H. R. 5720

[Report No. 110–606]

To amend the Internal Revenue Code of 1986 to provide assistance for housing.

IN THE HOUSE OF REPRESENTATIVES

APRIL 8, 2008

Mr. Rangel (for himself, Mr. McDermott, Mr. Lewis of Georgia, Mr. Pomroy, Mr. Thompson of California, Mr. Emanuel, Mr. Blumenauer, Ms. Berkley, Mr. Crowley, Mr. Ellison, Ms. Giffords, Mr. Johnson of Georgia, Mr. Mahoney of Florida, Mr. Rodriguez, Ms. Sheaporter, Mr. Sires, Mr. Welch of Vermont, and Mrs. Jones of Ohio) introduced the following bill; which was referred to the Committee on Ways and Means

APRIL 24, 2008

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]
[For text of introduced bill, see copy of bill as introduced on April 8, 2008]

A BILL

To amend the Internal Revenue Code of 1986 to provide assistance for housing.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE; ETC.

(a) Short Title.—This Act may be cited as the “Housing Assistance Tax Act of 2008”.

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—HOUSING TAX INCENTIVES

Subtitle A—Multi-Family Housing

PART 1—LOW-INCOME HOUSING TAX CREDIT

Sec. 101. Temporary increase in volume cap for low-income housing tax credit.
Sec. 102. Determination of credit rate.
Sec. 103. Modifications to definition of eligible basis.
Sec. 104. Other simplification and reform of low-income housing tax incentives.

PART 2—MODIFICATIONS TO TAX-EXEMPT HOUSING BOND RULES

Sec. 111. Recycling of tax-exempt debt for financing residential rental projects.
Sec. 112. Coordination of certain rules applicable to low-income housing credit and qualified residential rental project exempt facility bonds.

PART 3—REFORMS RELATED TO THE LOW-INCOME HOUSING CREDIT AND TAX-EXEMPT HOUSING BONDS

Sec. 121. Hold harmless for reductions in area median gross income.
Sec. 122. Exception to annual current income determination requirement where determination not relevant.

Subtitle B—Single Family Housing

Sec. 131. First-time homebuyer credit.
Sec. 132. Additional standard deduction for real property taxes for nonitemizers.

Subtitle C—General Provisions

Sec. 141. Temporary liberalization of tax-exempt housing bond rules.
Sec. 142. Repeal of alternative minimum tax limitations on tax-exempt housing bonds, low-income housing tax credit, and rehabilitation credit.
Sec. 143. Bonds guaranteed by Federal home loan banks eligible for treatment as tax-exempt bonds.
Sec. 144. Modification of rules pertaining to FIRPTA nonforeign affidavits.
Sec. 145. Modification of definition of tax-exempt use property for purposes of the rehabilitation credit.

TITLE II—REFORMS RELATED TO REAL ESTATE INVESTMENT TRUSTS

Subtitle A—Foreign Currency and Other Qualified Activities

Sec. 201. Revisions to REIT income tests.
Sec. 202. Revisions to REIT asset tests.
Sec. 203. Conforming foreign currency revisions.

Subtitle B—Taxable REIT Subsidiaries

Sec. 211. Conforming taxable REIT subsidiary asset test.

Subtitle C—Dealer Sales

Sec. 221. Holding period under safe harbor.
Sec. 222. Determining value of sales under safe harbor.

Subtitle D—Health Care REITs

Sec. 231. Conformity for health care facilities.

Subtitle E—Effective Dates

Sec. 241. Effective dates.

TITLE III—REVENUE PROVISIONS

Sec. 301. Broker reporting of customer’s basis in securities transactions.
Sec. 302. Delay in application of worldwide allocation of interest.
Sec. 303. Time for payment of corporate estimated taxes.

TITLE I—HOUSING TAX INCENTIVES

Subtitle A—Multi-Family Housing

PART 1—LOW-INCOME HOUSING TAX CREDIT

SEC. 101. TEMPORARY INCREASE IN VOLUME CAP FOR LOW-INCOME HOUSING TAX CREDIT.

Paragraph (3) of section 42(h) is amended by adding at the end the following new subparagraph:
“(I) INCREASE IN STATE HOUSING CREDIT
CEILING FOR 2008 AND 2009.—In the case of cal-
endar years 2008 and 2009, the dollar amount
in effect under subparagraph (C)(ii)(I) for such
calendar year (after any increase under subpara-
graph (H)) shall be increased by $0.20.”.

SEC. 102. DETERMINATION OF CREDIT RATE.

(a) ELIMINATION OF DISