inserting “30 percent”.

14 (c) TAXES ON EXCESS BUSINESS HOLDINGS.—Sec-
 15 tion 4943(a)(1) (relating to imposition) is amended by
 16 striking “5 percent” and inserting “10 percent”.

17 (d) TAXES ON INVESTMENTS WHICH JEOPARDIZE
 18 CHARITABLE PURPOSE.—

19 (1) IN GENERAL.—Section 4944(a) (relating to
 20 initial taxes) is amended by striking “5 percent”
 21 both places it appears and inserting “10 percent”.

22 (2) INCREASED LIMITATION FOR MANAGERS.—
 23 Section 4944(d)(2) is amended—

24 (A) by striking “\$5,000,” and inserting
 25 “\$10,000,” and

1 (B) by striking “\$10,000.” and inserting
 2 “\$20,000.”.

3 (e) TAXES ON TAXABLE EXPENDITURES.—

4 (1) IN GENERAL.—Section 4945(a) (relating to
 5 initial taxes) is amended—

6 (A) in paragraph (1), by striking “10 per-
 7 cent” and inserting “20 percent”, and

8 (B) in paragraph (2), by striking “2½
 9 percent” and inserting “5 percent”.

10 (2) INCREASED LIMITATION FOR MANAGERS.—

11 Section 4945(c)(2) is amended—

12 (A) by striking “\$5,000,” and inserting
 13 “\$10,000,”, and

14 (B) by striking “\$10,000.” and inserting
 15 “\$20,000.”.

16 (f) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to taxable years beginning after
 18 the date of the enactment of this Act.

19 **SEC. 314. REFORM OF CHARITABLE CONTRIBUTIONS OF**
 20 **CERTAIN EASEMENTS ON BUILDINGS IN REG-**
 21 **ISTERED HISTORIC DISTRICTS.**

22 (a) SPECIAL RULES WITH RESPECT TO BUILDINGS
 23 IN REGISTERED HISTORIC DISTRICTS.—

24 (1) IN GENERAL.—Paragraph (4) of section
 25 170(h) (relating to definition of conservation pur-

pose) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

“(B) SPECIAL RULES WITH RESPECT TO BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—In the case of any contribution of a qualified real property interest which is a restriction with respect to the exterior of a building described in subparagraph (C)(ii), such contribution shall not be considered to be exclusively for conservation purposes unless—

“(i) such interest—

“(I) includes a restriction which preserves the entire exterior of the building (including the front, sides, rear, and height of the building), and

“(II) prohibits any change in the exterior of the building which is inconsistent with the historical character of such exterior,

“(ii) the donor and donee enter into a written agreement certifying, under penalty of perjury, that the donee—

“(I) is a qualified organization (as defined in paragraph (3)) with a

1 purpose of environmental protection,
 2 land conservation, open space preservation,
 3 vation, or historic preservation, and

4 “(II) has the resources to manage and enforce the restriction and a
 5 commitment to do so, and
 6

7 “(iii) in the case of any contribution
 8 made in a taxable year beginning after the
 9 date of the enactment of this subparagraph,
 10 the taxpayer includes with the taxpayer’s return for the taxable year of the
 11 contribution—
 12

13 “(I) a qualified appraisal (within
 14 the meaning of subsection (f)(11)(E))
 15 of the qualified property interest,

16 “(II) photographs of the entire
 17 exterior of the building, and

18 “(III) a description of all restrictions on the development of the building.”.

21 (b) DISALLOWANCE OF DEDUCTION FOR STRUCTURES AND LAND IN REGISTERED HISTORIC DISTRICTS.—Subparagraph (C) of section 170(h)(4), as re-
 22 designated by subsection (a), is amended—
 23
 24

1 (1) by striking “any building, structure, or land
2 area which”,

3 (2) by inserting “any building, structure, or
4 land area which” before “is listed” in clause (i), and

5 (3) by inserting “any building which” before “is
6 located” in clause (ii).

7 (c) FILING FEE FOR CERTAIN CONTRIBUTIONS.—
8 Subsection (f) of section 170 (relating to disallowance of
9 deduction in certain cases and special rules) is amended
10 by inserting at the end the following new paragraph:

11 “(13) CONTRIBUTIONS OF CERTAIN INTERESTS
12 IN BUILDINGS LOCATED IN REGISTERED HISTORIC
13 DISTRICTS.—

14 “(A) IN GENERAL.—No deduction shall be
15 allowed with respect to any contribution de-
16 scribed in subparagraph (B) unless the tax-
17 payer includes with the return for the taxable
18 year of the contribution a \$500 filing fee.

19 “(B) CONTRIBUTION DESCRIBED.—A con-
20 tribution is described in this subparagraph if
21 such contribution is a qualified conservation
22 contribution (as defined in subsection (h))
23 which is a restriction with respect to the exte-
24 rior of a building described in subsection

1 (h)(4)(C)(ii) and for which a deduction is
 2 claimed in excess of the greater of—

3 “(i) 3 percent of the fair market value
 4 of the building (determined immediately
 5 before such contribution), or

6 “(ii) \$10,000.

7 “(C) DEDICATION OF FEE.—Any fee col-
 8 lected under this paragraph shall be used for
 9 the enforcement of the provisions of subsection
 10 (h).”.

11 (d) EFFECTIVE DATE.—

12 (1) SPECIAL RULES FOR BUILDINGS IN REG-
 13 ISTERED HISTORIC DISTRICTS.—The amendments
 14 made by subsection (a) shall apply to contributions
 15 made after November 15, 2005.

16 (2) DISALLOWANCE OF DEDUCTION FOR STRUC-
 17 TURES AND LAND.—The amendments made by sub-
 18 section (b) shall apply to contributions made after
 19 the date of the enactment of this Act.

20 (3) FILING FEE.—The amendment made by
 21 subsection (c) shall apply to contributions made 180
 22 days after the date of the enactment of this Act.

1 **SEC. 315. CHARITABLE CONTRIBUTIONS OF TAXIDERMY**
2 **PROPERTY.**

3 (a) IN GENERAL.—Subsection (f) of section 170, as
4 amended by section 314 of this Act, is amended by adding
5 at the end the following new paragraph:

6 “(14) CONTRIBUTIONS OF TAXIDERMY PROP-
7 ERTY.—

8 “(A) CONTRIBUTIONS OF MORE THAN
9 \$500.—In the case of any contribution of taxidermy
10 property for which a deduction of more
11 than \$500 is claimed, no deduction shall be al-
12 lowed under subsection (a) unless the donor in-
13 cludes with the return for the taxable year in
14 which the contribution is made a photograph of
15 the taxidermy property and data with respect to
16 the sales prices of similar taxidermy property.

17 “(B) CONTRIBUTIONS OF MORE THAN
18 \$5,000.—In the case of any contribution of taxidermy
19 property for which a deduction of more
20 than \$5,000 is claimed, no deduction shall be
21 allowed under subsection (a) unless the donor—

22 “(i) notifies the Internal Revenue
23 Service of such deduction, and

24 “(ii) includes with the return for the
25 taxable year in which the contribution is
26 made—

1 “(I) a statement of value from
2 the Internal Revenue Service, or

3 “(II) a request for a statement of
4 value from the Internal Revenue Serv-
5 ice and a \$500 fee.

6 “(C) TAXIDERMY PROPERTY.—For pur-
7 poses of this section, the term ‘taxidermy prop-
8 erty’ means a mounted work of art which con-
9 tains any part of a dead animal.”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to contributions made after No-
12 vember 15, 2005.

13 **SEC. 316. RECAPTURE OF TAX BENEFIT FOR CHARITABLE**
14 **CONTRIBUTIONS OF EXEMPT USE PROPERTY**
15 **NOT USED FOR AN EXEMPT USE.**

16 (a) RECAPTURE OF DEDUCTION ON CERTAIN SALES
17 OF EXEMPT USE PROPERTY.—

18 (1) IN GENERAL.—Clause (i) of section
19 170(e)(1)(B) (related to certain contributions of or-
20 dinary income and capital gain property) is amended
21 to read as follows:

22 “(i) of tangible personal property—

23 “(I) if the use by the donee is
24 unrelated to the purpose or function
25 constituting the basis for its exemp-

tion under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection (c)), or

“(II) which is applicable property (as defined in paragraph (7)(C)) which is sold, exchanged, or otherwise disposed of by the donee before the last day of the taxable year in which the contribution was made and with respect to which the donee has not made a certification in accordance with paragraph (7)(D),”.

(2) DISPOSITIONS AFTER CLOSE OF TAXABLE YEAR.—Section 170(e) is amended by adding at the end the following new paragraph:

“(7) RECAPTURE OF DEDUCTION ON CERTAIN DISPOSITIONS OF EXEMPT USE PROPERTY.—

“(A) IN GENERAL.—In the case of an applicable disposition of applicable property, there shall be included in the income of the donor of such property for the taxable year of such donor in which the applicable disposition occurs an amount equal to the excess (if any) of—

1 “(i) the amount of the deduction al-
 2 lowed to the donor under this section with
 3 respect to such property, over

4 “(ii) the donor’s basis in such prop-
 5 erty at the time such property was contrib-
 6 uted.

7 “(B) APPLICABLE DISPOSITION.—For pur-
 8 poses of this paragraph, the term ‘applicable
 9 disposition’ means any sale, exchange, or other
 10 disposition by the donee of applicable prop-
 11 erty—

12 “(i) after the last day of the taxable
 13 year of the donor in which such property
 14 was contributed, and

15 “(ii) before the last day of the 3-year
 16 period beginning on the date of the con-
 17 tribution of such property,

18 unless the donee makes a certification in ac-
 19 cordance with subparagraph (D).

20 “(C) APPLICABLE PROPERTY.—For pur-
 21 poses of this paragraph, the term ‘applicable
 22 property’ means charitable deduction property
 23 (as defined in section 6050L(a)(2)(A))—

24 “(i) which is tangible personal prop-
 25 erty the use of which is identified by the

1 donee as related to the purpose or function
2 constituting the basis of the donee's ex-
3 emption under section 501, and

4 “(ii) for which a deduction in excess
5 of the donor's basis is allowed.

6 “(D) CERTIFICATION.—A certification
7 meets the requirements of this subparagraph if
8 it is a written statement which is signed under
9 penalty of perjury by an officer of the donee or-
10 ganization and—

11 “(i) which—

12 “(I) certifies that the use of the
13 property by the donee was related to
14 the purpose or function constituting
15 the basis for the donee's exemption
16 under section 501, and

17 “(II) describes how the property
18 was used and how such use furthered
19 such purpose or function, or

20 “(ii) which—

21 “(I) states the intended use of
22 the property by the donee at the time
23 of the contribution, and

1 “(II) certifies that such intended
2 use has become impossible or infeasible
3 to implement.”.

4 (b) REPORTING REQUIREMENTS.—Paragraph (1) of
5 section 6050L(a) (relating to returns relating to certain
6 dispositions of donated property) is amended—

7 (1) by striking “2 years” and inserting “3
8 years”, and

9 (2) by striking “and” at the end of subpara-
10 graph (D), by striking the period at the end of sub-
11 paragraph (E) and inserting a comma, and by in-
12 serting at the end the following:

13 “(F) a description of the donee’s use of the
14 property, and

15 “(G) a statement indicating whether the
16 use of the property was related to the purpose
17 or function constituting the basis for the
18 donee’s exemption under section 501.

19 In any case in which the donee indicates that the
20 use of applicable property (as defined in section
21 170(e)(1)(C)) was related to the purpose or function
22 constituting the basis for the exemption of the donee
23 under section 501 under subparagraph (G), the
24 donee shall include with the return the certification

1 described in section 170(e)(7)(D) if such certifi-
 2 cation is required under section 170(e)(7).”.

3 (c) PENALTY.—

4 (1) IN GENERAL.—Part I of subchapter B of
 5 chapter 68 (relating to assessable penalties) is
 6 amended by inserting after section 6720A the fol-
 7 lowing new section:

8 **“SEC. 6720B. FRAUDULENT IDENTIFICATION OF EXEMPT**
 9 **USE PROPERTY.**

10 “In addition to any criminal penalty provided by law,
 11 any person who identifies applicable property (as defined
 12 in section 170(e)(7)(C)) as having a use which is related
 13 to a purpose or function constituting the basis for the
 14 donee’s exemption under section 501 and who knows that
 15 such property is not intended for such a use shall pay a
 16 penalty of \$10,000.”.

17 (2) CLERICAL AMENDMENT.—The table of sec-
 18 tions for part I of subchapter B of chapter 68 is
 19 amended by adding after the item relating to section
 20 6720A the following new item:

“Sec. 6720B. Fraudulent identification of exempt use property.”.

21 (d) EFFECTIVE DATE.—

22 (1) RECAPTURE.—The amendments made by
 23 subsection (a) shall apply to contributions after
 24 June 1, 2006.

1 (2) REPORTING.—The amendments made by
2 subsection (b) shall apply to returns filed after June
3 1, 2006.

4 (3) PENALTY.—The amendments made by sub-
5 section (c) shall apply to identifications made after
6 the date of the enactment of this Act.

7 **SEC. 317. LIMITATION OF DEDUCTION FOR CHARITABLE**
8 **CONTRIBUTIONS OF CLOTHING AND HOUSE-**
9 **HOLD ITEMS.**

10 (a) IN GENERAL.—Subsection (f) of section 170, as
11 amended by section 315 of this Act, is amended by adding
12 at the end the following new paragraph:

13 “(15) CONTRIBUTIONS OF CLOTHING AND
14 HOUSEHOLD ITEMS.—

15 “(A) IN GENERAL.—In the case of an indi-
16 vidual, partnership, or S corporation, the de-
17 duction allowed under subsection (a) for any
18 contribution of clothing or household items with
19 respect to which the donor has obtained a quali-
20 fied appraisal shall be—

21 “(i) in the case of an item which is in
22 good used condition or better, no more
23 than the amount assigned to such item
24 under subparagraph (B) for such year,

1 “(ii) except as provided by clause (iii),
2 in the case of an item which is not in good
3 used condition or better, no more than 20
4 percent of the amount assigned to such
5 item under subparagraph (B) for such
6 year, and

7 “(iii) in the case of an item which is
8 not functional with respect to the use for
9 which it was designed, zero.

10 “(B) ASSIGNED VALUES.—Each year the
11 Secretary shall publish an itemized list of cloth-
12 ing and household items and shall assign an
13 amount with respect to each item on the list
14 which represents the fair market value of such
15 item in good used condition.

16 “(C) EXCEPTION FOR ITEMS SOLD BY THE
17 DONEE.—Subparagraph (A) shall not apply to
18 any contribution of clothing or household items
19 for which a deduction of more than \$500 is
20 claimed if—

21 “(i) the donee sells the clothing or
22 household items before the earlier of—

23 “(I) the due date (including ex-
24 tensions) for filing the return of tax

1 for the taxable year of the donor in
2 which the contribution was made, or

3 “(II) the date on which such re-
4 turn was filed,

5 “(ii) the donee reports the sales price
6 of the clothing or household items to the
7 donor, and

8 “(iii) the amount claimed as a deduc-
9 tion with respect to such clothing or house-
10 hold items does not exceed the amount of
11 the sales price reported to the donor.

12 “(D) HOUSEHOLD ITEMS.—For purposes
13 of this paragraph—

14 “(i) IN GENERAL.—The term ‘house-
15 hold items’ includes furniture, furnishings,
16 electronics, appliances, linens, and other
17 similar items.

18 “(ii) EXCLUDED ITEMS.—Such term
19 does not include—

20 “(I) food,

21 “(II) paintings, antiques, and
22 other objects of art,

23 “(III) jewelry and gems, and

24 “(IV) collections.

1 “(E) SPECIAL RULE FOR PASS-THRU ENTI-
 2 TIES.—In the case of a partnership or S cor-
 3 poration, this paragraph shall be applied at the
 4 entity level, except that the deduction shall be
 5 denied at the partner or shareholder level.”.

6 (b) SUBSTANTIATION.—

7 (1) ITEMS OF \$100 OR MORE.—Subparagraph
 8 (B) of section 170(f)(8) is amended by inserting
 9 after clause (iii) the following new clause:

10 “(iv) In the case of a contribution
 11 consisting of clothing or household items,
 12 the number of items contributed, an indi-
 13 cation of the condition of each item, a de-
 14 scription of the type of item contributed,
 15 and a copy of the list published under
 16 paragraph (15)(B) or an instruction on
 17 how to obtain such list.”.

18 (2) ITEMS OF \$500 OR MORE.—Subparagraph
 19 (B) of section 170(f)(11) is amended by inserting “,
 20 the information contained in the acknowledgment re-
 21 quired under paragraph (8) in the case of any con-
 22 tribution of clothing or household items,” after “a
 23 description of such property”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to contributions made after De-
 3 cember 31, 2006.

4 **SEC. 318. MODIFICATION OF SUBSTANTIATION AND REC-**
 5 **ORDKEEPING REQUIREMENTS FOR CERTAIN**
 6 **CHARITABLE CONTRIBUTIONS.**

7 (a) MODIFICATION OF SUBSTANTIATION LIMITA-
 8 TION.—Subparagraph (A) of section 170(f)(8) is amended
 9 by striking “\$250” and inserting “\$100”.

10 (b) RECORDKEEPING REQUIREMENT.—Subsection
 11 (f) of section 170, as amended by section 417 of this Act,
 12 is amended by adding at the end the following new para-
 13 graph:

14 “(16) RECORDKEEPING.—No deduction shall be
 15 allowed under subsection (a) for any contribution of
 16 a cash, check, or other monetary gift unless the
 17 donor maintains as a record of such contribution—

18 “(A) a cancelled check, or

19 “(B) a receipt or a letter or other written
 20 communication from the donee showing the
 21 name of the donee organization, the date of the
 22 contribution, and the amount of the contribu-
 23 tion.”.

24 (c) EFFECTIVE DATE.—The amendments made by
 25 this section shall apply to contributions made in taxable

1 years beginning after the date of the enactment of this
2 Act.

3 **SEC. 319. CONTRIBUTIONS OF FRACTIONAL INTERESTS IN**
4 **TANGIBLE PERSONAL PROPERTY.**

5 (a) INCOME TAX.—Section 170 (relating to chari-
6 table, etc., contributions and gifts), as amended by section
7 301 of this Act, is amended by redesignating subsection
8 (p) as subsection (q) and by inserting after subsection (o)
9 the following new subsection:

10 “(q) SPECIAL RULES FOR FRACTIONAL GIFTS.—

11 “(1) VALUATION OF SUBSEQUENT GIFTS.—

12 “(A) IN GENERAL.—In the case of any ad-
13 ditional contribution, the fair market value of
14 such contribution shall be determined by using
15 the lesser of—

16 “(i) the fair market value of the prop-
17 erty at the time of the initial fractional
18 contribution, or

19 “(ii) the fair market value of the
20 property at the time of the additional con-
21 tribution.

22 “(B) DEFINITIONS.—For purposes of this
23 paragraph—

24 “(i) ADDITIONAL CONTRIBUTION.—

25 The term ‘additional contribution’ means

any charitable contribution by the taxpayer of any interest in property with respect to which the taxpayer has previously made an initial fractional contribution.

“(ii) INITIAL FRACTIONAL CONTRIBUTION.—The term ‘initial fractional contribution’ means, with respect to any taxpayer, the first charitable contribution of an undivided portion of the taxpayer’s entire interest in any tangible personal property.

“(2) RECAPTURE OF DEDUCTION IN CERTAIN CASES.—

“(A) IN GENERAL.—The Secretary shall provide for the recapture of an amount equal to the amount of any deduction allowed under this section (plus interest) with respect to any contribution of an undivided interest of a taxpayer’s entire interest in property in any case where such property is not in the physical possession of the donee during any applicable period for a period of time which bears substantially the same ratio to 1 year as—

“(i) the percentage of the undivided interest of the donee in the property (de-

1 terminated on the day after such contribu-
 2 tion was made), bears to

3 “(ii) 100 percent.

4 “(B) APPLICABLE PERIOD.—For purposes
 5 of subparagraph (A), the term ‘applicable pe-
 6 riod’ means any 1-year period which begins
 7 on—

8 “(i) in the year of the contribution,
 9 the date of the contribution, and

10 “(ii) in any subsequent calendar year,
 11 the date which corresponds to the date de-
 12 scribed in clause (i).

13 “(C) ANTI-ABUSE RULES.—The Secretary
 14 shall prescribe such regulations as necessary to
 15 prevent the avoidance of the purposes of this
 16 paragraph through the transfer of any such un-
 17 divided interest to a third party controlled by
 18 the taxpayer.”.

19 (b) ESTATE TAX.—Section 2055 (relating to trans-
 20 fers for public, charitable, and religious uses) is amended
 21 by redesignating subsection (g) as subsection (h) and by
 22 inserting after subsection (f) the following new subsection:

23 “(g) VALUATION OF SUBSEQUENT GIFTS.—

24 “(1) IN GENERAL.—In the case of any addi-
 25 tional contribution, the fair market value of such

1 contribution shall be determined by using the lesser
2 of—

3 “(A) the fair market value of the property
4 at the time of the initial fractional contribution,
5 or

6 “(B) the fair market value of the property
7 at the time of the additional contribution.

8 “(2) DEFINITIONS.—For purposes of this para-
9 graph—

10 “(A) ADDITIONAL CONTRIBUTION.—The
11 term ‘additional contribution’ means a bequest,
12 legacy, devise, or transfer described in sub-
13 section (a) of any interest in a property with re-
14 spect to which the decedent had previously
15 made an initial fractional contribution.

16 “(B) INITIAL FRACTIONAL CONTRIBU-
17 TION.—The term ‘initial fractional contribution’
18 means, with respect to any decedent, any chari-
19 table contribution of an undivided portion of
20 the decedent’s entire interest in any tangible
21 personal property for which a deduction was al-
22 lowed under section 170.”.

23 (c) GIFT TAX.—Section 2522 (relating to charitable
24 and similar gifts) is amended by redesignating subsection

1 (e) as subsection (f) and by inserting after subsection (d)
 2 the following new subsection:

3 “(e) SPECIAL RULES FOR FRACTIONAL GIFTS.—

4 “(1) VALUATION OF SUBSEQUENT GIFTS.—

5 “(A) IN GENERAL.—In the case of any ad-
 6 ditional contribution, the fair market value of
 7 such contribution shall be determined by using
 8 the lesser of—

9 “(i) the fair market value of the prop-
 10 erty at the time of the initial fractional
 11 contribution, or

12 “(ii) the fair market value of the
 13 property at the time of the additional con-
 14 tribution.

15 “(B) DEFINITIONS.—For purposes of this
 16 paragraph—

17 “(i) ADDITIONAL CONTRIBUTION.—

18 The term ‘additional contribution’ means
 19 any gift for which a deduction is allowed
 20 under subsection (a) or (b) of any interest
 21 in a property with respect to which the
 22 donor has previously made an initial frac-
 23 tional contribution.

24 “(ii) INITIAL FRACTIONAL CONTRIBU-
 25 TION.—The term ‘initial fractional con-

1 tribution’ means, with respect to any
 2 donor, the first gift of an undivided portion
 3 of the donor’s entire interest in any tan-
 4 gible personal property for which a deduc-
 5 tion is allowed under subsection (a) or (b).

6 “(2) RECAPTURE OF DEDUCTION IN CERTAIN
 7 CASES.—

8 “(A) IN GENERAL.—The Secretary shall
 9 provide for the recapture of an amount equal to
 10 the amount of any deduction allowed under this
 11 section (plus interest) with respect to any con-
 12 tribution of an undivided interest of a donor’s
 13 entire interest in property in any case where
 14 such property is not in the physical possession
 15 of the donee during any applicable period for a
 16 period of time which bears substantially the
 17 same ratio to 1 year as—

18 “(i) the percentage of the undivided
 19 interest of the donee in the property (de-
 20 termined on the day after such contribu-
 21 tion was made), bears to

22 “(ii) 100 percent.

23 “(B) APPLICABLE PERIOD.—For purposes
 24 of subparagraph (A), the term ‘applicable pe-

1 riod’ means any 1-year period which begins
2 on—

3 “(i) in the year of the contribution,
4 the date of the contribution, and

5 “(ii) in any subsequent calendar year,
6 the date which corresponds to the date de-
7 scribed in clause (i).

8 “(C) ANTI-ABUSE RULES.—The Secretary
9 shall prescribe such regulations as necessary to
10 prevent the avoidance of the purposes of this
11 paragraph though the transfer of any such un-
12 divided interest to a third party controlled by
13 the donor.”.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to contributions, bequests, and
16 gifts made after the date of the enactment of this Act.

17 **SEC. 320. PROVISIONS RELATING TO SUBSTANTIAL AND**
18 **GROSS OVERSTATEMENTS OF VALUATIONS**
19 **OF CHARITABLE DEDUCTION PROPERTY.**

20 (a) SUBSTANTIAL AND GROSS OVERSTATEMENTS OF
21 VALUATIONS OF CHARITABLE DEDUCTION PROPERTY.—

22 (1) IN GENERAL.—Section 6662 (relating to
23 imposition of accuracy-related penalties) is amended
24 by adding at the end the following new subsection:

1 “(i) SPECIAL RULES FOR CHARITABLE DEDUCTION
2 PROPERTY.—In the case of charitable deduction property
3 (as defined in section 6664(c)(3)(A))—

4 “(1) the determination under subsection
5 (e)(1)(A) as to whether there is a substantial valu-
6 ation misstatement under chapter 1 with respect to
7 the value of the property shall be made by sub-
8 stituting ‘150 percent’ for ‘200 percent’, and

9 “(2) the determination under subsection
10 (h)(2)(A)(i) as to whether there is a gross valuation
11 misstatement with respect to the value of the prop-
12 erty shall be made by substituting ‘200 percent’ for
13 ‘400 percent’ and by substituting ‘150 percent’ for
14 ‘200 percent’ in applying subsection (e)(1)(A) for
15 purposes of such determination.”.

16 (2) ELIMINATION OF REASONABLE CAUSE EX-
17 CEPTION FOR GROSS MISSTATEMENTS.—Section
18 6664(c)(2) (relating to reasonable cause exception
19 for underpayments) is amended by striking “para-
20 graph (1) shall not apply unless” and inserting
21 “paragraph (1) shall not apply. The preceding sen-
22 tence shall not apply to a substantial valuation over-
23 statement under chapter 1 if”.

1 (b) PENALTY ON APPRAISERS WHOSE APPRAISALS
 2 RESULT IN SUBSTANTIAL OR GROSS VALUATION
 3 MISSTATEMENTS.—

4 (1) IN GENERAL.—Part I of subchapter B of
 5 chapter 68 (relating to assessable penalties) is
 6 amended by inserting after section 6695 the fol-
 7 lowing new section:

8 **“SEC. 6695A. SUBSTANTIAL AND GROSS VALUATION**
 9 **MISSTATEMENTS ATTRIBUTABLE TO INCOR-**
 10 **RECT APPRAISALS.**

11 “(a) IMPOSITION OF PENALTY.—If—

12 “(1) a person prepares an appraisal of the
 13 value of property and such person knows, or reason-
 14 ably should have known, that the appraisal would be
 15 used in connection with a return or a claim for re-
 16 fund, and

17 “(2) the claimed value of the property on a re-
 18 turn or claim for refund which is based on such ap-
 19 praisal results in a substantial valuation
 20 misstatement under chapter 1 (within the meaning
 21 of section 6662(e)), or a gross valuation
 22 misstatement (within the meaning of section
 23 6662(h)), with respect to such property,

24 then such person shall pay a penalty in the amount deter-
 25 mined under subsection (b).

1 “(b) AMOUNT OF PENALTY.—The amount of the
2 penalty imposed under subsection (a) on any person with
3 respect to an appraisal shall be equal to the lesser of—

4 “(1) the greater of—

5 “(A) 10 percent of the amount of the un-
6 derpayment (as defined in section 6664(a)) at-
7 tributable to the misstatement described in sub-
8 section (a)(2), or

9 “(B) \$1,000, or

10 “(2) 125 percent of the gross income received
11 by the person described in subsection (a)(1) from
12 the preparation of the appraisal.

13 “(c) EXCEPTION.—No penalty shall be imposed
14 under subsection (a) if the person establishes to the satis-
15 faction of the Secretary that the value established in the
16 appraisal was more likely than not the proper value.”.

17 (2) RULES APPLICABLE TO PENALTY.—Section
18 6696 (relating to rules applicable with respect to
19 sections 6694 and 6695) is amended—

20 (A) by striking “6694 and 6695” each
21 place it appears in the text and heading and in-
22 serting “6694, 6695, and 6695A”, and

23 (B) by striking “6694 or 6695” each place
24 it appears in the text and inserting “6694,
25 6695, or 6695A”.

1 (3) CONFORMING AMENDMENT.—The table of
 2 sections for part I of subchapter B of chapter 68 is
 3 amended by striking the item relating to section
 4 6696 and inserting the following new items:

“Sec. 6695A.. Substantial and gross valuation misstatements attributable
 to incorrect appraisals.

“Sec. 6696. Rules applicable with respect to sections 6694, 6695, and
 6695A.”.

5 (c) QUALIFIED APPRAISERS AND APPRAISALS.—

6 (1) IN GENERAL.—Subparagraph (E) of section
 7 170(f)(11) is amended to read as follows:

8 “(E) QUALIFIED APPRAISAL AND AP-
 9 PRAISER.—For purposes of this paragraph—

10 “(i) QUALIFIED APPRAISAL.—The
 11 term ‘qualified appraisal’ means, with re-
 12 spect to any property, an appraisal of such
 13 property which—

14 “(I) is treated for purposes of
 15 this paragraph as a qualified ap-
 16 praisal under regulations or other
 17 guidance prescribed by the Secretary,
 18 and

19 “(II) is conducted by a qualified
 20 appraiser in accordance with generally
 21 accepted appraisal standards and any
 22 regulations or other guidance pre-
 23 scribed under subclause (I).

1 “(ii) QUALIFIED APPRAISER.—Except
2 as provided in clause (iii), the term ‘quali-
3 fied appraiser’ means an individual who—

4 “(I) has earned an appraisal des-
5 ignation from a recognized profes-
6 sional appraiser organization or has
7 otherwise met minimum education
8 and experience requirements set forth
9 in regulations prescribed by the Sec-
10 retary,

11 “(II) regularly performs apprais-
12 als for which the individual receives
13 compensation, and

14 “(III) meets such other require-
15 ments as may be prescribed by the
16 Secretary in regulations or other guid-
17 ance.

18 “(iii) SPECIFIC APPRAISALS.—An in-
19 dividual shall not be treated as a qualified
20 appraiser with respect to any specific ap-
21 praisal unless—

22 “(I) the individual demonstrates
23 verifiable education and experience in
24 valuing the type of property subject to
25 the appraisal, and

1 “(II) the individual has not been
 2 prohibited from practicing before the
 3 Internal Revenue Service by the Sec-
 4 retary under section 330(c) of title
 5 31, United States Code, at any time
 6 during the 3-year period ending on
 7 the date of the appraisal.”.

8 (2) REASONABLE CAUSE EXCEPTION.—Sub-
 9 paragraphs (B) and (C) of section 6664(c)(3) are
 10 amended to read as follows:

11 “(B) QUALIFIED APPRAISAL.—The term
 12 ‘qualified appraisal’ has the meaning given such
 13 term by section 170(f)(11)(E)(i).

14 “(C) QUALIFIED APPRAISER.—The term
 15 ‘qualified appraiser’ has the meaning given such
 16 term by section 170(f)(11)(E)(ii).”.

17 (d) DISCIPLINARY ACTIONS AGAINST APPRAISERS.—
 18 Section 330(c) of title 31, United States Code, is amended
 19 by striking “with respect to whom a penalty has been as-
 20 sessed under section 6701(a) of the Internal Revenue
 21 Code of 1986”.

22 (e) EFFECTIVE DATES.—

23 (1) MISSTATEMENT PENALTIES.—Except as
 24 provided in paragraph (3), the amendments made by

1 subsection (a) shall apply to returns filed after the
2 date of the enactment of this Act.

3 (2) APPRAISER PROVISIONS.—Except as pro-
4 vided in paragraph (3), the amendments made by
5 subsections (b), (c), and (d) shall apply to appraisals
6 prepared with respect to returns or submissions filed
7 after the date of the enactment of this Act.

8 (3) SPECIAL RULE FOR CERTAIN EASE-
9 MENTS.—In the case of a contribution of a qualified
10 real property interest which is a restriction with re-
11 spect to the exterior of a building described in sec-
12 tion 170(h)(4)(C)(ii) of the Internal Revenue Code
13 of 1986, and an appraisal with respect to the con-
14 tribution, the amendments made by subsections (a)
15 and (b) shall apply to returns filed after December
16 16, 2004.

17 **SEC. 321. ADDITIONAL STANDARDS FOR CREDIT COUN-**
18 **SELING ORGANIZATIONS.**

19 (a) IN GENERAL.—Section 501 (relating to exemp-
20 tion from tax on corporations, certain trusts, etc.) is
21 amended by redesignating subsection (q) as subsection (r)
22 and by inserting after subsection (p) the following new
23 subsection:

24 “(q) SPECIAL RULES FOR CREDIT COUNSELING OR-
25 GANIZATIONS.—

1 “(1) IN GENERAL.—An organization with re-
2 spect to which the provision of credit counseling
3 services is a substantial purpose shall not be exempt
4 from tax under subsection (a) unless such organiza-
5 tion is described in paragraph (3) or (4) of sub-
6 section (c) and such organization is organized and
7 operated in accordance with the following require-
8 ments:

9 “(A) The organization—

10 “(i) provides credit counseling services
11 tailored to the specific needs and cir-
12 cumstances of consumers,

13 “(ii) makes no loans to debtors and
14 does not negotiate the making of loans on
15 behalf of debtors, and

16 “(iii) does not promote, or charge any
17 separate fee for, any service for the pur-
18 pose of improving any consumer’s credit
19 record, credit history, or credit rating.

20 “(B) The organization does not refuse to
21 provide credit counseling services to a consumer
22 due to the inability of the consumer to pay, the
23 ineligibility of the consumer for debt manage-
24 ment plan enrollment, or the unwillingness of

1 the consumer to enroll in a debt management
2 plan.

3 “(C) The organization establishes and im-
4 plements a fee policy which—

5 “(i) requires that any fees charged to
6 a consumer for services are reasonable,
7 and

8 “(ii) prohibits charging any fee based
9 in whole or in part on a percentage of the
10 consumer’s debt, the consumer’s payments
11 to be made pursuant to a debt manage-
12 ment plan, or the projected or actual sav-
13 ings to the consumer resulting from enroll-
14 ing in a debt management plan.

15 “(D) At all times the organization has a
16 board of directors or other governing body—

17 “(i) which is controlled by persons
18 who represent the broad interests of the
19 public, such as public officials acting in
20 their capacities as such, persons having
21 special knowledge or expertise in credit or
22 financial education, and community lead-
23 ers,

24 “(ii) not more than 20 percent of the
25 voting power of which is vested in persons

1 who are employed by the organization or
2 who will benefit financially, directly or in-
3 directly, from the organization's activities
4 (other than through the receipt of reason-
5 able directors' fees or the repayment of
6 consumer debt to creditors other than the
7 credit counseling organization or its affili-
8 ates), and

9 “(iii) not more than 49 percent of the
10 voting power of which is vested in persons
11 who are employed by the organization or
12 who will benefit financially, directly or in-
13 directly, from the organization's activities
14 (other than through the receipt of reason-
15 able directors' fees).

16 “(E) The organization does not own more
17 than 35 percent of—

18 “(i) the total combined voting power
19 of a corporation which is in the business of
20 lending money, repairing credit, or pro-
21 viding debt management plan services,
22 payment processing, or similar services,

23 “(ii) the profits interest of a partner-
24 ship which is in the business of lending
25 money, repairing credit, or providing debt

1 management plan services, payment proc-
 2 essing, or similar services, and

3 “(iii) the beneficial interest of a trust
 4 or estate which is in the business of lend-
 5 ing money, repairing credit, or providing
 6 debt management plan services, payment
 7 processing, or similar services.

8 “(F) The organization receives no amount
 9 for providing referrals to others for financial
 10 services (including debt management services)
 11 or credit counseling services to be provided to
 12 consumers, and pays no amount to others for
 13 obtaining referrals of consumers.

14 “(2) REQUIREMENTS UNDER SUBSECTION
 15 (c)(3).—In addition to the requirements under para-
 16 graph (1), an organization with respect to which the
 17 provision of credit counseling services is a substan-
 18 tial purpose and which is described in paragraph (3)
 19 of subsection (c) shall not be exempt from tax under
 20 subsection (a) unless such organization is organized
 21 and operated in accordance with the following re-
 22 quirements:

23 “(A) The organization—

24 “(i) charges no fees (other than nomi-
 25 nal fees) for debt management plan serv-

ices or credit counseling services and
waives any fees if the consumer is unable
to pay such fees, and

“(ii) does not solicit contributions
from consumers during the initial coun-
seling process or while the consumer is re-
ceiving services from the organization.

“(B) The activities of the organization re-
lated to debt management plan services (in the
aggregate) do not exceed 25 percent of the total
activities of the organization activities measured
by any of the following:

“(i) The time spent on activities.

“(ii) The resources dedicated to activi-
ties.

“(iii) The effort expended by the orga-
nization with respect to activities.

“(iv) The sources of revenue of the or-
ganization.

“(v) Any other measures prescribed
by the Secretary.

“(3) REQUIREMENTS UNDER SUBSECTION
(c)(4).—In addition to the requirements under para-
graph (1), an organization with respect to which the
provision of credit counseling services is a substan-

1 tial purpose and which is described in paragraph (4)
 2 of subsection (c) shall not be exempt from tax under
 3 subsection (a) unless such organization—

4 “(A) is organized and operated such that
 5 it charges no fees (other than nominal fees) for
 6 credit counseling services and waives any fees if
 7 the consumer is unable to pay such fees, and

8 “(B) notifies the Secretary, in such man-
 9 ner as the Secretary may by regulations pre-
 10 scribe, that it is applying for recognition as a
 11 credit counseling organization.

12 “(4) SECRETARIAL AUTHORITY.—The Secretary
 13 may require any organization described in paragraph
 14 (1) to submit such information as the Secretary re-
 15 quires to verify that such organization meets the re-
 16 quirements of this section.

17 “(5) CREDIT COUNSELING SERVICES; DEBT
 18 MANAGEMENT PLAN SERVICES.—For purposes of
 19 this subsection—

20 “(A) CREDIT COUNSELING SERVICES.—

21 The term ‘credit counseling services’ means—

22 “(i) the providing of educational infor-
 23 mation to the general public on budgeting,
 24 personal finance, financial literacy, saving

1 and spending practices, and the sound use
 2 of consumer credit,

3 “(ii) the assisting of individuals and
 4 families with financial problems by pro-
 5 viding them with counseling, or

6 “(iii) a combination of the activities
 7 described in clauses (i) and (ii).

8 “(B) DEBT MANAGEMENT PLAN SERV-
 9 ICES.—The term ‘debt management plan serv-
 10 ices’ means services related to the repayment,
 11 consolidation, or restructuring of a consumer’s
 12 debt, and includes the negotiation with creditors
 13 of lower interest rates, the waiver or reduction
 14 of fees, and the marketing and processing of
 15 debt management plans.”.

16 (b) DEBT MANAGEMENT PLAN SERVICES TREATED
 17 AS AN UNRELATED BUSINESS.—Section 513 (relating to
 18 unrelated trade or business) is amended by adding at the
 19 end the following:

20 “(j) DEBT MANAGEMENT PLAN SERVICES.—The
 21 term ‘unrelated trade or business’ includes—

22 “(1) the provision of debt management plan
 23 services (as defined in section 501(q)(4)(B)) by an
 24 organization described in section 501(q) to the ex-
 25 tent such services are not substantially related to the

1 provision of credit counseling services (as defined in
2 section 501(q)(4)(A)) to a consumer, and

3 “(2) the provision of debt management plan
4 services (as so defined) by any organization other
5 than an organization which meets the requirements
6 of section 501(q).”.

7 (c) EFFECTIVE DATE.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), the amendments made by this section
10 shall apply to taxable years beginning after the date
11 of the enactment of this Act.

12 (2) TRANSITION RULE FOR EXISTING ORGANI-
13 ZATIONS.—In the case of any organization described
14 in paragraph (3) or (4) section 501(c) of the Inter-
15 nal Revenue Code of 1986 and with respect to which
16 the provision of credit counseling services is a sub-
17 stantial purpose on the date of the enactment of this
18 Act, the amendments made by this section shall
19 apply to taxable years beginning after the date
20 which is 1 year after the date of the enactment of
21 this Act.

1 **PART II—IMPROVED ACCOUNTABILITY OF**
 2 **DONOR ADVISED FUNDS**
 3 **SEC. 331. EXCISE TAX ON SPONSORING ORGANIZATIONS OF**
 4 **DONOR ADVISED FUNDS FOR FAILURE TO**
 5 **MEET DISTRIBUTION REQUIREMENTS.**

6 (a) IN GENERAL.—Chapter 42 (relating to private
 7 foundations and certain other tax-exempt organizations),
 8 as amended by section 311, is amended by adding at the
 9 end the following new subchapter:

10 **“Subchapter G—Donor Advised Funds**

“Sec. 4967. Taxes on sponsoring organizations of donor advised funds for fail-
 ure to meet distributions requirements.

“Sec. 4968. Taxes on prohibited distributions.

“Sec. 4969. Taxes on prohibited benefits.

11 **“SEC. 4967. TAXES ON SPONSORING ORGANIZATIONS OF**
 12 **DONOR ADVISED FUNDS FOR FAILURE TO**
 13 **MEET DISTRIBUTION REQUIREMENTS.**

14 “(a) INITIAL TAX.—There is hereby imposed on any
 15 sponsoring organization a tax equal to 30 percent of each
 16 of the following amounts:

17 “(1) The organization level undistributed
 18 amount of such sponsoring organization (other than
 19 any organization subject to tax under section 4942)
 20 for any taxable year which has not been distributed
 21 before the first day of the second (or any suc-
 22 ceeding) taxable year following such taxable year (if
 23 such first day falls within the taxable period).

1 “(2) The fund level undistributed amount of
 2 any donor advised fund of such sponsoring organiza-
 3 tion for any taxable year which has not been distrib-
 4 uted before the 121st day of the first (or any suc-
 5 ceeding) taxable year following the applicable period
 6 (if such 121st day falls within the taxable period).

7 “(3) The illiquid fund undistributed amount of
 8 any illiquid asset donor advised fund of such spon-
 9 soring organization for any taxable year which has
 10 not been distributed before the 121st day of the sec-
 11 ond (or any succeeding) taxable year following such
 12 taxable year (if such 121st day falls within the tax-
 13 able period).

14 “(b) ADDITIONAL TAX.—In any case in which an ini-
 15 tial tax is imposed under subsection (a) on any amount,
 16 if any portion of such amount remains undistributed at
 17 the close of the taxable period, there is hereby imposed
 18 a tax equal to 100 percent of the amount remaining undis-
 19 tributed at such time.

20 “(c) ORGANIZATION LEVEL UNDISTRIBUTED
 21 AMOUNT; FUND LEVEL UNDISTRIBUTED AMOUNT; IL-
 22 LIQUID FUND UNDISTRIBUTED AMOUNT.—For purposes
 23 of this section—

24 “(1) ORGANIZATION LEVEL UNDISTRIBUTED
 25 AMOUNT.—The term ‘organization level undistrib-

1 uted amount’ means, with respect to any sponsoring
 2 organization for any taxable year, the amount by
 3 which—

4 “(A) the organization level distributable
 5 amount for such taxable year, exceeds

6 “(B) the qualifying distributions made
 7 during such taxable year and designated for the
 8 purpose of reducing such amount.

9 “(2) FUND LEVEL UNDISTRIBUTED AMOUNT.—

10 The term ‘fund level undistributed amount’ means,
 11 with respect to any donor advised fund of a spon-
 12 soring organization for any applicable period, the
 13 amount by which—

14 “(A) the fund level distributable amount
 15 for such applicable period, exceeds

16 “(B) the qualifying distributions made
 17 during such applicable period and designated
 18 for the purpose of reducing such amount.

19 “(3) ILLIQUID FUND UNDISTRIBUTED
 20 AMOUNT.—

21 “(A) IN GENERAL.—The term ‘illiquid
 22 fund undistributed amount’ means, with respect
 23 to any illiquid asset donor advised fund of a
 24 sponsoring organization for any taxable year,
 25 the amount by which—

1 “(i) the illiquid fund distributable
2 amount for such taxable year, exceeds

3 “(ii) the qualifying distributions made
4 during such taxable year and designated
5 for the purpose of reducing such amount.

6 “(B) ILLIQUID ASSET DONOR ADVISED
7 FUND.—The term ‘illiquid asset donor advised
8 fund’ means for any taxable year a donor ad-
9 vised fund the value of the illiquid assets of
10 which (as of the end of the preceding taxable
11 year) exceeds 10 percent of the value of the
12 total assets of such fund.

13 “(C) ILLIQUID ASSET.—The term ‘illiquid
14 asset’ means for any taxable year any asset
15 other than cash and marketable securities the
16 value of which is held for the entire taxable
17 year as such asset or any other illiquid asset.

18 “(d) ORGANIZATION LEVEL DISTRIBUTABLE
19 AMOUNT; FUND LEVEL DISTRIBUTABLE AMOUNT; IL-
20 LIQUID FUND DISTRIBUTABLE AMOUNT.—For purposes
21 of this section—

22 “(1) ORGANIZATION LEVEL DISTRIBUTABLE
23 AMOUNT.—The term ‘organization level distributable
24 amount’ means, with respect to any sponsoring orga-
25 nization for any taxable year, an amount equal to 5

1 percent of the fair market value of the aggregate as-
 2 sets of all donor advised funds maintained by such
 3 organization as determined on the last day of the
 4 preceding taxable year (other than such funds which
 5 have been in existence for less than 1 year as so de-
 6 termined).

7 “(2) FUND LEVEL DISTRIBUTABLE AMOUNT.—

8 The term ‘fund level distributable amount’ means,
 9 with respect to any donor advised fund of any spon-
 10 soring organization for any applicable 3-consecutive
 11 taxable year period, an amount equal to the greater
 12 of—

13 “(A) \$250, or

14 “(B) 2.5 percent of the greater of—

15 “(i) the average of the sponsoring or-
 16 ganization’s required minimum initial con-
 17 tribution amount for such period, or

18 “(ii) the average of the sponsoring or-
 19 ganization’s required minimum balance for
 20 such period,

21 for the type of donor with respect to such donor
 22 advised fund.

23 “(3) ILLIQUID FUND DISTRIBUTABLE

24 AMOUNT.—The term ‘illiquid fund distributable
 25 amount’ means, with respect to any illiquid asset

1 donor advised fund of any sponsoring organization
2 for any taxable year, an amount equal to 5 percent
3 of the value of the assets in such fund as determined
4 at the end of the preceding taxable year.

5 “(e) QUALIFYING DISTRIBUTION.—For purposes of
6 this section—

7 “(1) IN GENERAL.—The term ‘qualifying dis-
8 tribution’ means—

9 “(A) any amount paid by the sponsoring
10 organization from a donor advised fund to any
11 organization described in section 170(b)(1)(A)
12 (other than any organization described in sec-
13 tion 509(a)(3) or any sponsoring organization if
14 such amount is for maintenance in a donor ad-
15 vised fund), and

16 “(B) any amount set aside in such donor
17 advised fund for purposes, and under proce-
18 dures similar to those, described in section
19 4942(g)(2).

20 Such term shall also include any amount paid during
21 any taxable year for reasonable and necessary ad-
22 ministrative expenses charged to a donor advised
23 fund by a sponsoring organization.

1 “(2) DISTRIBUTIONS TO SPONSORING ORGANI-
2 ZATIONS.—Such term shall include any distribution
3 to a sponsoring organization.

4 “(3) PURPOSE OF DISTRIBUTION.—Each quali-
5 fying distribution shall be taken into account in de-
6 termining whether each of the requirements of para-
7 graphs (1), (2), and (3) of subsection (a) are met,
8 except that only qualifying distributions from a
9 donor advised fund shall be taken into account in
10 determining whether the requirements of paragraphs
11 (2) and (3) of subsection (a) are met with respect
12 to the fund.

13 “(4) DESIGNATION OF TAXABLE YEAR.—

14 “(A) IN GENERAL.—A sponsoring organi-
15 zation shall designate the taxable years or ap-
16 plicable periods with respect to which any quali-
17 fying distribution shall be applied for purposes
18 of satisfying the distribution requirements of
19 such taxable year or applicable period.

20 “(B) CARRYOVER OF EXCESS DISTRIBUTI-
21 TION DESIGNATIONS.—If a sponsoring organi-
22 zation designates an amount of qualifying dis-
23 tributions in excess of the amount necessary to
24 meet the distribution requirements for all tax-
25 able years and all applicable periods, the spon-

1 soring organization may designate such excess
2 as a carryover distribution which may be ap-
3 plied for purposes of satisfying the distribution
4 requirements of the succeeding 5 taxable years.

5 “(f) VALUATION RULES.—For purposes of deter-
6 mining the value of any asset held by a donor advised
7 fund, the following rules shall apply:

8 “(1) Securities for which market quotations are
9 readily available shall be valued at fair market value
10 determined on a monthly basis.

11 “(2) Cash shall be determined on an average
12 monthly basis.

13 “(3) Any illiquid asset transferred by a donor
14 to a sponsoring organization for maintenance in
15 such donor advised fund shall be valued in an
16 amount equal to the sum of—

17 “(A) the value of such asset claimed by the
18 donor for purposes of determining the donor’s
19 deduction under section 170, 2055, or 2522
20 with respect to such transfer and reported by
21 the donor to the sponsoring organization (in
22 any manner specified by the Secretary), and

23 “(B) an assumed annual rate of return of
24 5 percent of such value.

1 “(4) Any illiquid asset purchased by such fund
2 shall be valued in an amount equal to—

3 “(A) the purchase price paid for such asset
4 by such fund, and

5 “(B) an assumed annual rate of return of
6 5 percent of such value.

7 “(g) SPONSORING ORGANIZATION; DONOR ADVISED
8 FUND.—For purposes of this subchapter—

9 “(1) SPONSORING ORGANIZATION.—The term
10 ‘sponsoring organization’ means any organization
11 which—

12 “(A) is described in section 170(c) (other
13 than in paragraph (1) thereof, and without re-
14 gard to paragraph (2)(A) thereof), and

15 “(B) maintains 1 or more donor advised
16 funds.

17 “(2) DONOR ADVISED FUND.—

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (B), the term ‘donor advised
20 fund’ means a fund or account—

21 “(i) which is separately identified by
22 reference to contributions of a donor or do-
23 nors,

24 “(ii) which is owned and controlled by
25 a sponsoring organization, and

1 “(iii) with respect to which a donor or
2 any person appointed or designated by
3 such person) has, or reasonably expects to
4 have, advisory privileges with respect to
5 the distribution or investment of amounts
6 held in such fund or account by reason of
7 the donor’s status as a donor.

8 “(B) EXCEPTION.—The term ‘donor ad-
9 vised fund’ shall not include any fund or ac-
10 count with respect to which a person described
11 in subparagraph (A)(iii) advises as to which in-
12 dividuals receive grants for travel, study, or
13 other similar purposes, but only if—

14 “(i) such person’s advisory privileges
15 are performed exclusively by such person
16 in the person’s capacity as a member of a
17 committee appointed by the sponsoring or-
18 ganization,

19 “(ii) no combination of persons de-
20 scribed in subparagraph (A)(iii) (or per-
21 sons related to such persons) control, di-
22 rectly or indirectly, such committee, and

23 “(iii) all grants from such fund or ac-
24 count satisfy requirements similar to those
25 described in section 4945(g) (concerning

1 grants to individuals by private founda-
 2 tions).

3 “(C) SECRETARIAL AUTHORITY.—The Sec-
 4 retary may exempt a fund or account from
 5 treatment as a donor advised fund which—

6 “(i) is advised by committee not di-
 7 rectly or indirectly controlled by the donor
 8 or advisor (and any related parties), or

9 “(ii) will benefit a single identified or-
 10 ganization or governmental entity or a sin-
 11 gle identified charitable purpose.

12 “(h) OTHER DEFINITIONS.—For purposes of this
 13 section—

14 “(1) TAXABLE PERIOD.—The term ‘taxable pe-
 15 riod’ means, with respect to the undistributed
 16 amount for any taxable year, the period beginning
 17 with the first day of the taxable year and ending on
 18 the earlier of—

19 “(A) the date of mailing of a notice of defi-
 20 ciency with respect to the tax imposed by sub-
 21 section (a) under section 6212, or

22 “(B) the date on which the tax imposed by
 23 subsection (a) is assessed.

24 “(2) APPLICABLE PERIOD.—The term ‘applica-
 25 ble period’ means, with respect to any donor advised

1 fund of any sponsoring organization, a 3-consecutive
2 taxable year period determined under the following
3 rules:

4 “(A) The first applicable 3-consecutive tax-
5 able year period for any donor advised fund
6 shall begin on the first day of the first taxable
7 year of the sponsoring organization beginning
8 after the date such fund has been in existence
9 for 1 year.

10 “(B) Any applicable 3-consecutive taxable
11 year period after the first such period shall
12 begin on the day after the termination of any
13 preceding applicable 3-consecutive taxable year
14 period with respect to such donor advised fund.

15 “(i) REGULATIONS.—The Secretary may issue such
16 regulations as are necessary to carry out the purposes of
17 this section, including regulations regarding—

18 “(1) the acceptable methods for calculating the
19 organization level undistributed amount for spon-
20 soring organizations,

21 “(2) the allowable adjustments in the deter-
22 mination of the value of any illiquid asset where the
23 asset value has declined significantly after a con-
24 tribution to, or purchase by, the donor advised fund,
25 and

1 “(3) the treatment or disregard of transactions
2 designed to avoid the application of the illiquid asset
3 rules, such as through exchanges of illiquid assets
4 for other assets.

5 **“SEC. 4968. TAXES ON PROHIBITED DISTRIBUTIONS.**

6 “(a) IMPOSITION OF TAXES.—

7 “(1) ON THE DONOR OR DONOR ADVISOR.—

8 There is hereby imposed on the advice of any person
9 described in section 4967(g)(2)(C) to have a spon-
10 soring organization of a donor advised fund make a
11 taxable distribution from such fund a tax equal to
12 20 percent of the amount thereof. The tax imposed
13 by this paragraph shall be paid by such person who
14 advised the sponsoring organization of the donor ad-
15 vised fund to make the distribution.

16 “(2) ON THE FUND MANAGEMENT.—There is
17 hereby imposed on the agreement of any fund man-
18 ager to the making of a distribution, knowing that
19 it is a taxable distribution, a tax equal to 5 percent
20 of the amount thereof, unless such agreement is not
21 willful and is due to reasonable cause. The tax im-
22 posed by this paragraph shall be paid by any fund
23 manager who agreed to the making of the distribu-
24 tion.

1 “(b) JOINT AND SEVERAL LIABILITY.—For purposes
 2 of subsection (a), if more than one person is liable under
 3 subsection (a)(1) or (a)(2) with respect to the making of
 4 a taxable distribution, all such persons shall be jointly and
 5 severally liable under such paragraph with respect to such
 6 distribution.

7 “(c) TAXABLE DISTRIBUTION.—For purposes of this
 8 subsection, the term ‘taxable distribution’ means any dis-
 9 tribution from a donor advised fund to any person other
 10 than the sponsoring organization’s non donor advised
 11 funds or accounts or organizations described in section
 12 170(b)(1)(A) (other than any organization described in
 13 section 509(a)(3) or any sponsoring organization if such
 14 amount is for maintenance in a donor advised fund).

15 “(d) FUND MANAGER.—For purposes of this sub-
 16 chapter, the term ‘fund manager’ means, with respect to
 17 any sponsoring organization of a donor advised fund—

18 “(1) an officer, director, or trustee of such
 19 sponsoring organization (or an individual having
 20 powers or responsibilities similar to those of officers,
 21 directors, or trustees of the sponsoring organiza-
 22 tion), and

23 “(2) with respect to any act (or failure to act),
 24 the employees of the sponsoring organization having

1 authority or responsibility with respect to such act
2 (or failure to act).

3 **“SEC. 4969. TAXES ON PROHIBITED BENEFITS.**

4 “(a) IMPOSITION OF TAXES.—

5 “(1) ON THE DONOR, DONOR ADVISOR, OR RE-
6 LATED PERSON.—There is hereby imposed on the
7 advice of any person described in subsection (c) to
8 have a sponsoring organization of a donor advised
9 fund make a distribution from such fund which re-
10 sults in such a person receiving, directly or indi-
11 rectly, a more than incidental benefit as a result of
12 such distribution, a tax equal to 25 percent of the
13 amount of such distribution. The tax imposed by
14 this paragraph shall be paid by such person who ad-
15 vised the sponsoring organization of the donor ad-
16 vised fund to make the distribution.

17 “(2) ON THE RECIPIENT OF THE BENEFIT.—
18 There is hereby imposed on any person described in
19 subsection (c) who receives a benefit described in
20 paragraph (1), a tax equal to 25 percent of the
21 amount of the distribution described in paragraph
22 (1).

23 “(3) ON THE FUND MANAGEMENT.—There is
24 hereby imposed on the agreement of any fund man-
25 ager to the making of a distribution, knowing that

1 such distribution would confer a benefit described in
 2 paragraph (1), a tax equal to 10 percent of the
 3 amount of such distribution, unless such agreement
 4 is not willful and is due to reasonable cause. The tax
 5 imposed by this paragraph shall be paid by any fund
 6 manager who agreed to the making of the distribu-
 7 tion.

8 “(b) JOINT AND SEVERAL LIABILITY.—For purposes
 9 of subsection (a), if more than one person is liable under
 10 subsection (a)(1), (a)(2), or (a)(3) with respect to the
 11 making of a distribution described in subsection (a), all
 12 such persons shall be jointly and severally liable under
 13 such paragraph with respect to such distribution.

14 “(c) DONOR, DONOR ADVISOR, OR RELATED PER-
 15 SON.—A person is described in this subsection if such per-
 16 son is described in section 4958(f)(1)(D) (determined
 17 without regard to any investment advisor).”.

18 (b) ABATEMENT OF TAXES ALLOWED.—Section
 19 4963 is amended—

20 (1) by inserting “4967, 4968, 4969,” after
 21 “4958,” each place it appears in subsections (a) and
 22 (c),

23 (2) by inserting “4967,” after “4958,” in sub-
 24 section (b),

1 (3) in subsection (d)(2), by striking “and” at
 2 the end of subparagraph (B), by striking the period
 3 at the end of subparagraph (C) and inserting “,
 4 and”, and by adding at the end the following new
 5 subparagraph:

6 “(D) in the case of the second tier tax im-
 7 posed by section 4967(b), reducing the amount
 8 of the undistributed amount to zero.”, and

9 (4) in subsection (e)(2), by redesignating sub-
 10 paragraphs (C) and (D) as subparagraphs (E) and
 11 (F), respectively, and by inserting after subpara-
 12 graph (B) the following new subparagraphs:

13 “(C) in the case of section 4967(a)(1), on
 14 the first day of the taxable year for which there
 15 was a failure to distribute,

16 “(D) in the case of paragraph (2) or (3)
 17 of section 4967(a), on the 121st day of the tax-
 18 able year for which there was a failure to dis-
 19 tribute.”.

20 (c) CONFORMING AMENDMENT.—The table of sub-
 21 chapters of chapter 42 is amended by adding at the end
 22 the following new item:

 “SUBCHAPTER G. DONOR ADVISED FUNDS.”.

23 (d) EFFECTIVE DATE.—The amendments made by
 24 this section shall apply to taxable years beginning after
 25 the date of the enactment of this Act.

1 **SEC. 332. PROHIBITED TRANSACTIONS.**

2 (a) **DISQUALIFIED PERSONS.—**

3 (1) **IN GENERAL.**—Paragraph (1) of section
 4 4958(f) is amended by striking “and” at the end of
 5 subparagraph (B), by striking the period at the end
 6 of subparagraph (C) and inserting “, and”, and by
 7 adding after subparagraph (C) the following new
 8 subparagraph:

9 “(D) any person who is described in para-
 10 graph (7) with respect to any sponsoring orga-
 11 nization (as defined in section 4967(g)(1)).”.

12 (2) **DONORS, DONOR ADVISORS, AND INVEST-**
 13 **MENT ADVISORS TREATED AS DISQUALIFIED PER-**
 14 **SONS.**—Section 4958(f) is amended by adding at the
 15 end the following new paragraph:

16 “(7) **DONORS, DONOR ADVISORS, AND INVEST-**
 17 **MENT ADVISORS WITH RESPECT TO SPONSORING OR-**
 18 **GANIZATIONS.**—For purposes of paragraph (1)(D)—

19 “(A) **IN GENERAL.**—A person is described
 20 in this paragraph if such person—

21 “(i) is described in section
 22 4967(g)(2)(C),

23 “(ii) is an investment advisor,

24 “(iii) is a member of the family of an
 25 individual described in clause (i) or (ii), or

1 “(iv) is a 35-percent controlled entity
 2 (as defined in paragraph (3) by sub-
 3 stituting ‘persons described in clause (i),
 4 (ii), or (iii) of paragraph (7)(A)’ for ‘per-
 5 sons described in subparagraph (A) or (B)
 6 of paragraph (1)’ in subparagraph (A)(i)
 7 thereof).

8 “(B) INVESTMENT ADVISOR.—The term
 9 ‘investment advisor’ means, with respect to any
 10 sponsoring organization (as defined in section
 11 4967(g)(1)), any person (other than an em-
 12 ployee of such organization) compensated by
 13 such organization for managing the investment
 14 of, or providing investment advice with respect
 15 to, assets maintained in donor advised funds
 16 (as defined in section 4967(g)(2)) owned by
 17 such organization.”.

18 (3) DONORS, DONOR ADVISORS, AND INVEST-
 19 MENT ADVISORS TREATED AS DISQUALIFIED PER-
 20 SONS WITH RESPECT TO A SPONSORING ORGANIZA-
 21 TION WHICH IS A PRIVATE FOUNDATION.—Section
 22 4946(a)(1) is amended by striking “and” at the end
 23 of subparagraph (H), by striking the period at the
 24 end of subparagraph (I) and inserting “, and”, and

1 by adding at the end the following new subpara-
 2 graph:

3 “(J) a person described in section
 4 4958(f)(1)(D).”.

5 (b) CERTAIN TRANSACTIONS TREATED AS EXCESS
 6 BENEFIT TRANSACTIONS.—

7 (1) IN GENERAL.—Section 4958(c) is amended
 8 by redesignating paragraph (2) as paragraph (3)
 9 and by inserting after paragraph (1) the following
 10 new paragraph:

11 “(2) SPECIAL RULES FOR DONOR ADVISED
 12 FUNDS OWNED BY SPONSORING ORGANIZATIONS.—

13 In the case of any donor advised fund (as defined
 14 in section 4967(g)(2)) of a sponsoring organization
 15 (as defined in section 4967(g)(1))—

16 “(A) the term ‘excess benefit transaction’
 17 includes any grant, loan, compensation, or other
 18 payment provided by the sponsoring organiza-
 19 tion in connection with such fund to a person
 20 described in subsection (f)(1)(D) (determined
 21 without regard to any investment advisor) with
 22 respect to such fund, and

23 “(B) the term ‘excess benefit’ includes,
 24 with respect to any transaction described in

1 subparagraph (A), the amount of any such
2 grant, loan, compensation, or other payment.

3 Notwithstanding the last sentence of subsection (e),
4 a sponsoring organization shall be treated as an ap-
5 plicable tax-exempt organization to the extent nec-
6 essary to carry out this paragraph.”.

7 (2) SPECIAL RULE FOR CORRECTION OF TRANS-
8 ACTION.—Section 4958(f)(6) is amended by insert-
9 ing “, except that in the case of any correction of
10 an excess benefit transaction described in subsection
11 (c)(2), no amount repaid in a manner prescribed by
12 the Secretary may be held in, or credited to, any
13 donor advised fund” after “standards”.

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

17 **SEC. 333. TREATMENT OF CHARITABLE CONTRIBUTION DE-**
18 **DUCTIONS TO DONOR ADVISED FUNDS.**

19 (a) INCOME.—Section 170(f) (relating to disallow-
20 ance of deduction in certain cases and special rules), as
21 amended by section 318 of this Act, is amended by adding
22 at the end the following new paragraph:

23 “(17) CONTRIBUTIONS TO DONOR ADVISED
24 FUNDS.—A deduction otherwise allowed under sub-
25 section (a) for any contribution to a sponsoring or-

1 ganization (as defined in section 4967(g)(1)) to be
 2 maintained in any donor advised fund (as defined in
 3 section 4967(g)(2)) of such organization shall only
 4 be allowed if—

5 “(A) such sponsoring organization is not
 6 described in paragraph (3), (4), or (5) of sec-
 7 tion 170(c) or section 509(a)(3), and

8 “(B) the taxpayer obtains a contempora-
 9 neous written acknowledgment (determined
 10 under rules similar to the rules of paragraph
 11 (8)(C)) from the sponsoring organization that
 12 such organization has exclusive legal control
 13 over the assets contributed.”.

14 (b) ESTATE.—Section 2055(e) is amended by adding
 15 at the end the following new paragraph:

16 “(5) CONTRIBUTIONS TO DONOR ADVISED
 17 FUNDS.—A deduction otherwise allowed under sub-
 18 section (a) for any contribution to a sponsoring or-
 19 ganization (as defined in section 4967(g)(1)) to be
 20 maintained in any donor advised fund (as defined in
 21 section 4967(g)(2)) of such organization shall only
 22 be allowed if—

23 “(A) such sponsoring organization is not
 24 described in paragraph (3) or (4) of subsection
 25 (a) or section 509(a)(3), and

1 “(B) the taxpayer obtains a contempora-
2 neous written acknowledgment (determined
3 under rules similar to the rules of section
4 170(f)(8)(C)) from the sponsoring organization
5 that such organization has exclusive legal con-
6 trol over the assets contributed.”.

7 (c) GIFT.—Section 2522(c) is amended by adding at
8 the end the following new paragraph:

9 “(13) CONTRIBUTIONS TO DONOR ADVISED
10 FUNDS.—A deduction otherwise allowed under sub-
11 section (a) for any contribution to a sponsoring or-
12 ganization (as defined in section 4967(g)(1)) to be
13 maintained in any donor advised fund (as defined in
14 section 4967(g)(2)) of such organization shall only
15 be allowed if—

16 “(A) such sponsoring organization is not
17 described in paragraph (3) or (4) of subsection
18 (a) or section 509(a)(3), and

19 “(B) the taxpayer obtains a contempora-
20 neous written acknowledgment (determined
21 under rules similar to the rules of section
22 170(f)(8)(C)) from the sponsoring organization
23 that such organization has exclusive legal con-
24 trol over the assets contributed.”.

1 (d) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to contributions made after the
 3 date which is 180 days after the date of the enactment
 4 of this Act.

5 **SEC. 334. RETURNS OF, AND APPLICATIONS FOR RECOGNITION BY, SPONSORING ORGANIZATIONS.**

7 (a) MATTERS INCLUDED ON RETURNS.—

8 (1) IN GENERAL.—Section 6033 is amended by
 9 redesignating subsection (h) as subsection (i) and by
 10 inserting after subsection (g) the following new sub-
 11 section:

12 “(h) ADDITIONAL PROVISIONS RELATING TO SPON-
 13 SORING ORGANIZATIONS.—Every organization described
 14 in section 4967(g)(1) shall, on the return required under
 15 subsection (a) for the taxable year—

16 “(1) list the total number of donor advised
 17 funds (as defined in section 4967(g)(2)) it owns at
 18 the end of such taxable year,

19 “(2) indicate the aggregate value of assets held
 20 in such funds at the end of such taxable year, and

21 “(3) indicate the aggregate contributions to and
 22 grants made from such funds during such taxable
 23 year.”.

1 (2) EXTENSION OF STATUTE OF LIMITA-
 2 TIONS.—Section 6501(c) is amended by adding at
 3 the end the following new paragraph:

4 “(11) DONOR ADVISED FUNDS.—If a spon-
 5 soring organization (as defined in section
 6 4967(g)(1)) fails to include on any return for any
 7 taxable year any information with respect to any
 8 donor advised fund of such organization which is re-
 9 quired under section 6033(h) to be included with
 10 such return, the time for assessment of any tax im-
 11 posed under subchapter G of chapter 42 with re-
 12 spect to any distribution from such donor advised
 13 fund shall not expire before the date which is 3
 14 years after the date on which the secretary is fur-
 15 nished the information so required.”.

16 (3) EFFECTIVE DATE.—The amendments made
 17 by this subsection shall apply to returns filed for
 18 taxable years ending after the date of the enactment
 19 of this Act.

20 (b) MATTERS INCLUDED ON EXEMPT STATUS APPLI-
 21 CATION.—

22 (1) IN GENERAL.—Section 508 is amended by
 23 adding at the end the following new subsection:

24 “(f) ADDITIONAL PROVISIONS RELATING TO SPON-
 25 SORING ORGANIZATIONS.—A sponsoring organization (as

1 defined in section 4967(g)(1)) shall give notice to the Sec-
 2 retary (in such manner as the Secretary may provide)
 3 whether such organization maintains or intends to main-
 4 tain donor advised funds (as defined in section
 5 4967(g)(2)) and the manner in which such organization
 6 plans to operate such funds.”.

7 (2) EFFECTIVE DATE.—The amendment made
 8 by this subsection shall apply to organizations apply-
 9 ing for tax-exempt status after the date of the enact-
 10 ment of this Act.

11 **PART III—IMPROVED ACCOUNTABILITY OF**
 12 **SUPPORTING ORGANIZATIONS**

13 **SEC. 341. REQUIREMENTS FOR SUPPORTING ORGANIZA-**
 14 **TIONS.**

15 (a) TYPES OF SUPPORTING ORGANIZATIONS.—Sub-
 16 paragraph (B) of section 509(a)(3) is amended to read
 17 as follows:

18 “(B) is—

19 “(i) operated, supervised, or controlled
 20 by one or more organizations described in
 21 paragraph (1) or (2),

22 “(ii) supervised or controlled in con-
 23 nection with one or more such organiza-
 24 tions, or

1 “(iii) operated in connection with one
2 or more such organizations, and”.

3 (b) REQUIREMENTS FOR SUPPORTING ORGANIZA-
4 TIONS.—Section 509 (relating to private foundation de-
5 fined) is amended by adding at the end the following new
6 subsection:

7 “(f) REQUIREMENTS FOR SUPPORTING ORGANIZA-
8 TIONS.—

9 “(1) TYPE III SUPPORTING ORGANIZATIONS.—
10 For purposes of subsection (a)(3)(B)(iii), an organi-
11 zation shall not be considered to be operated in con-
12 nection with any organization described in para-
13 graph (1) or (2) of subsection (a) unless such orga-
14 nization meets the following requirements:

15 “(A) APPLICATION REQUIREMENT.—The
16 organization provides to the Secretary, as a
17 part of any notification filed under section
18 508(a) after the date of the enactment of this
19 subsection, a letter from each supported organi-
20 zation acknowledging that the supported orga-
21 nization has been designated by such organiza-
22 tion as a supported organization.

23 “(B) RESPONSIVENESS.—For each taxable
24 year beginning after the date of the enactment
25 of this subsection, the organization provides to

1 each supported organization such information
 2 as the Secretary may require to ensure that
 3 such organization is responsive to the needs or
 4 demands of the supported organization.

5 “(C) SUPPORTED ORGANIZATIONS.—

6 “(i) IN GENERAL.—The organiza-
 7 tion—

8 “(I) is not operated in connection
 9 with more than 5 supported organiza-
 10 tions, and

11 “(II) is not operated in connec-
 12 tion with any supported organization
 13 that is not organized in the United
 14 States on any date after the date
 15 which is 180 days after the date of
 16 the enactment of this subsection.

17 “(ii) SPECIAL RULE FOR EXISTING
 18 ORGANIZATIONS.—If the organization is
 19 operated in connection with more than 5
 20 supported organizations on the date of the
 21 enactment of this subsection—

22 “(I) clause (i)(I) shall not apply,
 23 and

24 “(II) the organization may not be
 25 operated in connection with any other

1 organization after such date unless
 2 the total number of supported organi-
 3 zations is 5 or less.

4 “(D) CONTRIBUTIONS TO DONOR ADVISED
 5 FUNDS.—The organization makes no contribu-
 6 tions to or for the use of any donor advised
 7 fund (as defined in section 4967(g)(2)).

8 “(2) ORGANIZATIONS CONTROLLED BY DO-
 9 NORS.—

10 “(A) IN GENERAL.—For purposes of sub-
 11 section (a)(3)(B), an organization shall not be
 12 considered to be—

13 “(i) operated, supervised, or controlled
 14 by any organization described in paragraph
 15 (1) or (2) of subsection (a), or

16 “(ii) operated in connection with any
 17 organization described in paragraph (1) or
 18 (2) of subsection (a),

19 if such organization accepts any gift or con-
 20 tribution from any person described in subpara-
 21 graph (B).

22 “(B) PERSON DESCRIBED.—A person is
 23 described in this subparagraph if such person
 24 is—

1 “(i) a person (other than an organiza-
 2 tion described in paragraph (1), (2), or (4)
 3 of section 509(a)) who controls, directly or
 4 indirectly, either alone or together with
 5 persons described in clauses (ii) and (iii),
 6 the governing body of a supported organi-
 7 zation,

8 “(ii) a member of the family (deter-
 9 mined under section 4958(f)(4)) of an in-
 10 dividual described in clause (i), or

11 “(iii) a 35-percent controlled entity
 12 (as defined in section 4958(f)(3) by sub-
 13 stituting ‘persons described in clause (i) or
 14 (ii) of section 509(f)(2)(B)’ for ‘persons
 15 described in subparagraph (A) or (B) of
 16 paragraph (1)’ in subparagraph (A)(i)
 17 thereof).

18 “(3) SUPPORTED ORGANIZATION.—For pur-
 19 poses of this subsection, the term ‘supported organi-
 20 zation’ means, with respect to an organization de-
 21 scribed in subsection (a)(3), an organization de-
 22 scribed in paragraph (1) or (2) of subsection (a)—

23 “(A) for whose benefit the organization de-
 24 scribed in subsection (a)(3) is organized and
 25 operated, or

1 “(B) with respect to which the organiza-
 2 tion performs the functions of, or carries out
 3 the purposes of.”.

4 (c) CHARITABLE TRUSTS WHICH ARE TYPE III SUP-
 5 PORTING ORGANIZATIONS.—For purposes of section
 6 509(a)(3)(B)(iii) of the Internal Revenue Code of 1986,
 7 an organization which is a trust shall not be considered
 8 to be operated in connection with any organization de-
 9 scribed in paragraph (1) or (2) of section 509(a) of such
 10 Code solely because—

11 (1) it is a charitable trust under State law,
 12 (2) the supported organization (as defined in
 13 section 509(f)(3) of such Code) is a beneficiary of
 14 such trust, and
 15 (3) the supported organization (as so defined)
 16 has the power to enforce the trust and compel an ac-
 17 counting.

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

21 **SEC. 342. EXCISE TAX ON SUPPORTING ORGANIZATIONS**
 22 **FOR FAILURE TO MEET DISTRIBUTION RE-**
 23 **QUIREMENTS.**

24 (a) IN GENERAL.—Subchapter D of chapter 42 (re-
 25 lating to failure by certain charitable organizations to

1 meet certain qualification requirements) is amended by
 2 adding at the end the following new section:

3 **“SEC. 4959. TAXES ON CERTAIN SUPPORTING ORGANIZA-**
 4 **TIONS FAILING TO MEET DISTRIBUTION RE-**
 5 **QUIREMENTS.**

6 “(a) INITIAL TAX.—There is hereby imposed on the
 7 undistributed income of any type III supporting organiza-
 8 tion for any taxable year, which has not been distributed
 9 before the first day of the second (or any succeeding) tax-
 10 able year following such taxable year (if such first day falls
 11 within the taxable period), a tax equal to 30 percent of
 12 the amount of such income remaining undistributed at the
 13 beginning of such second (or succeeding) taxable year.

14 “(b) ADDITIONAL TAX.—In any case in which an ini-
 15 tial tax is imposed under subsection (a) on the undistrib-
 16 uted income of a type III supporting organization for any
 17 taxable year, if any portion of such income remains undis-
 18 tributed at the close of the taxable period, there is hereby
 19 imposed a tax equal to 100 percent of the amount remain-
 20 ing undistributed at such time.

21 “(c) UNDISTRIBUTED INCOME.—For purposes of this
 22 section, the term ‘undistributed income’ means, with re-
 23 spect to any type III supporting organization for any tax-
 24 able year as of any time, the amount by which—

1 “(1) the distributable amount for such taxable
2 year, exceeds

3 “(2) the qualifying distributions made before
4 such time out of such distributable amount.

5 “(d) DISTRIBUTABLE AMOUNT.—For purposes of
6 this section—

7 “(1) IN GENERAL.—the term ‘distributable
8 amount’ means, with respect to any type III sup-
9 porting organization for any taxable year, an
10 amount equal to the sum of—

11 “(A) the greater of—

12 “(i) 85 percent of the adjusted net in-
13 come (as defined in section 4942(f)) of the
14 type III supporting organization for the
15 preceding taxable year, or

16 “(ii) 5 percent of the fair market
17 value of the aggregate assets of such orga-
18 nization (other than assets used or held to
19 perform the functions of, or carry out the
20 purposes of, a supported organization) on
21 the last day of the preceding taxable year,
22 and

23 “(B) any amount received during the pre-
24 ceding taxable year which is a repayment of
25 amounts paid by the organization in any prior

1 taxable year to a supported organization exclu-
2 sively for the benefit of such supported organi-
3 zation or to perform the functions of, or carry
4 out the purposes of such supported organiza-
5 tion.

6 “(2) INVESTMENT ASSETS.—For purposes of
7 paragraph (1)(A)(ii), assets held for investment or
8 for the operation of an unrelated trade or business
9 shall not be considered as assets used or held to per-
10 form the functions of, or carry out the purposes of,
11 a supported organization.

12 “(e) QUALIFYING DISTRIBUTION.—For purposes of
13 this section—

14 “(1) IN GENERAL.—The term ‘qualifying dis-
15 tribution’ means amounts paid by the type III sup-
16 porting organization to or for the use of a supported
17 organization.

18 “(2) ADMINISTRATIVE AND OPERATING EX-
19 PENSES.—Administrative and operating expenses of
20 a type III supporting organization shall not be treat-
21 ed as a qualifying distribution to a supported organi-
22 zation.

23 “(f) TREATMENT OF QUALIFYING DISTRIBUTIONS.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), any qualifying distribution made during
3 a taxable year shall be treated as made—

4 “(A) first out of the undistributed income
5 of the immediately preceding taxable year (if
6 the type III supporting organization was sub-
7 ject to the tax imposed by this section for such
8 preceding taxable year) to the extent thereof,
9 and

10 “(B) second out of the undistributed in-
11 come for the taxable year to the extent thereof.

12 For purposes of this paragraph, distributions shall
13 be taken into account in the order of time in which
14 made.

15 “(2) CORRECTION OF DEFICIENT DISTRIBUTU-
16 TIONS FOR PRIOR TAXABLE YEARS, ETC.—In the
17 case of any qualifying distribution which (under
18 paragraph (1)) is not treated as made out of the un-
19 distributed income of the immediately preceding tax-
20 able year, the type III supporting organization may
21 elect to treat any portion of such distribution as
22 made out of the undistributed income of a des-
23 ignated prior taxable year. The election shall be
24 made by the type III supporting organization at

1 such time and in such manner as the Secretary shall
2 by regulations prescribe.

3 “(g) ADJUSTMENT OF DISTRIBUTABLE AMOUNT
4 WHERE DISTRIBUTIONS DURING PRIOR YEARS HAVE
5 EXCEEDED INCOME.—

6 “(1) IN GENERAL.—If, for the taxable years in
7 the adjustment period for which an organization is
8 a type III supporting organization—

9 “(A) the aggregate qualifying distributions
10 treated (under subsection (f)) as made out of
11 the undistributed income for such taxable years,
12 exceed

13 “(B) the distributable amounts for such
14 taxable years (determined without regard to
15 this subsection),

16 then, for purposes of this section (other than sub-
17 section (f)), the distributable amount for the taxable
18 year shall be reduced by an amount equal to such
19 excess.

20 “(2) TAXABLE YEARS IN ADJUSTMENT PE-
21 RIOD.—For purposes of paragraph (1), with respect
22 to any taxable year of a type III supporting organi-
23 zation, the taxable years in the adjustment period
24 are the taxable years (not exceeding 5) beginning

1 after the date of the enactment of this section and
2 immediately preceding the taxable year.

3 “(h) OTHER DEFINITIONS.—For purposes of this
4 section—

5 “(1) TAXABLE PERIOD.—The term ‘taxable pe-
6 riod’ means, with respect to the undistributed in-
7 come for any taxable year, the period beginning with
8 the first day of the taxable year and ending on the
9 earlier of—

10 “(A) the date of mailing of a notice of defi-
11 ciency with respect to the tax imposed by sub-
12 section (a) under section 6212, or

13 “(B) the date on which the tax imposed by
14 subsection (a) is assessed.

15 “(2) TYPE III SUPPORTING ORGANIZATION.—
16 The term ‘type III supporting organization’ means
17 an organization which meets the requirements of
18 subparagraphs (A) and (C) of section 509(a)(3) and
19 which is operated in connection with one or more or-
20 ganizations described in paragraph (1) or (2) of sec-
21 tion 509(a).

22 “(3) SUPPORTED ORGANIZATION.—The term
23 ‘supported organization’ has the meaning given such
24 term under section 509(f)(3).”.

1 (b) CONFORMING AMENDMENT.—The table of sec-
 2 tion for subchapter D of chapter 42 is amended by insert-
 3 ing after the item relating to section 4958 the following
 4 new item:

“Sec. 4959. Taxes on certain supporting organizations failing to meet dis-
 tribution requirements.”.

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

8 **SEC. 343. EXCESS BENEFIT TRANSACTIONS.**

9 (a) IN GENERAL.—Section 4958(c), as amended by
 10 section 332 of this Act, is amended by redesignating para-
 11 graph (3) as paragraph (4) and by inserting after para-
 12 graph (2) the following new paragraph:

13 “(3) SPECIAL RULES FOR SUPPORTING ORGANI-
 14 ZATIONS.—

15 “(A) IN GENERAL.—In the case of any or-
 16 ganization described in section 509(a)(3)—

17 “(i) the term ‘excess benefit trans-
 18 action’ includes—

19 “(I) any grant, loan, compensa-
 20 tion, or other payment provided by
 21 such organization to a person de-
 22 scribed in subparagraph (B), and

23 “(II) any loan provided by such
 24 organization to a disqualified person

1 (other than an organization described
2 in paragraph (1), (2), or (4) of section
3 509(a)), and

4 “(ii) the term ‘excess benefit’ includes,
5 with respect to any transaction described
6 in clause (i), the amount of any such
7 grant, loan, compensation, or other pay-
8 ment.

9 “(B) PERSON DESCRIBED.—A person is
10 described in this subparagraph if such person
11 is—

12 “(i) a substantial contributor to such
13 organization,

14 “(ii) a member of the family (deter-
15 mined under section 4958(f)(4)) of an in-
16 dividual described in clause (i), or

17 “(iii) a 35-percent controlled entity
18 (as defined in section 4958(f)(3) by sub-
19 stituting ‘persons described in clause (i) or
20 (ii) of section 4958(c)(3)(B)’ for ‘persons
21 described in subparagraph (A) or (B) of
22 paragraph (1)’ in subparagraph (A)(i)
23 thereof).

24 “(C) SUBSTANTIAL CONTRIBUTOR.—For
25 purposes of this paragraph—

1 “(i) IN GENERAL.—The term ‘sub-
 2 stantial contributor’ means any person who
 3 contributed or bequeathed an aggregate
 4 amount of more than \$5,000 to the organi-
 5 zation, if such amount is more than 2 per-
 6 cent of the total contributions and be-
 7 quests received by the organization before
 8 the close of the taxable year of the organi-
 9 zation in which the contribution or bequest
 10 is received by the organization from such
 11 person. In the case of a trust, such term
 12 also means the creator of the trust.

13 “(ii) EXCEPTION.—Such term shall
 14 not include any organization described in
 15 paragraph (1), (2), or (4) of section
 16 509(a).”.

17 (b) DISQUALIFIED PERSONS.—Paragraph (1) of sec-
 18 tion 4958(f), as amended by section 332 of this Act, is
 19 amended by striking “and” at the end of subparagraph
 20 (D), by striking the period at the end of subparagraph
 21 (E) and inserting “, and”, and by adding after subpara-
 22 graph (D) the following new subparagraph:

23 “(E) any person who is described in sub-
 24 paragraph (A), (B), or (C) with respect to an
 25 organization described in section 509(a)(3)

1 which is organized and operated exclusively for
2 the benefit of, to perform the functions of, or
3 to carry out the purposes of the applicable tax-
4 exempt organization.”.

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

8 **SEC. 344. EXCESS BUSINESS HOLDINGS OF SUPPORTING**
9 **ORGANIZATIONS.**

10 (a) IN GENERAL.—Section 4943 is amended by add-
11 ing at the end the following new subsection:

12 “(e) APPLICATION OF TAX TO SUPPORTING ORGANI-
13 ZATIONS.—

14 “(1) IN GENERAL.—For purposes of this sec-
15 tion, a qualified supporting organization shall be
16 treated as a private foundation.

17 “(2) EXCEPTION.—The Secretary may exempt
18 any qualified supporting organization from the appli-
19 cation of this subsection if the Secretary determines
20 that the excess business holdings of such organiza-
21 tion are consistent with the purpose or function con-
22 stituting the basis for its exemption under section
23 501.

1 “(3) QUALIFIED SUPPORTING ORGANIZATION.—

2 For purposes of this subsection, the term ‘qualified
3 supporting organization’ means any—

4 “(A) type III supporting organization (as
5 defined in section 4959(h)(2)), or

6 “(B) any organization which meets the re-
7 quirements of subparagraphs (A) and (C) of
8 section 509(a)(3) and which is supervised or
9 controlled in connection with or one or more or-
10 ganizations described in paragraph (1) or (2) of
11 section 509(a), but only if such organization ac-
12 cepts any gift or contribution from any person
13 described in section 509(f)(2)(B).

14 “(4) DISQUALIFIED PERSON.—

15 “(A) IN GENERAL.—In applying this sec-
16 tion to any organization described in section
17 509(a)(3), the term ‘disqualified person’ means,
18 with respect to the organization—

19 “(i) any person who was, at any time
20 during the 5-year period ending on date
21 described in subsection (a)(2)(A), in a po-
22 sition to exercise substantial influence over
23 the affairs of the organization,

1 “(ii) any member of the family (deter-
2 mined under section 4958(f)(4)) of an in-
3 dividual described in clause (i),

4 “(iii) any 35-percent controlled entity
5 (as defined in section 4958(f)(3) by sub-
6 stituting ‘persons described in clause (i) or
7 (ii) of section 4943(e)(2)(A)’ for ‘persons
8 described in subparagraph (A) or (B) of
9 paragraph (1)’ in subparagraph (A)(i)
10 thereof),

11 “(iv) any person described in section
12 4958(c)(3)(B)), and

13 “(v) any organization—

14 “(I) which is effectively con-
15 trolled (directly or indirectly) by the
16 same person or persons who control
17 the organization in question, or

18 “(II) substantially all of the con-
19 tributions to which were made (di-
20 rectly or indirectly) by the same per-
21 son or persons described in subpara-
22 graph (B) or a member of their family
23 (within the meaning of section
24 4946(d)) who made (directly or indi-
25 rectly) substantially all of the con-

1 tributions to the organization in ques-
2 tion.

3 “(B) PERSONS DESCRIBED.—A person is
4 described in this subparagraph if such person
5 is—

6 “(i) a substantial contributor to the
7 organization (as defined in section
8 4958(c)(3)(C)),

9 “(ii) an officer, director, or trustee of
10 the organization (or an individual having
11 powers or responsibilities similar to those
12 officers, directors, or trustees of the orga-
13 nization), or

14 “(iii) an owner of more than 20 per-
15 cent of—

16 “(I) the total combined voting
17 power of a corporation,

18 “(II) the profits interest of a
19 partnership, or

20 “(III) the beneficial interest of a
21 trust or unincorporated enterprise,
22 which is a substantial contributor (as so
23 defined) to the organization.

24 “(5) PRESENT HOLDINGS.—For purposes of
25 this subsection, rules similar to the rules of para-

graphs (4), (5), and (6) of subsection (c) shall apply to organizations described in section 509(a)(3), except that—

“(A) ‘the date of the enactment of this subsection’ shall be substituted for ‘May 26, 1969’ each place it appears in paragraphs (4), (5), and (6), and

“(B) ‘January 1, 2007’ shall be substituted for ‘January 1, 1970’ in paragraph (4)(E).”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 345. TREATMENT OF AMOUNTS PAID TO SUPPORTING ORGANIZATIONS BY PRIVATE FOUNDATIONS.

(a) **QUALIFYING DISTRIBUTIONS.**—Paragraph (4) of section 4942(g) is amended to read as follows:

“(4) **LIMITATION ON DISTRIBUTIONS BY NON-OPERATING PRIVATE FOUNDATIONS TO SUPPORTING ORGANIZATIONS.**—For purposes of this section, the term ‘qualifying distribution’ shall not include any amount paid by a private foundation which is not an operating foundation to an organization described in section 509(a)(3).”.

(b) **TAXABLE EXPENDITURES.**—

1 (1) IN GENERAL.—Subsection (d) of section
2 4945 is amended by redesignating paragraphs (4)
3 and (5) as paragraphs (5) and (6), respectively, and
4 by inserting after paragraph (3) the following new
5 paragraph:

6 “(4) to an organization described in section
7 509(a)(3),”.

8 (2) CONFORMING AMENDMENTS.—

9 (A) Section 4945(d)(5), as redesignated by
10 subparagraph (A), is amended—

11 (i) by striking “a grant to an organi-
12 zation” and inserting “a grant to any
13 other organization”, and

14 (ii) by striking “paragraph (1), (2), or
15 (3) of section 509(a)” in subparagraph (A)
16 and inserting “paragraph (1) or (2) of sec-
17 tion 509(a)”.

18 (B) Section 4945(f) is amended by striking
19 “Subsection (d)(4)” in the last sentence thereof
20 and inserting “Subsection (d)(5)”.

21 (C) Section 4945(h) is amended by strik-
22 ing “subsection (d)(4)” and inserting “sub-
23 section (d)(5)”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to distributions and expenditures
 3 after the date of the enactment of this Act.

4 **SEC. 346. RETURNS OF SUPPORTING ORGANIZATIONS.**

5 (a) REQUIREMENT TO FILE RETURN.—Subpara-
 6 graph (C) of section 6033(a)(3), as redesignated by sec-
 7 tion 411, is amended by striking clause (iv) and by redес-
 8 ignating clauses (v) and (vi) as clauses (iv) and (v), re-
 9 spectively.

10 (b) MATTERS INCLUDED ON RETURNS.—Section
 11 6033, as amended by section 334 of this Act, is amended
 12 by redesignating subsection (i) as subsection (j) and by
 13 inserting after subsection (h) the following new subsection:

14 “(i) ADDITIONAL PROVISIONS RELATING TO SUP-
 15 PORTING ORGANIZATIONS.—

16 “(1) IN GENERAL.—Every organization de-
 17 scribed in section 509(a)(3) shall, on the return re-
 18 quired under subsection (a)—

19 “(A) list the organizations described in
 20 section 509(a)(3)(A) with respect to which such
 21 organization provides support,

22 “(B) indicate whether the organization
 23 meets the requirements of clause (i), (ii), or (iii)
 24 of section 509(a)(3)(B), and

1 “(C) certify that the organization meets
2 the requirements of section 509(a)(3)(C).

3 “(2) TYPE III SUPPORTING ORGANIZATIONS.—
4 Every type III supporting organization (as defined
5 in section 4959(h)(2)) shall indicate on the return
6 required under subsection (a) for the taxable year
7 whether the organization has received a letter from
8 each supported organization (as defined in section
9 509(f)(3)) during the taxable year which—

10 “(A) acknowledges that the supporting or-
11 ganization has designated such organization as
12 a supported organization,

13 “(B) details the type of support provided
14 by the supporting organization, and

15 “(C) explains how such support furthers
16 the charitable purpose of the supported organi-
17 zation.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to returns filed for taxable years
20 ending after the date of the enactment of this Act.

1 **TITLE IV—MISCELLANEOUS**

2 **PROVISIONS**

3 **SEC. 401. RESTRUCTURING OF NEW YORK LIBERTY ZONE**

4 **TAX CREDITS.**

5 (a) IN GENERAL.—Subchapter Y of chapter 1 is
6 amended by adding at the end the following new section:

7 **“SEC. 1400M. NEW YORK LIBERTY ZONE TAX CREDITS.**

8 “(a) IN GENERAL.—There shall be allowed as a cred-
9 it against any taxes imposed by this title (other than by
10 section 3111(a), section 3403, or subtitle D) paid or in-
11 curred by any governmental unit of the State of New York
12 and the City of New York, New York (including any agen-
13 cy or instrumentality thereof) for any calendar year an
14 amount equal to the lesser of—

15 “(1) the total expenditures during such year by
16 such governmental unit for qualifying projects, or

17 “(2) the amount allocated to such governmental
18 unit for such calendar year under subsection (b)(2).

19 “(b) QUALIFYING PROJECT.—For purposes of this
20 section—

21 “(1) IN GENERAL.—The term ‘qualifying
22 project’ means any transportation infrastructure
23 project, including highways, mass transit systems,
24 railroads, airports, ports, and waterways, in or con-
25 necting with the New York Liberty Zone (as defined

1 in section 1400L(h)), which is designated as a quali-
2 fying project under this section jointly by the Gov-
3 ernor of the State of New York and the Mayor of
4 the City of New York, New York.

5 “(2) DOLLAR LIMITATION.—

6 “(A) IN GENERAL.—The Governor of the
7 State of New York and the Mayor of the City
8 of New York, New York, shall jointly allocate to
9 a governmental unit the amount of expenditures
10 which may be taken into account under sub-
11 section (a) for any calendar year in the credit
12 period with respect to a qualifying project.

13 “(B) AGGREGATE LIMIT.—The aggregate
14 amount which may be allocated under subpara-
15 graph (A) for all calendar years in the credit
16 period shall not exceed \$2,000,000,000.

17 “(C) ANNUAL LIMIT.—The aggregate
18 amount which may be allocated under subpara-
19 graph (A) for any calendar year in the credit
20 period shall not exceed the sum of—

21 “(i) \$200,000,000, plus

22 “(ii) the aggregate amount authorized
23 to be allocated under this paragraph for all
24 preceding calendar years in the credit pe-
25 riod which was not so allocated.

1 “(D) UNALLOCATED AMOUNTS AT END OF
 2 CREDIT PERIOD.—If, as of the close of the cred-
 3 it period, the amount under subparagraph (B)
 4 exceeds the aggregate amount allocated under
 5 subparagraph (A) for all calendar years in the
 6 credit period, the Governor of the State of New
 7 York and the Mayor of the City of New York,
 8 New York, may jointly allocate for any calendar
 9 year following the credit period for expenditures
 10 with respect to qualifying projects which may
 11 be taken into account under subsection (a) an
 12 amount equal to such excess, reduced by the
 13 aggregate amount allocated under this subpara-
 14 graph for all preceding calendar years.

15 “(c) CARRYOVER OF UNUSED ALLOCATIONS.—

16 “(1) IN GENERAL.—If the amount allocated
 17 under subsection (b)(2) to a governmental unit for
 18 any calendar year exceeds the total expenditures for
 19 such year by such governmental unit for qualifying
 20 projects, the allocation of such governmental unit for
 21 the succeeding calendar year shall be increased by
 22 the amount of such excess.

23 “(2) REALLOCATION.—If a governmental unit
 24 does not use an amount allocated to it under sub-
 25 section (b)(2) within the time prescribed by the Gov-

ernor of the State of New York and the Mayor of the City of New York, New York, then such amount shall after such time be treated for purposes of subsection (b)(2) in the same manner as if it had never been allocated.

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) CREDIT PERIOD.—The term ‘credit period’ means the 10-year period beginning on January 1, 2006.

“(2) TREATMENT OF FUNDS.—Any expenditure for a qualifying project taken into account for purposes of the credit under this section shall be considered State and local funds for the purpose of any Federal program.

“(e) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to ensure compliance with the purposes of this section.”.

(b) TERMINATION OF CERTAIN NEW YORK LIBERTY ZONE BENEFITS.—

(1) SPECIAL ALLOWANCE AND EXPENSING.—
Section 1400L(b)(2)(A)(v) is amended by striking “the termination date” and inserting “the date of the enactment of the Tax Relief Act of 2005 or the

1 termination date if pursuant to a binding contract in
 2 effect on such enactment date”.

3 (2) LEASEHOLD.—Section 1400L(c)(2)(B) is
 4 amended by striking “before January 1, 2007” and
 5 inserting “on or before the date of the enactment of
 6 the Tax Relief Act of 2005 or before January 1,
 7 2007, if pursuant to a binding contract in effect on
 8 such enactment date”.

9 (3) REPLACEMENT PERIOD.—Section 1400L(g)
 10 is amended by adding at the end the following new
 11 sentence: “The preceding sentence shall apply only
 12 to any property with respect to which an election
 13 under section 1033(a)(2) is made by the taxpayer
 14 before the date of the enactment of the Tax Relief
 15 Act of 2005.”.

16 (c) CONFORMING AMENDMENT.—The table of sec-
 17 tions for subchapter Y of chapter 1 is amended by adding
 18 at the end the following new items:

“Sec. 1400M. New York Liberty Zone tax credits.”.

19 **SEC. 402. MODIFICATION TO S CORPORATION PASSIVE IN-**
 20 **VESTMENT INCOME RULES.**

21 (a) INCREASED PERCENTAGE LIMIT.—Paragraph (2)
 22 of section 1375(a) is amended by striking “25 percent”
 23 and inserting “60 percent”.

24 (b) REPEAL OF EXCESSIVE PASSIVE INCOME AS A
 25 TERMINATION EVENT.—

1 (1) IN GENERAL.—Section 1362(d) is amended
2 by striking paragraph (3).

3 (2) CONFORMING AMENDMENT.—Subsection (b)
4 of section 1375 is amended—

5 (A) by redesignating paragraph (4) as
6 paragraph (5), and

7 (B) by striking paragraph (3) and insert-
8 ing the following:

9 “(3) PASSIVE INVESTMENT INCOME DE-
10 FINED.—

11 “(A) Except as otherwise provided in this
12 paragraph, the term ‘passive investment in-
13 come’ means gross receipts derived from royal-
14 ties, rents, dividends, interest, annuities, and
15 sales or exchanges of stock or securities (gross
16 receipts from such sales or exchanges being
17 taken into account for purposes of this section
18 only to the extent of gains therefrom).

19 “(B) EXCEPTION FOR INTEREST ON
20 NOTES FROM SALES OF INVENTORY.—The term
21 ‘passive investment income’ shall not include in-
22 terest on any obligation acquired in the ordi-
23 nary course of the corporation’s trade or busi-
24 ness from its sale of property described in sec-
25 tion 1221(a)(1).

1 “(C) TREATMENT OF CERTAIN LENDING
2 OR FINANCE COMPANIES.—If the S corporation
3 meets the requirements of section 542(c)(6) for
4 the taxable year, the term ‘passive investment
5 income’ shall not include gross receipts for the
6 taxable year which are derived directly from the
7 active and regular conduct of a lending or fi-
8 nance business (as defined in section
9 542(d)(1)).

10 “(D) SPECIAL RULE FOR OPTIONS AND
11 COMMODITY DEALERS.—

12 “(i) IN GENERAL.—In the case of any
13 options dealer or commodities dealer, pas-
14 sive investment income shall be determined
15 by not taking into account any gain or loss
16 (in the normal course of the taxpayer’s ac-
17 tivity of dealing in or trading section 1256
18 contracts) from any section 1256 contract
19 or property related to such a contract.

20 “(ii) DEFINITIONS.—For purposes of
21 this subparagraph—

22 “(I) OPTIONS DEALER.—The
23 term ‘options dealer’ has the meaning
24 given such term by section
25 1256(g)(8).

1 “(II) COMMODITIES DEALER.—

2 The term ‘commodities dealer’ means
 3 a person who is actively engaged in
 4 trading section 1256 contracts and is
 5 registered with a domestic board of
 6 trade which is designated as a con-
 7 tract market by the Commodities Fu-
 8 tures Trading Commission.

9 “(III) SECTION 1256 CON-
 10 TRACT.—The term ‘section 1256 con-
 11 tract’ has the meaning given to such
 12 term by section 1256(b).

13 “(E) TREATMENT OF CERTAIN DIVI-
 14 DENDS.—If an S corporation holds stock in a
 15 C corporation meeting the requirements of sec-
 16 tion 1504(a)(2), the term ‘passive investment
 17 income’ shall not include dividends from such C
 18 corporation to the extent such dividends are at-
 19 tributable to the earnings and profits of such C
 20 corporation derived from the active conduct of
 21 a trade or business.

22 “(F) EXCEPTION FOR BANKS, ETC.—In
 23 the case of a bank (as defined in section 581),
 24 a bank holding company (within the meaning of
 25 section 2(a) of the Bank Holding Company Act

of 1956 (12 U.S.C. 1841(a))), or a financial holding company (within the meaning of section 2(p) of such Act), the term ‘passive investment income’ shall not include—

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

“(ii) dividends on assets required to be held by such bank or company, including stock in the Federal Reserve Bank, the Federal Home Loan Bank, or the Federal Agricultural Mortgage Bank or participation certificates issued by a Federal Intermediate Credit Bank.

“(4) GROSS RECEIPTS FROM SALES OF CAPITAL ASSETS (OTHER THAN STOCK AND SECURITIES).—In the case of dispositions of capital assets (other than stock and securities), gross receipts from such dispositions shall be taken into account only to the extent of the capital gain net income therefrom.”.

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (J) of section 26(b)(2) is amended by striking “25 percent” and inserting “60 percent”.

1 (2) Clause (i) of section 1042(c)(4)(A) is
2 amended by striking “section 1362(d)(3)(C)” and
3 inserting “section 1375(b)(3)”.

4 (3) Subparagraph (B) of section 1362(f)(1) is
5 amended by striking “or (3)”.

6 (4) Clause (i) of section 1375(b)(1)(A) is
7 amended by striking “25 percent” and inserting “60
8 percent”.

9 (5) Subsection (d) of section 1375 is amended
10 by striking “subchapter C” both places it appears
11 and inserting “accumulated”.

12 (6) The heading for section 1375 is amended by
13 striking “**25 PERCENT**” and inserting “**60 PER-**
14 **CENT**”.

15 (7) The item relating to section 1375 in the
16 table of sections for part III of subchapter S of
17 chapter 1 is amended by striking “25 percent” and
18 inserting “60 percent”.

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

1 **SEC. 403. MODIFICATION OF EFFECTIVE DATE OF DIS-**
 2 **REGARD OF CERTAIN CAPITAL EXPENDI-**
 3 **TURES FOR PURPOSES OF QUALIFIED SMALL**
 4 **ISSUE BONDS.**

5 (a) IN GENERAL.—Section 144(a)(4)(G) is amended
 6 by striking “September 30, 2009” and inserting “Decem-
 7 ber 31, 2006”.

8 (b) CONFORMING AMENDMENT.—Section
 9 144(a)(4)(F) is amended by striking “September 30,
 10 2009” and inserting “December 31, 2006”.

11 **SEC. 404. PREMIUMS FOR MORTGAGE INSURANCE.**

12 (a) IN GENERAL.—Section 163(h)(3) (relating to
 13 qualified residence interest) is amended by adding at the
 14 end the following new subparagraph:

15 “(E) MORTGAGE INSURANCE PREMIUMS
 16 TREATED AS INTEREST.—

17 “(i) IN GENERAL.—Premiums paid or
 18 accrued for qualified mortgage insurance
 19 by a taxpayer during the taxable year in
 20 connection with acquisition indebtedness
 21 with respect to a qualified residence of the
 22 taxpayer shall be treated for purposes of
 23 this section as interest which is qualified
 24 residence interest.

25 “(ii) PHASEOUT.—The amount other-
 26 wise treated as interest under clause (i)

1 shall be reduced (but not below zero) by 10
 2 percent of such amount for each \$1,000
 3 (\$500 in the case of a married individual
 4 filing a separate return) (or fraction there-
 5 of) that the taxpayer’s adjusted gross in-
 6 come for the taxable year exceeds
 7 \$100,000 (\$50,000 in the case of a mar-
 8 ried individual filing a separate return).”.

9 (b) DEFINITION AND SPECIAL RULES.—Section
 10 163(h)(4) (relating to other definitions and special rules)
 11 is amended by adding at the end the following new sub-
 12 paragraphs:

13 “(E) QUALIFIED MORTGAGE INSUR-
 14 ANCE.—The term ‘qualified mortgage insur-
 15 ance’ means—

16 “(i) mortgage insurance provided by
 17 the Veterans Administration, the Federal
 18 Housing Administration, or the Rural
 19 Housing Administration, and

20 “(ii) private mortgage insurance (as
 21 defined by section 2 of the Homeowners
 22 Protection Act of 1998 (12 U.S.C. 4901),
 23 as in effect on the date of the enactment
 24 of this subparagraph).

1 “(F) SPECIAL RULES FOR PREPAID QUALI-
 2 FIED MORTGAGE INSURANCE.—Any amount
 3 paid by the taxpayer for qualified mortgage in-
 4 surance that is properly allocable to any mort-
 5 gage the payment of which extends to periods
 6 that are after the close of the taxable year in
 7 which such amount is paid shall be chargeable
 8 to capital account and shall be treated as paid
 9 in such periods to which so allocated. No deduc-
 10 tion shall be allowed for the unamortized bal-
 11 ance of such account if such mortgage is satis-
 12 fied before the end of its term. The preceding
 13 sentences shall not apply to amounts paid for
 14 qualified mortgage insurance provided by the
 15 Veterans Administration or the Rural Housing
 16 Administration.”.

17 (c) INFORMATION RETURNS RELATING TO MORT-
 18 GAGE INSURANCE.—Section 6050H (relating to returns
 19 relating to mortgage interest received in trade or business
 20 from individuals) is amended by adding at the end the fol-
 21 lowing new subsection:

22 “(h) RETURNS RELATING TO MORTGAGE INSURANCE
 23 PREMIUMS.—

24 “(1) IN GENERAL.—The Secretary may pre-
 25 scribe, by regulations, that any person who, in the

1 course of a trade or business, receives from any indi-
 2 vidual premiums for mortgage insurance aggregating
 3 \$600 or more for any calendar year, shall make a
 4 return with respect to each such individual. Such re-
 5 turn shall be in such form, shall be made at such
 6 time, and shall contain such information as the Sec-
 7 retary may prescribe.

8 “(2) STATEMENT TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS
 9 REQUIRED.—Every person required to make a re-
 10 turn under paragraph (1) shall furnish to each indi-
 11 vidual with respect to whom a return is made a writ-
 12 ten statement showing such information as the Sec-
 13 retary may prescribe. Such written statement shall
 14 be furnished on or before January 31 of the year
 15 following the calendar year for which the return
 16 under paragraph (1) was required to be made.

17 “(3) SPECIAL RULES.—For purposes of this
 18 subsection—

19 “(A) rules similar to the rules of sub-
 20 section (c) shall apply, and

21 “(B) the term ‘mortgage insurance’
 22 means—

23 “(i) mortgage insurance provided by
 24 the Veterans Administration, the Federal
 25

1 Housing Administration, or the Rural
 2 Housing Administration, and
 3 “(ii) private mortgage insurance (as
 4 defined by section 2 of the Homeowners
 5 Protection Act of 1998 (12 U.S.C. 4901),
 6 as in effect on the date of the enactment
 7 of this subsection).”.

8 (d) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to amounts paid or accrued during
 10 the period beginning after December 31, 2006, and before
 11 January 1, 2008, and properly allocable to such period,
 12 with respect to mortgage insurance contracts issued after
 13 December 31, 2006.

14 **TITLE V—REVENUE OFFSET**
 15 **PROVISIONS**

16 **Subtitle A—Provisions Designed to**
 17 **Curtail Tax Shelters**

18 **SEC. 501. UNDERSTATEMENT OF TAXPAYER’S LIABILITY BY**
 19 **INCOME TAX RETURN PREPARER.**

20 (a) STANDARDS CONFORMED TO TAXPAYER STAND-
 21 ARDS.—Section 6694(a) (relating to understatements due
 22 to unrealistic positions) is amended—

23 (1) by striking “realistic possibility of being
 24 sustained on its merits” in paragraph (1) and in-
 25 serting “reasonable belief that the tax treatment in

1 such position was more likely than not the proper
2 treatment”,

3 (2) by striking “or was frivolous” in paragraph
4 (3) and inserting “or there was no reasonable basis
5 for the tax treatment of such position”, and

6 (3) by striking “**UNREALISTIC**” in the heading
7 and inserting “**IMPROPER**”.

8 (b) AMOUNT OF PENALTY.—Section 6694 is amend-
9 ed—

10 (1) by striking “\$250” in subsection (a) and in-
11 serting “\$1,000”, and

12 (2) by striking “\$1,000” in subsection (b) and
13 inserting “\$5,000”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to documents prepared after the
16 date of the enactment of this Act.

17 **SEC. 502. MODIFICATIONS OF SUSPENSION OF INTEREST**
18 **AND PENALTIES WHERE INTERNAL REVENUE**
19 **SERVICE FAILS TO CONTACT TAXPAYER.**

20 (a) EFFECTIVE DATE OF EXCEPTION FROM SUSPEN-
21 SION RULES FOR CERTAIN LISTED AND REPORTABLE
22 TRANSACTIONS.—

23 (1) IN GENERAL.—Paragraph (2) of section
24 903(d) of the American Jobs Creation Act of 2004
25 is amended to read as follows:

1 “(2) EXCEPTION FOR REPORTABLE OR LISTED
2 TRANSACTIONS.—

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

6 “(B) SPECIAL RULE FOR CERTAIN LISTED
7 AND REPORTABLE TRANSACTIONS.—

8 “(i) IN GENERAL.—Except as pro-
9 vided in clause (ii) or (iii), the amendments
10 made by subsection (c) shall also apply
11 with respect to interest accruing on or be-
12 fore October 3, 2004.

13 “(ii) PARTICIPANTS IN SETTLEMENT
14 INITIATIVES.—Clause (i) shall not apply to
15 any transaction if, pursuant to a published
16 settlement initiative which is offered by the
17 Secretary of the Treasury to a group of
18 similarly situated taxpayers claiming bene-
19 fits from the transaction, the taxpayer has
20 entered into a settlement agreement with
21 respect to the tax liability arising in con-
22 nection with the transaction.

23 “(iii) CLOSED TRANSACTIONS.—
24 Clause (i) shall not apply to a transaction

1 if, as of July 29, 2005 (May 9, 2005 in
2 the case of a listed transaction)—

3 “(I) the assessment of all Fed-
4 eral income taxes for the taxable year
5 in which the tax liability to which the
6 interest relates arose is prevented by
7 the operation of any law or rule of
8 law, or

9 “(II) a closing agreement under
10 section 7121 has been entered into
11 with respect to the tax liability arising
12 in connection with the transaction.”.

13 (2) EFFECTIVE DATE.—The amendment made
14 by this subsection shall take effect as if included in
15 the provisions of the American Jobs Creation Act of
16 2004 to which it relates.

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

19 (1) IN GENERAL.—Section 6404(g)(1) (relating
20 to suspension) is amended by adding at the end the
21 following new sentence: “If, after the return for a
22 taxable year is filed, the taxpayer provides to the
23 Secretary 1 or more signed written documents show-
24 ing that the taxpayer owes an additional amount of
25 tax for the taxable year, clause (i) shall be applied

1 by substituting the date the last of the documents
 2 was provided for the date on which the return is
 3 filed.”

4 (2) EFFECTIVE DATE.—The amendment made
 5 by this subsection shall apply to documents provided
 6 on or after July 29, 2005.

7 **SEC. 503. FRIVOLOUS TAX SUBMISSIONS.**

8 (a) CIVIL PENALTIES.—Section 6702 is amended to
 9 read as follows:

10 **“SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.**

11 “(a) CIVIL PENALTY FOR FRIVOLOUS TAX RE-
 12 TURNS.—A person shall pay a penalty of \$5,000 if—

13 “(1) such person files what purports to be a re-
 14 turn of a tax imposed by this title but which—

15 “(A) does not contain information on
 16 which the substantial correctness of the self-as-
 17 sessment may be judged, or

18 “(B) contains information that on its face
 19 indicates that the self-assessment is substan-
 20 tially incorrect; and

21 “(2) the conduct referred to in paragraph (1)—

22 “(A) is based on a position which the Sec-
 23 retary has identified as frivolous under sub-
 24 section (c), or

1 “(B) reflects a desire to delay or impede
2 the administration of Federal tax laws.

3 “(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS
4 SUBMISSIONS.—

5 “(1) IMPOSITION OF PENALTY.—Except as pro-
6 vided in paragraph (3), any person who submits a
7 specified frivolous submission shall pay a penalty of
8 \$5,000.

9 “(2) SPECIFIED FRIVOLOUS SUBMISSION.—For
10 purposes of this section—

11 “(A) SPECIFIED FRIVOLOUS SUBMIS-
12 SION.—The term ‘specified frivolous submis-
13 sion’ means a specified submission if any por-
14 tion of such submission—

15 “(i) is based on a position which the
16 Secretary has identified as frivolous under
17 subsection (c), or

18 “(ii) reflects a desire to delay or im-
19 pede the administration of Federal tax
20 laws.

21 “(B) SPECIFIED SUBMISSION.—The term
22 ‘specified submission’ means—

23 “(i) a request for a hearing under—

1 “(I) section 6320 (relating to no-
 2 tice and opportunity for hearing upon
 3 filing of notice of lien), or

4 “(II) section 6330 (relating to
 5 notice and opportunity for hearing be-
 6 fore levy), and

7 “(ii) an application under—

8 “(I) section 6159 (relating to
 9 agreements for payment of tax liabil-
 10 ity in installments),

11 “(II) section 7122 (relating to
 12 compromises), or

13 “(III) section 7811 (relating to
 14 taxpayer assistance orders).

15 “(3) OPPORTUNITY TO WITHDRAW SUBMIS-
 16 SION.—If the Secretary provides a person with no-
 17 tice that a submission is a specified frivolous sub-
 18 mission and such person withdraws such submission
 19 within 30 days after such notice, the penalty im-
 20 posed under paragraph (1) shall not apply with re-
 21 spect to such submission.

22 “(c) LISTING OF FRIVOLOUS POSITIONS.—The Sec-
 23 retary shall prescribe (and periodically revise) a list of po-
 24 sitions which the Secretary has identified as being frivo-
 25 lous for purposes of this subsection. The Secretary shall

1 not include in such list any position that the Secretary
 2 determines meets the requirement of section
 3 6662(d)(2)(B)(ii)(II).

4 “(d) REDUCTION OF PENALTY.—The Secretary may
 5 reduce the amount of any penalty imposed under this sec-
 6 tion if the Secretary determines that such reduction would
 7 promote compliance with and administration of the Fed-
 8 eral tax laws.

9 “(e) PENALTIES IN ADDITION TO OTHER PEN-
 10 ALTIES.—The penalties imposed by this section shall be
 11 in addition to any other penalty provided by law.”.

12 (b) TREATMENT OF FRIVOLOUS REQUESTS FOR
 13 HEARINGS BEFORE LEVY.—

14 (1) FRIVOLOUS REQUESTS DISREGARDED.—
 15 Section 6330 (relating to notice and opportunity for
 16 hearing before levy) is amended by adding at the
 17 end the following new subsection:

18 “(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—
 19 Notwithstanding any other provision of this section, if the
 20 Secretary determines that any portion of a request for a
 21 hearing under this section or section 6320 meets the re-
 22 quirement of clause (i) or (ii) of section 6702(b)(2)(A),
 23 then the Secretary may treat such portion as if it were
 24 never submitted and such portion shall not be subject to
 25 any further administrative or judicial review.”.

1 (2) PRECLUSION FROM RAISING FRIVOLOUS
2 ISSUES AT HEARING.—Section 6330(c)(4) is amend-
3 ed—

4 (A) by striking “(A)” and inserting
5 “(A)(i)”;

6 (B) by striking “(B)” and inserting “(ii)”;

7 (C) by striking the period at the end of the
8 first sentence and inserting “; or”; and

9 (D) by inserting after subparagraph (A)(ii)
10 (as so redesignated) the following:

11 “(B) the issue meets the requirement of
12 clause (i) or (ii) of section 6702(b)(2)(A).”.

13 (3) STATEMENT OF GROUNDS.—Section
14 6330(b)(1) is amended by striking “under sub-
15 section (a)(3)(B)” and inserting “in writing under
16 subsection (a)(3)(B) and states the grounds for the
17 requested hearing”.

18 (c) TREATMENT OF FRIVOLOUS REQUESTS FOR
19 HEARINGS UPON FILING OF NOTICE OF LIEN.—Section
20 6320 is amended—

21 (1) in subsection (b)(1), by striking “under sub-
22 section (a)(3)(B)” and inserting “in writing under
23 subsection (a)(3)(B) and states the grounds for the
24 requested hearing”, and

1 (2) in subsection (c), by striking “and (e)” and
 2 inserting “(e), and (g)”.

3 (d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR
 4 OFFERS-IN-COMPROMISE AND INSTALLMENT AGREE-
 5 MENTS.—Section 7122 is amended by adding at the end
 6 the following new subsection:

7 “(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwith-
 8 standing any other provision of this section, if the Sec-
 9 retary determines that any portion of an application for
 10 an offer-in-compromise or installment agreement sub-
 11 mitted under this section or section 6159 meets the re-
 12 quirement of clause (i) or (ii) of section 6702(b)(2)(A),
 13 then the Secretary may treat such portion as if it were
 14 never submitted and such portion shall not be subject to
 15 any further administrative or judicial review.”.

16 (e) CLERICAL AMENDMENT.—The table of sections
 17 for part I of subchapter B of chapter 68 is amended by
 18 striking the item relating to section 6702 and inserting
 19 the following new item:

“Sec. 6702. Frivolous tax submissions.”.

20 (f) EFFECTIVE DATE.—The amendments made by
 21 this section shall apply to submissions made and issues
 22 raised after the date on which the Secretary first pre-
 23 scribes a list under section 6702(c) of the Internal Rev-
 24 enue Code of 1986, as amended by subsection (a).

1 **Subtitle B—Economic Substance**
 2 **Doctrine**

3 **SEC. 511. CLARIFICATION OF ECONOMIC SUBSTANCE DOC-**
 4 **TRINE.**

5 (a) IN GENERAL.—Section 7701 is amended by re-
 6 designating subsection (o) as subsection (p) and by insert-
 7 ing after subsection (n) the following new subsection:

8 “(o) CLARIFICATION OF ECONOMIC SUBSTANCE
 9 DOCTRINE; ETC.—

10 “(1) GENERAL RULES.—

11 “(A) IN GENERAL.—In any case in which
 12 a court determines that the economic substance
 13 doctrine is relevant for purposes of this title to
 14 a transaction (or series of transactions), such
 15 transaction (or series of transactions) shall have
 16 economic substance only if the requirements of
 17 this paragraph are met.

18 “(B) DEFINITION OF ECONOMIC SUB-
 19 STANCE.—For purposes of subparagraph (A)—

20 “(i) IN GENERAL.—A transaction has
 21 economic substance only if—

22 “(I) the transaction changes in a
 23 meaningful way (apart from Federal
 24 tax effects) the taxpayer’s economic
 25 position, and

1 “(II) the taxpayer has a substan-
2 tial nontax purpose for entering into
3 such transaction and the transaction
4 is a reasonable means of accom-
5 plishing such purpose.

6 In applying subclause (II), a purpose of
7 achieving a financial accounting benefit
8 shall not be taken into account in deter-
9 mining whether a transaction has a sub-
10 stantial nontax purpose if the origin of
11 such financial accounting benefit is a re-
12 duction of income tax.

13 “(ii) SPECIAL RULE WHERE TAX-
14 PAYER RELIES ON PROFIT POTENTIAL.—A
15 transaction shall not be treated as having
16 economic substance by reason of having a
17 potential for profit unless—

18 “(I) the present value of the rea-
19 sonably expected pre-tax profit from
20 the transaction is substantial in rela-
21 tion to the present value of the ex-
22 pected net tax benefits that would be
23 allowed if the transaction were re-
24 spected, and

1 “(II) the reasonably expected
2 pre-tax profit from the transaction ex-
3 ceeds a risk-free rate of return.

4 “(C) TREATMENT OF FEES AND FOREIGN
5 TAXES.—Fees and other transaction expenses
6 and foreign taxes shall be taken into account as
7 expenses in determining pre-tax profit under
8 subparagraph (B)(ii).

9 “(2) SPECIAL RULES FOR TRANSACTIONS WITH
10 TAX-INDIFFERENT PARTIES.—

11 “(A) SPECIAL RULES FOR FINANCING
12 TRANSACTIONS.—The form of a transaction
13 which is in substance the borrowing of money
14 or the acquisition of financial capital directly or
15 indirectly from a tax-indifferent party shall not
16 be respected if the present value of the deduc-
17 tions to be claimed with respect to the trans-
18 action is substantially in excess of the present
19 value of the anticipated economic returns of the
20 person lending the money or providing the fi-
21 nancial capital. A public offering shall be treat-
22 ed as a borrowing, or an acquisition of financial
23 capital, from a tax-indifferent party if it is rea-
24 sonably expected that at least 50 percent of the

1 offering will be placed with tax-indifferent par-
 2 ties.

3 “(B) ARTIFICIAL INCOME SHIFTING AND
 4 BASIS ADJUSTMENTS.—The form of a trans-
 5 action with a tax-indifferent party shall not be
 6 respected if—

7 “(i) it results in an allocation of in-
 8 come or gain to the tax-indifferent party in
 9 excess of such party’s economic income or
 10 gain, or

11 “(ii) it results in a basis adjustment
 12 or shifting of basis on account of over-
 13 stating the income or gain of the tax-indif-
 14 ferent party.

15 “(3) DEFINITIONS AND SPECIAL RULES.—For
 16 purposes of this subsection—

17 “(A) ECONOMIC SUBSTANCE DOCTRINE.—
 18 The term ‘economic substance doctrine’ means
 19 the common law doctrine under which tax bene-
 20 fits under subtitle A with respect to a trans-
 21 action are not allowable if the transaction does
 22 not have economic substance or lacks a business
 23 purpose.

24 “(B) TAX-INDIFFERENT PARTY.—The
 25 term ‘tax-indifferent party’ means any person

or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

“(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

“(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

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

“(I) depreciation,

“(II) any tax credit, or

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

“(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in deter-

1 mining whether any of such benefits are al-
 2 lowable.

3 “(4) OTHER COMMON LAW DOCTRINES NOT AF-
 4 FECTED.—Except as specifically provided in this
 5 subsection, the provisions of this subsection shall not
 6 be construed as altering or supplanting any other
 7 rule of law, and the requirements of this subsection
 8 shall be construed as being in addition to any such
 9 other rule of law.

10 “(5) REGULATIONS.—The Secretary shall pre-
 11 scribe such regulations as may be necessary or ap-
 12 propriate to carry out the purposes of this sub-
 13 section. Such regulations may include exemptions
 14 from the application of this subsection.”.

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

18 **SEC. 512. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
 19 **UTABLE TO TRANSACTIONS LACKING ECO-**
 20 **NOMIC SUBSTANCE, ETC.**

21 (a) IN GENERAL.—Subchapter A of chapter 68 is
 22 amended by inserting after section 6662A the following
 23 new section:

1 **“SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
2 **UTABLE TO TRANSACTIONS LACKING ECO-**
3 **NOMIC SUBSTANCE, ETC.**

4 “(a) IMPOSITION OF PENALTY.—If a taxpayer has an
5 noneconomic substance transaction understatement for
6 any taxable year, there shall be added to the tax an
7 amount equal to 40 percent of the amount of such under-
8 statement.

9 “(b) REDUCTION OF PENALTY FOR DISCLOSED
10 TRANSACTIONS.—Subsection (a) shall be applied by sub-
11 stituting ‘20 percent’ for ‘40 percent’ with respect to the
12 portion of any noneconomic substance transaction under-
13 statement with respect to which the relevant facts affect-
14 ing the tax treatment of the item are adequately disclosed
15 in the return or a statement attached to the return.

16 “(c) NONECONOMIC SUBSTANCE TRANSACTION UN-
17 DERSTATEMENT.—For purposes of this section—

18 “(1) IN GENERAL.—The term ‘noneconomic
19 substance transaction understatement’ means any
20 amount which would be an understatement under
21 section 6662A(b)(1) if section 6662A were applied
22 by taking into account items attributable to non-
23 economic substance transactions rather than items
24 to which section 6662A would apply without regard
25 to this paragraph.

1 “(2) NONECONOMIC SUBSTANCE TRANS-
2 ACTION.—The term ‘noneconomic substance trans-
3 action’ means any transaction if—

4 “(A) there is a lack of economic substance
5 (within the meaning of section 7701(o)(1)) for
6 the transaction giving rise to the claimed ben-
7 efit or the transaction was not respected under
8 section 7701(o)(2), or

9 “(B) the transaction fails to meet the re-
10 quirements of any similar rule of law.

11 “(d) RULES APPLICABLE TO COMPROMISE OF PEN-
12 ALTY.—

13 “(1) IN GENERAL.—If the 1st letter of pro-
14 posed deficiency which allows the taxpayer an oppor-
15 tunity for administrative review in the Internal Rev-
16 enue Service Office of Appeals has been sent with
17 respect to a penalty to which this section applies,
18 only the Commissioner of Internal Revenue may
19 compromise all or any portion of such penalty.

20 “(2) APPLICABLE RULES.—The rules of para-
21 graphs (2) and (3) of section 6707A(d) shall apply
22 for purposes of paragraph (1).

23 “(e) COORDINATION WITH OTHER PENALTIES.—Ex-
24 cept as otherwise provided in this part, the penalty im-

1 posed by this section shall be in addition to any other pen-
 2 alty imposed by this title.

3 “(f) CROSS REFERENCES.—

“(1) For coordination of penalty with understatements
 under section 6662 and other special rules, see section
 6662A(e)

“(2) For reporting of penalty imposed under this section
 to the Securities and Exchange Commission, see section
 6707A(e)”.

4 (b) COORDINATION WITH OTHER UNDERSTATE-
 5 MENTS AND PENALTIES.—

6 (1) The second sentence of section
 7 6662(d)(2)(A) is amended by inserting “and without
 8 regard to items with respect to which a penalty is
 9 imposed by section 6662B” before the period at the
 10 end.

11 (2) Subsection (e) of section 6662A is amend-
 12 ed—

13 (A) in paragraph (1), by inserting “and
 14 noneconomic substance transaction understate-
 15 ments” after “reportable transaction under-
 16 statements” both places it appears,

17 (B) in paragraph (2)(A), by inserting “and
 18 a noneconomic substance transaction under-
 19 statement” after “reportable transaction under-
 20 statement”,

21 (C) in paragraph (2)(B), by inserting
 22 “6662B or” before “6663”,

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

4 (E) in paragraph (2)(C)(ii), by inserting
 5 “and section 6662B” after “This section”,

6 (F) in paragraph (3), by inserting “or non-
 7 economic substance transaction understate-
 8 ment” after “reportable transaction understate-
 9 ment”, and

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

12 “(4) NONECONOMIC SUBSTANCE TRANSACTION
 13 UNDERSTATEMENT.—For purposes of this sub-
 14 section, the term ‘noneconomic substance trans-
 15 action understatement’ has the meaning given such
 16 term by section 6662B(c).”.

17 (3) Subsection (e) of section 6707A is amend-
 18 ed—

19 (A) by striking “or” at the end of subpara-
 20 graph (B), and

21 (B) by striking subparagraph (C) and in-
 22 serting the following new subparagraphs:

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

1 “(D) is required to pay a penalty under
 2 section 6662(h) with respect to any transaction
 3 and would (but for section 6662A(e)(2)(C))
 4 have been subject to penalty under section
 5 6662A at a rate prescribed under section
 6 6662A(c) or under section 6662B,”.

7 (c) CLERICAL AMENDMENT.—The table of sections
 8 for part II of subchapter A of chapter 68 is amended by
 9 inserting after the item relating to section 6662A the fol-
 10 lowing new item:

 “Sec. 6662B. Penalty for understatements attributable to transactions lacking
 economic substance, etc.”.

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

14 **SEC. 513. DENIAL OF DEDUCTION FOR INTEREST ON UN-**
 15 **DERPAYMENTS ATTRIBUTABLE TO NON-**
 16 **ECONOMIC SUBSTANCE TRANSACTIONS.**

17 (a) IN GENERAL.—Section 163(m) (relating to inter-
 18 est on unpaid taxes attributable to nondisclosed reportable
 19 transactions) is amended—

20 (1) by striking “attributable” and all that fol-
 21 lows and inserting the following: “attributable to—
 22 “(1) the portion of any reportable transaction
 23 understatement (as defined in section 6662A(b))

1 with respect to which the requirement of section
 2 6664(d)(2)(A) is not met, or

3 “(2) any noneconomic substance transaction
 4 understatement (as defined in section 6662B(c)).”,
 5 and

6 (2) by inserting “AND NONECONOMIC SUB-
 7 STANCE TRANSACTIONS” in the heading thereof
 8 after “TRANSACTIONS”.

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

13 **Subtitle C—Improvements in Effi-** 14 **ciency and Safeguards in Inter-** 15 **nal Revenue Service Collection**

16 **SEC. 521. WAIVER OF USER FEE FOR INSTALLMENT AGREE-** 17 **MENTS USING AUTOMATED WITHDRAWALS.**

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

22 “(e) WAIVER OF USER FEES FOR INSTALLMENT
 23 AGREEMENTS USING AUTOMATED WITHDRAWALS.—In
 24 the case of a taxpayer who enters into an installment
 25 agreement in which automated installment payments are

1 agreed to, the Secretary shall waive the fee (if any) for
 2 entering into the installment agreement.”.

3 (b) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to agreements entered into on or
 5 after the date which is 180 days after the date of the en-
 6 actment of this Act.

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

8 (a) IN GENERAL.—Section 6159(b)(4) (relating to
 9 failure to pay an installment or any other tax liability
 10 when due or to provide requested financial information)
 11 is amended by striking “or” at the end of subparagraph
 12 (B), by redesignating subparagraph (C) as subparagraph
 13 (E), and by inserting after subparagraph (B) the fol-
 14 lowing:

15 “(C) to make a Federal tax deposit under
 16 section 6302 at the time such deposit is re-
 17 quired to be made,

18 “(D) to file a return of tax imposed under
 19 this title by its due date (including extensions),
 20 or”.

21 (b) CONFORMING AMENDMENT.—The heading for
 22 section 6159(b)(4) is amended by striking “FAILURE TO
 23 PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY
 24 WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL IN-
 25 FORMATION” and inserting “FAILURE TO MAKE PAY-

1 MENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR
 2 TO PROVIDE REQUESTED FINANCIAL INFORMATION”.

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

6 **SEC. 523. PARTIAL PAYMENTS REQUIRED WITH SUBMIS-**
 7 **SION OF OFFERS-IN-COMPROMISE.**

8 (a) IN GENERAL.—Section 7122 (relating to com-
 9 promises), as amended by this Act, is amended by redesignig-
 10 nating subsections (c), (d), and (e) as subsections (d), (e),
 11 and (f), respectively, and by inserting after subsection (b)
 12 the following new subsection:

13 “(c) RULES FOR SUBMISSION OF OFFERS-IN-COM-
 14 PROMISE.—

15 “(1) PARTIAL PAYMENT REQUIRED WITH SUB-
 16 MISSION.—

17 “(A) LUMP-SUM OFFERS.—

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

22 “(ii) LUMP-SUM OFFER-IN-COM-
 23 PROMISE.—For purposes of this section,
 24 the term ‘lump-sum offer-in-compromise’

1 means any offer of payments made in 5 or
2 fewer installments.

3 “(B) PERIODIC PAYMENT OFFERS.—The
4 submission of any periodic payment offer-in-
5 compromise shall be accompanied by the pay-
6 ment of the amount of the first proposed in-
7 stallment and each proposed installment due
8 during the period such offer is being evaluated
9 for acceptance and has not been rejected by the
10 Secretary. Any failure to make a payment re-
11 quired under the preceding sentence shall be
12 deemed a withdrawal of the offer-in-com-
13 promise.

14 “(2) RULES OF APPLICATION.—

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

20 “(B) NO USER FEE IMPOSED.—Any user
21 fee which would otherwise be imposed under
22 this section shall not be imposed on any offer-
23 in-compromise accompanied by a payment re-
24 quired under this subsection.

1 “(C) WAIVER AUTHORITY.—The Secretary
 2 may issue regulations waiving any payment re-
 3 quired under paragraph (1) in a manner con-
 4 sistent with the practices established in accord-
 5 ance with the requirements under subsection
 6 (d)(3).”.

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

9 (1) UNPROCESSABLE OFFER IF PAYMENT RE-
 10 QUIREMENTS ARE NOT MET.—Paragraph (3) of sec-
 11 tion 7122(d) (relating to standards for evaluation of
 12 offers), as redesignated by subsection (a), is amend-
 13 ed by striking “; and” at the end of subparagraph
 14 (A) and inserting a comma, by striking the period
 15 at the end of subparagraph (B) and inserting “,
 16 and”, and by adding at the end the following new
 17 subparagraph:

18 “(C) any offer-in-compromise which does
 19 not meet the requirements of subsection (c)
 20 shall be returned to the taxpayer as
 21 unprocessable.”.

22 (2) DEEMED ACCEPTANCE OF OFFER NOT RE-
 23 JECTED WITHIN CERTAIN PERIOD.—Section 7122,
 24 as amended by subsection (a), is amended by adding
 25 at the end the following new subsection:

1 “(g) DEEMED ACCEPTANCE OF OFFER NOT RE-
 2 JECTED WITHIN CERTAIN PERIOD.—Any offer-in-com-
 3 promise submitted under this section shall be deemed to
 4 be accepted by the Secretary if such offer is not rejected
 5 by the Secretary before the date which is 24 months after
 6 the date of the submission of such offer (12 months for
 7 offers-in-compromise submitted after the date which is 5
 8 years after the date of the enactment of this subsection).
 9 For purposes of the preceding sentence, any period during
 10 which any tax liability which is the subject of such offer-
 11 in-compromise is in dispute in any judicial proceeding
 12 shall not be taken in to account in determining the expira-
 13 tion of the 24-month period (or 12-month period, if appli-
 14 cable).”.

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

19 **Subtitle D—Penalties and Fines**

20 **SEC. 531. INCREASE IN CRIMINAL MONETARY PENALTY** 21 **LIMITATION FOR THE UNDERPAYMENT OR** 22 **OVERPAYMENT OF TAX DUE TO FRAUD.**

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

1 (1) by striking “Any person who—” and insert-
 2 ing “(a) IN GENERAL.—Any person who—”, and

3 (2) by adding at the end the following new sub-
 4 section:

5 “(b) INCREASE IN MONETARY LIMITATION FOR UN-
 6 DERPAYMENT OR OVERPAYMENT OF TAX DUE TO
 7 FRAUD.—If any portion of any underpayment (as defined
 8 in section 6664(a)) or overpayment (as defined in section
 9 6401(a)) of tax required to be shown on a return is attrib-
 10 utable to fraudulent action described in subsection (a), the
 11 applicable dollar amount under subsection (a) shall in no
 12 event be less than an amount equal to such portion. A
 13 rule similar to the rule under section 6663(b) shall apply
 14 for purposes of determining the portion so attributable.”.

15 (b) INCREASE IN PENALTIES.—

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

18 (A) by striking “\$100,000” and inserting
 19 “\$500,000”,

20 (B) by striking “\$500,000” and inserting
 21 “\$1,000,000”, and

22 (C) by striking “5 years” and inserting
 23 “10 years”.

1 (2) WILLFUL FAILURE TO FILE RETURN, SUP-
 2 PLY INFORMATION, OR PAY TAX.—Section 7203 is
 3 amended—

4 (A) in the first sentence—

5 (i) by striking “Any person” and in-
 6 serting the following:

7 “(a) IN GENERAL.—Any person”, and

8 (ii) by striking “\$25,000” and insert-
 9 ing “\$50,000”,

10 (B) in the third sentence, by striking “sec-
 11 tion” and inserting “subsection”, and

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

14 “(b) AGGRAVATED FAILURE TO FILE.—

15 “(1) IN GENERAL.—In the case of any failure
 16 described in paragraph (2), the first sentence of sub-
 17 section (a) shall be applied by substituting—

18 “(A) ‘felony’ for ‘misdemeanor’,

19 “(B) ‘\$500,000 (\$1,000,000’ for ‘\$25,000
 20 (\$100,000’, and

21 “(C) ‘10 years’ for ‘1 year’.

22 “(2) FAILURE DESCRIBED.—A failure described
 23 in this paragraph is a failure to make a return de-
 24 scribed in subsection (a) for a period of 3 or more

consecutive taxable years and the aggregated tax liability for such period is at least \$100,000.”.

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

(A) by striking “\$100,000” and inserting “\$500,000”,

(B) by striking “\$500,000” and inserting “\$1,000,000”, and

(C) by striking “3 years” and inserting “5 years”.

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

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

(a) DETERMINATION OF PENALTY.—

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

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement described in

1 paragraph (2), or to any underpayment of Fed-
2 eral income tax attributable to items arising in
3 connection with any such arrangement, shall be
4 made without regard to the rules of subsections
5 (b), (c), and (d) of section 6664 of the Internal
6 Revenue Code of 1986, and

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

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

13 (A) IN GENERAL.—The term “applicable
14 taxpayer” means a taxpayer which—

15 (i) has underreported its United
16 States income tax liability with respect to
17 any item which directly or indirectly in-
18 volves—

19 (I) any financial arrangement
20 which in any manner relies on the use
21 of offshore payment mechanisms (in-
22 cluding credit, debit, or charge cards)
23 issued by banks or other entities in
24 foreign jurisdictions, or

1 (II) any offshore financial ar-
2 rangement (including any arrange-
3 ment with foreign banks, financial in-
4 stitutions, corporations, partnerships,
5 trusts, or other entities), and

6 (ii) has neither signed a closing agree-
7 ment pursuant to the Voluntary Offshore
8 Compliance Initiative established by the
9 Department of the Treasury under Rev-
10 enue Procedure 2003-11 nor voluntarily
11 disclosed its participation in such arrange-
12 ment by notifying the Internal Revenue
13 Service of such arrangement prior to the
14 issue being raised by the Internal Revenue
15 Service during an examination.

16 (B) AUTHORITY TO WAIVE.—The Sec-
17 retary of the Treasury or the Secretary's dele-
18 gate may waive the application of paragraph (1)
19 to any taxpayer if the Secretary or the Sec-
20 retary's delegate determines that the use of
21 such offshore payment mechanisms is incidental
22 to the transaction and, in addition, in the case
23 of a trade or business, such use is conducted in
24 the ordinary course of the type of trade or busi-
25 ness of the taxpayer.

1 (C) ISSUES RAISED.—For purposes of sub-
2 paragraph (A)(ii), an item shall be treated as
3 an issue raised during an examination if the in-
4 dividual examining the return—

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

7 (ii) has made a request to the tax-
8 payer for information and the taxpayer
9 could not make a complete response to
10 that request without giving the examiner
11 knowledge of the specific item.

12 (b) DEFINITIONS AND RULES.—For purposes of this
13 section—

14 (1) APPLICABLE PENALTY.—The term “appli-
15 cable penalty” means any penalty, addition to tax,
16 or fine imposed under chapter 68 of the Internal
17 Revenue Code of 1986.

18 (2) FEES AND EXPENSES.—The Secretary of
19 the Treasury may retain and use an amount not in
20 excess of 25 percent of all additional interest, pen-
21 alties, additions to tax, and fines collected under this
22 section to be used for enforcement and collection ac-
23 tivities of the Internal Revenue Service. The Sec-
24 retary shall keep adequate records regarding
25 amounts so retained and used. The amount credited

1 as paid by any taxpayer shall be determined without
2 regard to this paragraph.

3 (c) REPORT BY SECRETARY.—The Secretary shall
4 each year conduct a study and report to Congress on the
5 implementation of this section during the preceding year,
6 including statistics on the number of taxpayers affected
7 by such implementation and the amount of interest and
8 applicable penalties asserted, waived, and assessed during
9 such preceding year.

10 (d) EFFECTIVE DATE.—The provisions of this sec-
11 tion shall apply to interest, penalties, additions to tax, and
12 fines with respect to any taxable year if, as of the date
13 of the enactment of this Act, the assessment of any tax,
14 penalty, or interest with respect to such taxable year is
15 not prevented by the operation of any law or rule of law.

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

18 (a) IN GENERAL.—Subsection (f) of section 162 (re-
19 lating to trade or business expenses) is amended to read
20 as follows:

21 “(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

22 “(1) IN GENERAL.—Except as provided in para-
23 graph (2), no deduction otherwise allowable shall be
24 allowed under this chapter for any amount paid or
25 incurred (whether by suit, agreement, or otherwise)

1 to, or at the direction of, a government or entity de-
2 scribed in paragraph (4) in relation to the violation
3 of any law or the investigation or inquiry by such
4 government or entity into the potential violation of
5 any law.

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

10 “(A) the taxpayer establishes—

11 “(i) constitutes restitution (including
12 remediation of property) for damage or
13 harm caused by or which may be caused by
14 the violation of any law or the potential
15 violation of any law, or

16 “(ii) is paid to come into compliance
17 with any law which was violated or in-
18 volved in the investigation or inquiry, and

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

23 Identification pursuant to subparagraph (B) alone
24 shall not satisfy the requirement under subpara-
25 graph (A). This paragraph shall not apply to any

1 amount paid or incurred as reimbursement to the
2 government or entity for the costs of any investiga-
3 tion or litigation.

4 “(3) EXCEPTION FOR AMOUNTS PAID OR IN-
5 CURRED AS THE RESULT OF CERTAIN COURT OR-
6 DERS.—Paragraph (1) shall not apply to any
7 amount paid or incurred by order of a court in a
8 suit in which no government or entity described in
9 paragraph (4) is a party.

10 “(4) CERTAIN NONGOVERNMENTAL REGU-
11 LATORY ENTITIES.—An entity is described in this
12 paragraph if it is—

13 “(A) a nongovernmental entity which exer-
14 cises self-regulatory powers (including imposing
15 sanctions) in connection with a qualified board
16 or exchange (as defined in section 1256(g)(7)),
17 or

18 “(B) to the extent provided in regulations,
19 a nongovernmental entity which exercises self-
20 regulatory powers (including imposing sanc-
21 tions) as part of performing an essential gov-
22 ernmental function.

23 “(5) EXCEPTION FOR TAXES DUE.—Paragraph
24 (1) shall not apply to any amount paid or incurred
25 as taxes due.”.

1 (b) REPORTING OF DEDUCTIBLE AMOUNTS.—

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

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

7 “(a) REQUIREMENT OF REPORTING.—

8 “(1) IN GENERAL.—The appropriate official of
9 any government or entity which is described in sec-
10 tion 162(f)(4) which is involved in a suit or agree-
11 ment described in paragraph (2) shall make a return
12 in such form as determined by the Secretary setting
13 forth—

14 “(A) the amount required to be paid as a
15 result of the suit or agreement to which para-
16 graph (1) of section 162(f) applies,

17 “(B) any amount required to be paid as a
18 result of the suit or agreement which con-
19 stitutes restitution or remediation of property,
20 and

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

1 “(2) SUIT OR AGREEMENT DESCRIBED.—

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

4 “(i) it is—

5 “(I) a suit with respect to a vio-
6 lation of any law over which the gov-
7 ernment or entity has authority and
8 with respect to which there has been
9 a court order, or

10 “(II) an agreement which is en-
11 tered into with respect to a violation
12 of any law over which the government
13 or entity has authority, or with re-
14 spect to an investigation or inquiry by
15 the government or entity into the po-
16 tential violation of any law over which
17 such government or entity has author-
18 ity, and

19 “(ii) the aggregate amount involved in
20 all court orders and agreements with re-
21 spect to the violation, investigation, or in-
22 quiry is \$600 or more.

23 “(B) ADJUSTMENT OF REPORTING
24 THRESHOLD.—The Secretary may adjust the
25 \$600 amount in subparagraph (A)(ii) as nec-

1 essary in order to ensure the efficient adminis-
2 tration of the internal revenue laws.

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

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

9 “(B) the date specified Secretary.

10 “(b) STATEMENTS TO BE FURNISHED TO INDIVID-
11 UALS INVOLVED IN THE SETTLEMENT.—Every person re-
12 quired to make a return under subsection (a) shall furnish
13 to each person who is a party to the suit or agreement
14 a written statement showing—

15 “(1) the name of the government or entity, and

16 “(2) the information supplied to the Secretary
17 under subsection (a)(1).

18 The written statement required under the preceding sen-
19 tence shall be furnished to the person at the same time
20 the government or entity provides the Secretary with the
21 information required under subsection (a).

22 “(c) APPROPRIATE OFFICIAL DEFINED.—For pur-
23 poses of this section, the term ‘appropriate official’ means
24 the officer or employee having control of the suit, inves-

1 tigation, or inquiry or the person appropriately designated
2 for purposes of this section.”.

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

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

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to amounts paid or incurred on
9 or after the date of the enactment of this Act, except that
10 such amendments shall not apply to amounts paid or in-
11 curred under any binding order or agreement entered into
12 before such date. Such exception shall not apply to an
13 order or agreement requiring court approval unless the ap-
14 proval was obtained before such date.

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

16 (a) DISALLOWANCE OF DEDUCTION.—

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

20 (A) by redesignating paragraphs (1) and

21 (2) as subparagraphs (A) and (B), respectively,

22 (B) by striking “If” and inserting:

23 “(1) TREBLE DAMAGES.—If”, and

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

3 “(2) PUNITIVE DAMAGES.—No deduction shall
4 be allowed under this chapter for any amount paid
5 or incurred for punitive damages in connection with
6 any judgment in, or settlement of, any action. This
7 paragraph shall not apply to punitive damages de-
8 scribed in section 104(c).”.

9 (2) CONFORMING AMENDMENT.—The heading
10 for section 162(g) is amended by inserting “OR PU-
11 NITIVE DAMAGES” after “LAWS”.

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

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

18 **“SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSUR-**
19 **ANCE OR OTHERWISE.**

20 “Gross income shall include any amount paid to or
21 on behalf of a taxpayer as insurance or otherwise by rea-
22 son of the taxpayer’s liability (or agreement) to pay puni-
23 tive damages.”.

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

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

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

“Sec. 91. Punitive damages compensated by insurance or otherwise.”.

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

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

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

20 (1) by striking “\$750” and inserting “\$1,250”,
 21 and

22 (2) by striking “\$15” and inserting “\$25”.

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

Subtitle E—Provisions to Discourage Expatriation

SEC. 541. TAX TREATMENT OF INVERTED ENTITIES.

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

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

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

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

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

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

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

1 “(g) SPECIAL RULES APPLICABLE TO EXPATRIATED
2 ENTITIES.—

3 “(1) INCREASES IN ACCURACY-RELATED PEN-
4 ALTIES.—In the case of any underpayment of tax of
5 an expatriated entity—

6 “(A) section 6662(a) shall be applied with
7 respect to such underpayment by substituting
8 ‘30 percent’ for ‘20 percent’, and

9 “(B) if such underpayment is attributable
10 to one or more gross valuation understate-
11 ments, the increase in the rate of penalty under
12 section 6662(h) shall be to 50 percent rather
13 than 40 percent.

14 “(2) MODIFICATIONS OF LIMITATION ON INTER-
15 EST DEDUCTION.—In the case of an expatriated en-
16 tity, section 163(j) shall be applied—

17 “(A) without regard to paragraph
18 (2)(A)(ii) thereof, and

19 “(B) by substituting ‘25 percent’ for ‘50
20 percent’ each place it appears in paragraph
21 (2)(B) thereof.”.

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

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

3 (a) IN GENERAL.—Subpart A of part II of sub-
 4 chapter N of chapter 1 is amended by inserting after sec-
 5 tion 877 the following new section:

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

7 “(a) GENERAL RULES.—For purposes of this sub-
 8 title—

9 “(1) MARK TO MARKET.—Except as provided in
 10 subsections (d) and (f), all property of a covered ex-
 11 patriate to whom this section applies shall be treated
 12 as sold on the day before the expatriation date for
 13 its fair market value.

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

16 “(A) notwithstanding any other provision
 17 of this title, any gain arising from such sale
 18 shall be taken into account for the taxable year
 19 of the sale, and

20 “(B) any loss arising from such sale shall
 21 be taken into account for the taxable year of
 22 the sale to the extent otherwise provided by this
 23 title, except that section 1091 shall not apply to
 24 any such loss.

25 Proper adjustment shall be made in the amount of
 26 any gain or loss subsequently realized for gain or

1 loss taken into account under the preceding sen-
2 tence.

3 “(3) EXCLUSION FOR CERTAIN GAIN.—

4 “(A) IN GENERAL.—The amount which,
5 but for this paragraph, would be includible in
6 the gross income of any individual by reason of
7 this section shall be reduced (but not below
8 zero) by \$600,000. For purposes of this para-
9 graph, allocable expatriation gain taken into ac-
10 count under subsection (f)(2) shall be treated in
11 the same manner as an amount required to be
12 includible in gross income.

13 “(B) COST-OF-LIVING ADJUSTMENT.—

14 “(i) IN GENERAL.—In the case of an
15 expatriation date occurring in any calendar
16 year after 2005, the \$600,000 amount
17 under subparagraph (A) shall be increased
18 by an amount equal to—

19 “(I) such dollar amount, multi-
20 plied by

21 “(II) the cost-of-living adjust-
22 ment determined under section 1(f)(3)
23 for such calendar year, determined by
24 substituting ‘calendar year 2004’ for

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

3 “(ii) ROUNDING RULES.—If any
4 amount after adjustment under clause (i)
5 is not a multiple of \$1,000, such amount
6 shall be rounded to the next lower multiple
7 of \$1,000.

8 “(4) ELECTION TO CONTINUE TO BE TAXED AS
9 UNITED STATES CITIZEN.—

10 “(A) IN GENERAL.—If a covered expatriate
11 elects the application of this paragraph—

12 “(i) this section (other than this para-
13 graph and subsection (i)) shall not apply to
14 the expatriate, but

15 “(ii) in the case of property to which
16 this section would apply but for such elec-
17 tion, the expatriate shall be subject to tax
18 under this title in the same manner as if
19 the individual were a United States citizen.

20 “(B) REQUIREMENTS.—Subparagraph (A)
21 shall not apply to an individual unless the indi-
22 vidual—

23 “(i) provides security for payment of
24 tax in such form and manner, and in such
25 amount, as the Secretary may require,

1 “(ii) consents to the waiver of any
2 right of the individual under any treaty of
3 the United States which would preclude as-
4 sessment or collection of any tax which
5 may be imposed by reason of this para-
6 graph, and

7 “(iii) complies with such other re-
8 quirements as the Secretary may prescribe.

9 “(C) ELECTION.—An election under sub-
10 paragraph (A) shall apply to all property to
11 which this section would apply but for the elec-
12 tion and, once made, shall be irrevocable. Such
13 election shall also apply to property the basis of
14 which is determined in whole or in part by ref-
15 erence to the property with respect to which the
16 election was made.

17 “(b) ELECTION TO DEFER TAX.—

18 “(1) IN GENERAL.—If the taxpayer elects the
19 application of this subsection with respect to any
20 property treated as sold by reason of subsection (a),
21 the payment of the additional tax attributable to
22 such property shall be postponed until the due date
23 of the return for the taxable year in which such
24 property is disposed of (or, in the case of property
25 disposed of in a transaction in which gain is not rec-

1 ognized in whole or in part, until such other date as
2 the Secretary may prescribe).

3 “(2) DETERMINATION OF TAX WITH RESPECT
4 TO PROPERTY.—For purposes of paragraph (1), the
5 additional tax attributable to any property is an
6 amount which bears the same ratio to the additional
7 tax imposed by this chapter for the taxable year
8 solely by reason of subsection (a) as the gain taken
9 into account under subsection (a) with respect to
10 such property bears to the total gain taken into ac-
11 count under subsection (a) with respect to all prop-
12 erty to which subsection (a) applies.

13 “(3) TERMINATION OF POSTPONEMENT.—No
14 tax may be postponed under this subsection later
15 than the due date for the return of tax imposed by
16 this chapter for the taxable year which includes the
17 date of death of the expatriate (or, if earlier, the
18 time that the security provided with respect to the
19 property fails to meet the requirements of paragraph
20 (4), unless the taxpayer corrects such failure within
21 the time specified by the Secretary).

22 “(4) SECURITY.—

23 “(A) IN GENERAL.—No election may be
24 made under paragraph (1) with respect to any

1 property unless adequate security is provided to
2 the Secretary with respect to such property.

3 “(B) ADEQUATE SECURITY.—For purposes
4 of subparagraph (A), security with respect to
5 any property shall be treated as adequate secu-
6 rity if—

7 “(i) it is a bond in an amount equal
8 to the deferred tax amount under para-
9 graph (2) for the property, or

10 “(ii) the taxpayer otherwise estab-
11 lishes to the satisfaction of the Secretary
12 that the security is adequate.

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

19 “(6) ELECTIONS.—An election under paragraph
20 (1) shall only apply to property described in the elec-
21 tion and, once made, is irrevocable. An election may
22 be made under paragraph (1) with respect to an in-
23 terest in a trust with respect to which gain is re-
24 quired to be recognized under subsection (f)(1).

1 “(7) INTEREST.—For purposes of section
2 6601—

3 “(A) the last date for the payment of tax
4 shall be determined without regard to the elec-
5 tion under this subsection, and

6 “(B) section 6621(a)(2) shall be applied by
7 substituting ‘5 percentage points’ for ‘3 per-
8 centage points’ in subparagraph (B) thereof.

9 “(c) COVERED EXPATRIATE.—For purposes of this
10 section—

11 “(1) IN GENERAL.—Except as provided in para-
12 graph (2), the term ‘covered expatriate’ means an
13 expatriate.

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

16 “(A) the individual—

17 “(i) became at birth a citizen of the
18 United States and a citizen of another
19 country and, as of the expatriation date,
20 continues to be a citizen of, and is taxed
21 as a resident of, such other country, and

22 “(ii) has not been a resident of the
23 United States (as defined in section
24 7701(b)(1)(A)(ii)) during the 5 taxable

1 years ending with the taxable year during
2 which the expatriation date occurs, or

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

6 “(ii) the individual has been a resident of
7 the United States (as so defined) for not more
8 than 5 taxable years before the date of relin-
9 quishment.

10 “(d) EXEMPT PROPERTY; SPECIAL RULES FOR PEN-
11 SION PLANS.—

12 “(1) EXEMPT PROPERTY.—This section shall
13 not apply to the following:

14 “(A) UNITED STATES REAL PROPERTY IN-
15 TERESTS.—Any United States real property in-
16 terest (as defined in section 897(c)(1)), other
17 than stock of a United States real property
18 holding corporation which does not, on the day
19 before the expatriation date, meet the require-
20 ments of section 897(c)(2).

21 “(B) SPECIFIED PROPERTY.—Any prop-
22 erty or interest in property not described in
23 subparagraph (A) which the Secretary specifies
24 in regulations.

1 “(2) SPECIAL RULES FOR CERTAIN RETIRE-
2 MENT PLANS.—

3 “(A) IN GENERAL.—If a covered expatriate
4 holds on the day before the expatriation date
5 any interest in a retirement plan to which this
6 paragraph applies—

7 “(i) such interest shall not be treated
8 as sold for purposes of subsection (a)(1),
9 but

10 “(ii) an amount equal to the present
11 value of the expatriate’s nonforfeitable ac-
12 crued benefit shall be treated as having
13 been received by such individual on such
14 date as a distribution under the plan.

15 “(B) TREATMENT OF SUBSEQUENT DIS-
16 TRIBUTIONS.—In the case of any distribution
17 on or after the expatriation date to or on behalf
18 of the covered expatriate from a plan from
19 which the expatriate was treated as receiving a
20 distribution under subparagraph (A), the
21 amount otherwise includible in gross income by
22 reason of the subsequent distribution shall be
23 reduced by the excess of the amount includible
24 in gross income under subparagraph (A) over

any portion of such amount to which this subparagraph previously applied.

“(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan’s behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

“(D) APPLICABLE PLANS.—This paragraph shall apply to—

“(i) any qualified retirement plan (as defined in section 4974(c)),

“(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

“(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

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

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

1 “(A) any United States citizen who relin-
2 quishes citizenship, and

3 “(B) any long-term resident of the United
4 States who—

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

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

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

17 “(A) the date an individual relinquishes
18 United States citizenship, or

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

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

1 “(A) the date the individual renounces
2 such individual’s United States nationality be-
3 fore a diplomatic or consular officer of the
4 United States pursuant to paragraph (5) of sec-
5 tion 349(a) of the Immigration and Nationality
6 Act (8 U.S.C. 1481(a)(5)),

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

15 “(C) the date the United States Depart-
16 ment of State issues to the individual a certifi-
17 cate of loss of nationality, or

18 “(D) the date a court of the United States
19 cancels a naturalized citizen’s certificate of nat-
20 uralization.

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

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

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

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

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

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

14 “(C)(i) such separate share shall be treat-
15 ed as a separate trust consisting of the assets
16 allocable to such share,

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

22 “(iii) the individual shall be treated as hav-
23 ing recontributed the assets to the separate
24 trust.

1 Subsection (a)(2) shall apply to any income, gain, or
 2 loss of the individual arising from a distribution de-
 3 scribed in subparagraph (C)(ii). In determining the
 4 amount of such distribution, proper adjustments
 5 shall be made for liabilities of the trust allocable to
 6 an individual's share in the trust.

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

9 “(A) IN GENERAL.—If the trust interest
 10 described in paragraph (1) is an interest in a
 11 qualified trust—

12 “(i) paragraph (1) and subsection (a)
 13 shall not apply, and

14 “(ii) in addition to any other tax im-
 15 posed by this title, there is hereby imposed
 16 on each distribution with respect to such
 17 interest a tax in the amount determined
 18 under subparagraph (B).

19 “(B) AMOUNT OF TAX.—The amount of
 20 tax under subparagraph (A)(ii) shall be equal to
 21 the lesser of—

22 “(i) the highest rate of tax imposed by
 23 section 1(e) for the taxable year which in-
 24 cludes the day before the expatriation date,

1 multiplied by the amount of the distribu-
2 tion, or

3 “(ii) the balance in the deferred tax
4 account immediately before the distribution
5 determined without regard to any increases
6 under subparagraph (C)(ii) after the 30th
7 day preceding the distribution.

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

10 “(i) OPENING BALANCE.—The open-
11 ing balance in a deferred tax account with
12 respect to any trust interest is an amount
13 equal to the tax which would have been im-
14 posed on the allocable expatriation gain
15 with respect to the trust interest if such
16 gain had been included in gross income
17 under subsection (a).

18 “(ii) INCREASE FOR INTEREST.—The
19 balance in the deferred tax account shall
20 be increased by the amount of interest de-
21 termined (on the balance in the account at
22 the time the interest accrues), for periods
23 after the 90th day after the expatriation
24 date, by using the rates and method appli-
25 cable under section 6621 for underpay-

ments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting ‘5 percentage points’ for ‘3 percentage points’ in subparagraph (B) thereof.

“(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

“(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

“(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

“(D) ALLOCABLE EXPATRIATION GAIN.—

For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary’s interest in a trust is the amount of gain which would be allocable to such beneficiary’s vested and nonvested interests in the

1 trust if the beneficiary held directly all assets
2 allocable to such interests.

3 “(E) TAX DEDUCTED AND WITHHELD.—

4 “(i) IN GENERAL.—The tax imposed
5 by subparagraph (A)(ii) shall be deducted
6 and withheld by the trustees from the dis-
7 tribution to which it relates.

8 “(ii) EXCEPTION WHERE FAILURE TO
9 WAIVE TREATY RIGHTS.—If an amount
10 may not be deducted and withheld under
11 clause (i) by reason of the distributee fail-
12 ing to waive any treaty right with respect
13 to such distribution—

14 “(I) the tax imposed by subpara-
15 graph (A)(ii) shall be imposed on the
16 trust and each trustee shall be person-
17 ally liable for the amount of such tax,
18 and

19 “(II) any other beneficiary of the
20 trust shall be entitled to recover from
21 the distributee the amount of such tax
22 imposed on the other beneficiary.

23 “(F) DISPOSITION.—If a trust ceases to be
24 a qualified trust at any time, a covered expa-
25 triate disposes of an interest in a qualified

trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

“(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

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

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

“(G) DEFINITIONS AND SPECIAL RULES.—

For purposes of this paragraph—

“(i) QUALIFIED TRUST.—The term ‘qualified trust’ means a trust which is described in section 7701(a)(30)(E).

“(ii) VESTED INTEREST.—The term ‘vested interest’ means any interest which,

1 as of the day before the expatriation date,
2 is vested in the beneficiary.

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

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

18 “(v) COORDINATION WITH RETIRE-
19 MENT PLAN RULES.—This subsection shall
20 not apply to an interest in a trust which
21 is part of a retirement plan to which sub-
22 section (d)(2) applies.

23 “(3) DETERMINATION OF BENEFICIARIES’ IN-
24 TEREST IN TRUST.—

“(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary’s interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

“(B) OTHER DETERMINATIONS.—For purposes of this section—

“(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

“(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

“(I) the methodology used to determine that taxpayer’s trust interest under this section, and

“(II) if the taxpayer knows (or has reason to know) that any other

1 beneficiary of such trust is using a
2 different methodology to determine
3 such beneficiary's trust interest under
4 this section.

5 “(g) TERMINATION OF DEFERRALS, ETC.—In the
6 case of any covered expatriate, notwithstanding any other
7 provision of this title—

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

11 “(2) any extension of time for payment of tax
12 shall cease to apply on the day before the expatria-
13 tion date and the unpaid portion of such tax shall
14 be due and payable at the time and in the manner
15 prescribed by the Secretary.

16 “(h) IMPOSITION OF TENTATIVE TAX.—

17 “(1) IN GENERAL.—If an individual is required
18 to include any amount in gross income under sub-
19 section (a) for any taxable year, there is hereby im-
20 posed, immediately before the expatriation date, a
21 tax in an amount equal to the amount of tax which
22 would be imposed if the taxable year were a short
23 taxable year ending on the expatriation date.

1 “(2) DUE DATE.—The due date for any tax im-
 2 posed by paragraph (1) shall be the 90th day after
 3 the expatriation date.

4 “(3) TREATMENT OF TAX.—Any tax paid under
 5 paragraph (1) shall be treated as a payment of the
 6 tax imposed by this chapter for the taxable year to
 7 which subsection (a) applies.

8 “(4) DEFERRAL OF TAX.—The provisions of
 9 subsection (b) shall apply to the tax imposed by this
 10 subsection to the extent attributable to gain includ-
 11 ible in gross income by reason of this section.

12 “(i) SPECIAL LIENS FOR DEFERRED TAX
 13 AMOUNTS.—

14 “(1) IMPOSITION OF LIEN.—

15 “(A) IN GENERAL.—If a covered expatriate
 16 makes an election under subsection (a)(4) or
 17 (b) which results in the deferral of any tax im-
 18 posed by reason of subsection (a), the deferred
 19 amount (including any interest, additional
 20 amount, addition to tax, assessable penalty, and
 21 costs attributable to the deferred amount) shall
 22 be a lien in favor of the United States on all
 23 property of the expatriate located in the United
 24 States (without regard to whether this section
 25 applies to the property).

1 “(B) DEFERRED AMOUNT.—For purposes
2 of this subsection, the deferred amount is the
3 amount of the increase in the covered expatri-
4 ate’s income tax which, but for the election
5 under subsection (a)(4) or (b), would have oc-
6 curred by reason of this section for the taxable
7 year including the expatriation date.

8 “(2) PERIOD OF LIEN.—The lien imposed by
9 this subsection shall arise on the expatriation date
10 and continue until—

11 “(A) the liability for tax by reason of this
12 section is satisfied or has become unenforceable
13 by reason of lapse of time, or

14 “(B) it is established to the satisfaction of
15 the Secretary that no further tax liability may
16 arise by reason of this section.

17 “(3) CERTAIN RULES APPLY.—The rules set
18 forth in paragraphs (1), (3), and (4) of section
19 6324A(d) shall apply with respect to the lien im-
20 posed by this subsection as if it were a lien imposed
21 by section 6324A.

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

1 (b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS
2 RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS
3 FROM EXPATRIATES.—Section 102 (relating to gifts, etc.
4 not included in gross income) is amended by adding at
5 the end the following new subsection:

6 “(d) GIFTS AND INHERITANCES FROM COVERED EX-
7 PATRIATES.—

8 “(1) IN GENERAL.—Subsection (a) shall not ex-
9 clude from gross income the value of any property
10 acquired by gift, bequest, devise, or inheritance from
11 a covered expatriate after the expatriation date. For
12 purposes of this subsection, any term used in this
13 subsection which is also used in section 877A shall
14 have the same meaning as when used in section
15 877A.

16 “(2) EXCEPTIONS FOR TRANSFERS OTHERWISE
17 SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1)
18 shall not apply to any property if either—

19 “(A) the gift, bequest, devise, or inherit-
20 ance is—

21 “(i) shown on a timely filed return of
22 tax imposed by chapter 12 as a taxable gift
23 by the covered expatriate, or

24 “(ii) included in the gross estate of
25 the covered expatriate for purposes of

1 chapter 11 and shown on a timely filed re-
 2 turn of tax imposed by chapter 11 of the
 3 estate of the covered expatriate, or

4 “(B) no such return was timely filed but
 5 no such return would have been required to be
 6 filed even if the covered expatriate were a cit-
 7 izen or long-term resident of the United
 8 States.”.

9 (c) DEFINITION OF TERMINATION OF UNITED
 10 STATES CITIZENSHIP.—Section 7701(a) is amended by
 11 adding at the end the following new paragraph:

12 “(49) TERMINATION OF UNITED STATES CITI-
 13 ZENSHIP.—

14 “(A) IN GENERAL.—An individual shall
 15 not cease to be treated as a United States cit-
 16 izen before the date on which the individual’s
 17 citizenship is treated as relinquished under sec-
 18 tion 877A(e)(3).

19 “(B) DUAL CITIZENS.—Under regulations
 20 prescribed by the Secretary, subparagraph (A)
 21 shall not apply to an individual who became at
 22 birth a citizen of the United States and a cit-
 23 izen of another country.”.

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

1 (1) IN GENERAL.—Section 212(a)(10)(E) of the
2 Immigration and Nationality Act (8 U.S.C.
3 1182(a)(10)(E)) is amended to read as follows:

4 “(E) FORMER CITIZENS NOT IN COMPLI-
5 ANCE WITH EXPATRIATION REVENUE PROVI-
6 SIONS.—Any alien who is a former citizen of
7 the United States who relinquishes United
8 States citizenship (within the meaning of sec-
9 tion 877A(e)(3) of the Internal Revenue Code
10 of 1986) and who is not in compliance with sec-
11 tion 877A of such Code (relating to expatria-
12 tion) is inadmissible.”.

13 (2) AVAILABILITY OF INFORMATION.—

14 (A) IN GENERAL.—Section 6103(l) (relat-
15 ing to disclosure of returns and return informa-
16 tion for purposes other than tax administration)
17 is amended by adding at the end the following
18 new paragraph:

19 “(21) DISCLOSURE TO DENY VISA OR ADMIS-
20 SION TO CERTAIN EXPATRIATES.—Upon written re-
21 quest of the Attorney General or the Attorney Gen-
22 eral’s delegate, the Secretary shall disclose whether
23 an individual is in compliance with section 877A
24 (and if not in compliance, any items of noncompli-
25 ance) to officers and employees of the Federal agen-

1 cy responsible for administering section
2 212(a)(10)(E) of the Immigration and Nationality
3 Act solely for the purpose of, and to the extent nec-
4 essary in, administering such section
5 212(a)(10)(E).”.

6 (B) SAFEGUARDS.—Section 6103(p)(4)
7 (relating to safeguards) is amended by striking
8 “or (20)” each place it appears and inserting
9 “(20), or (21)”.

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

14 (e) CONFORMING AMENDMENTS.—

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

17 “(h) APPLICATION.—This section shall not apply to
18 an expatriate (as defined in section 877A(e)) whose expa-
19 triation date (as so defined) occurs on or after the date
20 of the enactment of this subsection.”.

21 (2) Section 2107 is amended by adding at the
22 end the following new subsection:

23 “(f) APPLICATION.—This section shall not apply to
24 any expatriate subject to section 877A.”.

1 (3) Section 2501(a)(3) is amended by adding at
2 the end the following new subparagraph:

3 “(C) APPLICATION.—This paragraph shall
4 not apply to any expatriate subject to section
5 877A.”.

6 (4) Section 6039G(a) is amended by inserting
7 “or 877A” after “section 877(b)”.

8 (5) The second sentence of section 6039G(d) is
9 amended by inserting “or who relinquishes United
10 States citizenship (within the meaning of section
11 877A(e)(3))” after “section 877(a)”.

12 (f) CLERICAL AMENDMENT.—The table of sections
13 for subpart A of part II of subchapter N of chapter 1
14 is amended by inserting after the item relating to section
15 877 the following new item:

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

16 (g) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as provided in this
18 subsection, the amendments made by this section
19 shall apply to expatriates (within the meaning of
20 section 877A(e) of the Internal Revenue Code of
21 1986, as added by this section) whose expatriation
22 date (as so defined) occurs on or after the date of
23 the enactment of this Act.

24 (2) GIFTS AND BEQUESTS.—Section 102(d) of
25 the Internal Revenue Code of 1986 (as added by

subsection (b)) shall apply to gifts and bequests received on or after the date of the enactment of this Act, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

Subtitle F—Miscellaneous Provisions

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

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

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

“(1) IN GENERAL.—The Secretary”, and

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

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

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

1 “(i) is convertible into stock of the
2 issuing corporation, into stock or debt of a
3 related party (within the meaning of sec-
4 tion 267(b) or 707(b)(1)), or into cash or
5 other property in an amount equal to the
6 approximate value of such stock or debt,
7 and

8 “(ii) provides for contingent pay-
9 ments,

10 any regulations which require original issue dis-
11 count to be determined by reference to the com-
12 parable yield of a noncontingent fixed-rate debt
13 instrument shall be applied as if the regulations
14 require that such comparable yield be deter-
15 mined by reference to a noncontingent fixed-
16 rate debt instrument which is convertible into
17 stock.

18 “(B) SPECIAL RULE.—For purposes of
19 subparagraph (A), the comparable yield shall be
20 determined without taking into account the
21 yield resulting from the conversion of a debt in-
22 strument into stock.”.

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

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

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

6 **SEC. 552. GRANT OF TREASURY REGULATORY AUTHORITY**
7 **TO ADDRESS FOREIGN TAX CREDIT TRANS-**
8 **ACTIONS INVOLVING INAPPROPRIATE SEPA-**
9 **RATION OF FOREIGN TAXES FROM RELATED**
10 **FOREIGN INCOME.**

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

16 “(m) REGULATIONS.—The Secretary may prescribe
17 regulations disallowing a credit under subsection (a) for
18 all or a portion of any foreign tax, or allocating a foreign
19 tax among 2 or more persons, in cases where the foreign
20 tax is imposed on any person in respect of income of an-
21 other person or in other cases involving the inappropriate
22 separation of the foreign tax from the related foreign in-
23 come.”.

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

4 **SEC. 553. REPEAL OF SPECIAL PROPERTY EXCEPTION TO**
 5 **LEASING PROVISIONS OF THE AMERICAN**
 6 **JOBS CREATION ACT OF 2004.**

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

11 (b) EFFECTIVE DATE.—The amendments made by
 12 this section shall take effect as if included in the enact-
 13 ment of the American Jobs Creation Act of 2004.

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

16 (a) IN GENERAL.—Section 163(j) (relating to limita-
 17 tion on deduction for interest on certain indebtedness) is
 18 amended by redesignating paragraph (8) as paragraph (9)
 19 and by inserting after paragraph (7) the following new
 20 paragraph:

21 “(8) TREATMENT OF CORPORATE PARTNERS.—
 22 Except to the extent provided by regulations, in ap-
 23 plying this subsection to a corporation which owns
 24 (directly or indirectly) an interest in a partnership—

1 “(A) such corporation’s distributive share
2 of interest income paid or accrued to such part-
3 nership shall be treated as interest income paid
4 or accrued to such corporation,

5 “(B) such corporation’s distributive share
6 of interest paid or accrued by such partnership
7 shall be treated as interest paid or accrued by
8 such corporation, and

9 “(C) such corporation’s share of the liabil-
10 ities of such partnership shall be treated as li-
11 abilities of such corporation.”.

12 (b) ADDITIONAL REGULATORY AUTHORITY.—Section
13 163(j)(9) (relating to regulations), as redesignated by sub-
14 section (a), is amended by striking “and” at the end of
15 subparagraph (B), by striking the period at the end of
16 subparagraph (C) and inserting “, and”, and by adding
17 at the end the following new subparagraph:

18 “(D) regulations providing for the realloca-
19 tion of shares of partnership indebtedness, or
20 distributive shares of the partnership’s interest
21 income or interest expense, as may be appro-
22 priate to carry out the purposes of this sub-
23 section.”.

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

4 **SEC. 555. LIMITATION OF EMPLOYER DEDUCTION FOR CER-**
5 **TAIN ENTERTAINMENT EXPENSES.**

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

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

19 (b) PERSONS NOT EMPLOYEES.—Paragraph (9) of
20 section 274(e) is amended by striking “to the extent that
21 the expenses are includible in the gross income” and in-
22 serting “to the extent that the expenses do not exceed the
23 amount of the expenses which are includible in the gross
24 income”.

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

4 **SEC. 556. INCREASE IN AGE OF MINOR CHILDREN WHOSE**
 5 **UNEARNED INCOME IS TAXED AS IF PAR-**
 6 **ENT'S INCOME.**

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

10 (b) TREATMENT OF DISTRIBUTIONS FROM QUALI-
 11 FIED DISABILITY TRUSTS.—Section 1(g)(4) (relating to
 12 net unearned income) is amended by adding at the end
 13 the following new subparagraph:

14 “(C) TREATMENT OF DISTRIBUTIONS
 15 FROM QUALIFIED DISABILITY TRUSTS.—For
 16 purposes of this subsection, in the case of any
 17 child who is a beneficiary of a qualified dis-
 18 ability trust (as defined in section
 19 642(b)(2)(C)(ii)), any amount included in the
 20 income of such child under sections 652 and
 21 662 during a taxable year shall be considered
 22 earned income of such child for such taxable
 23 year.”.

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

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

6 (a) STRENGTHENED REASONABLE EXPECTATION
7 REQUIREMENT.—Subparagraph (A) of section 149(f)(2)
8 (relating to reasonable expectation requirement) is amend-
9 ed to read as follows:

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

13 “(i) as of the close of the 1-year pe-
14 riod beginning on the date of issuance of
15 the issue, at least 50 percent of the net
16 proceeds of the issue (as of the close of
17 such period) will have been used directly or
18 indirectly to make or finance loans to ulti-
19 mate borrowers, and

20 “(ii) as of the close of the 3-year pe-
21 riod beginning on such date of issuance, at
22 least 95 percent of the net proceeds of the
23 issue (as of the close of such period) will
24 have been so used.”.

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

7 “(4) WRITTEN LOAN COMMITMENT REQUIRE-
 8 MENT.—

9 “(A) IN GENERAL.—The requirement of
 10 this paragraph is met with respect to an issue
 11 if the issuer receives prior to issuance written
 12 loan commitments identifying the ultimate po-
 13 tential borrowers of at least 50 percent of the
 14 net proceeds of such issue.

15 “(B) EXCEPTION.—Subparagraph (A)
 16 shall not apply with respect to any issuer which
 17 is a State (or an integral part of a State)
 18 issuing pooled financing bonds to make or fi-
 19 nance loans to subordinate governmental units
 20 of such State or to State-created entities pro-
 21 viding financing for water-infrastructure
 22 projects through the federally-sponsored State
 23 revolving fund program.

24 “(5) REDEMPTION REQUIREMENT.—The re-
 25 quirement of this paragraph is met if to the extent

1 that less than the percentage of the proceeds of an
 2 issue required to be used under clause (i) or (ii) of
 3 paragraph (2)(A) is used by the close of the period
 4 identified in such clause, the issuer uses an amount
 5 of proceeds equal to the excess of—

6 “(A) the amount required to be used under
 7 such clause, over

8 “(B) the amount actually used by the close
 9 of such period,

10 to redeem outstanding bonds within 90 days after
 11 the end of such period.”.

12 (c) ELIMINATION OF DISREGARD OF POOLED BONDS
 13 IN DETERMINING ELIGIBILITY FOR SMALL ISSUER EX-
 14 CEPTION TO ARBITRAGE REBATE.—Section
 15 148(f)(4)(D)(ii) (relating to aggregation of issuers) is
 16 amended by striking subclause (II) and by redesignating
 17 subclauses (III) and (IV) as subclauses (II) and (III), re-
 18 spectively.

19 (d) CONFORMING AMENDMENTS.—

20 (1) Section 149(f)(1) is amended by striking
 21 “paragraphs (2) and (3)” and inserting “paragraphs
 22 (2), (3), (4), and (5)”.

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

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

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

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

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

13 (b) CONFORMING AMENDMENT.—Section
14 6049(b)(2)(C), as redesignated by subsection (a), is
15 amended by striking “subparagraph (C)” and inserting
16 “subparagraph (B)”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to interest earned after December
19 31, 2005.

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

22 (a) TAXABLE YEARS ENDING BEFORE 2006.—

23 (1) MODIFICATION OF PHASEOUT.—

1 (A) IN GENERAL.—Section 29(b)(1)(A) is
 2 amended by inserting “the calendar year pre-
 3 ceding” before “the calendar year”.

4 (B) CONFORMING AMENDMENTS.—Section
 5 29(b)((2) is amended—

6 (i) by striking “The” and inserting
 7 “With respect to any calendar year, the”,
 8 and

9 (ii) by striking “for the calendar year
 10 in which the sale occurs” and inserting
 11 “for such calendar year”.

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

21 (b) TAXABLE YEARS ENDING AFTER 2005.—

22 (1) MODIFICATION OF PHASEOUT.—

23 (A) IN GENERAL.—Section 45K(b)(1)(A)
 24 is amended by inserting “the calendar year pre-
 25 ceding” before “the calendar year”.

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

3 (i) by striking “The” and inserting
4 “With respect to any calendar year, the”,
5 and

6 (ii) by striking “for the calendar year
7 in which the sale occurs” and inserting
8 “for such calendar year”.

9 (2) NO INFLATION ADJUSTMENT FOR THE
10 CREDIT AMOUNT IN 2005, 2006, AND 2007.—Section
11 45K(b)(2), as amended by paragraph (1), is amend-
12 ed by adding at the end the following new sentence:
13 “This paragraph shall not apply with respect to the
14 \$3 amount in subsection (a) for calendar years
15 2005, 2006, and 2007 and the amount in effect
16 under subsection (a) for sales in each such calendar
17 year shall be the amount which was in effect for
18 sales in calendar year 2004.”.

19 (3) TREATMENT OF COKE AND COKE GAS.—

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

23 “(D) NONAPPLICATION OF PHASEOUT.—
24 Subsection (b)(1) shall not apply.”.

1 (B) APPLICATION OF INFLATION ADJUST-
 2 MENT.—Section 45K(g)(2)(B) is amended by
 3 inserting “and the last sentence of subsection
 4 (b)(2) shall not apply.”.

5 (C) CLARIFICATION OF QUALIFYING FACIL-
 6 ITY.—Section 45K(g)(1) is amended by insert-
 7 ing “(other than from petroleum based prod-
 8 ucts)” after “coke or coke gas”.

9 (c) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to fuel sold after December 31,
 11 2004.

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

14 (a) IN GENERAL.—The table contained in section
 15 6654(d)(1)(C) is amended by striking “2002 or there-
 16 after” and inserting “2002, 2003, 2004, or 2005” and
 17 by adding at the end the following new items:

“2006	119.5
2007 or thereafter	110”.

18 (b) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply with respect to any installment
 20 payment for taxable years beginning after December 31,
 21 2005.

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

24 (a) GENERAL RULE.—Notwithstanding any other
 25 provision of law, if a taxpayer is an applicable integrated

1 oil company for its last taxable year ending in calendar
2 year 2005, the taxpayer shall—

3 (1) increase, effective as of the close of such
4 taxable year, the value of each historic LIFO layer
5 of inventories of crude oil, natural gas, or any other
6 petroleum product (within the meaning of section
7 4611) by the layer adjustment amount, and

8 (2) decrease its cost of goods sold for such tax-
9 able year by the aggregate amount of the increases
10 under paragraph (1).

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

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

17 (1) IN GENERAL.—The term “layer adjustment
18 amount” means, with respect to any historic LIFO
19 layer, the product of—

20 (A) \$18.75, and

21 (B) the number of barrels of crude oil (or
22 in the case of natural gas or other petroleum
23 products, the number of barrel-of-oil equiva-
24 lents) represented by the layer.

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

6 (c) APPLICATION OF REQUIREMENT.—

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

10 (2) UNDERPAYMENTS OF ESTIMATED TAX.—No
 11 addition to the tax shall be made under section 6655
 12 of the Internal Revenue Code of 1986 (relating to
 13 failure by corporation to pay estimated tax) with re-
 14 spect to any underpayment of an installment re-
 15 quired to be paid with respect to the taxable year
 16 described in subsection (a) to the extent such under-
 17 payment was created or increased by this section.

18 (d) APPLICABLE INTEGRATED OIL COMPANY.—For
 19 purposes of this section, the term “applicable integrated
 20 oil company” means an integrated oil company (as defined
 21 in section 291(b)(4) of the Internal Revenue Code of
 22 1986) which had gross receipts in excess of
 23 \$1,000,000,000 for its last taxable year ending during cal-
 24 endar year 2005. For purposes of this subsection, all per-
 25 sons treated as a single employer under subsections (a)

1 and (b) of section 52 of the Internal Revenue Code of
2 1986 shall be treated as 1 person and, in the case of a
3 short taxable year, the rule under section 448(c)(3)(B)
4 shall apply.

5 **SEC. 562. ELIMINATION OF AMORTIZATION OF GEOLOGI-**
6 **CAL AND GEOPHYSICAL EXPENDITURES FOR**
7 **MAJOR INTEGRATED OIL COMPANIES.**

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

10 “(5) NONAPPLICATION TO MAJOR INTEGRATED
11 OIL COMPANIES.—This subsection shall not apply
12 with respect to any expenses paid or incurred for
13 any taxable year by any integrated oil company (as
14 defined in section 291(b)(4)) which has an average
15 daily worldwide production of crude oil of at least
16 500,000 barrels for such taxable year.”.

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

Calendar No. 288

109TH CONGRESS
1ST Session

S. 2020

A BILL

To provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006.

NOVEMBER 16, 2005

Read twice and placed on the calendar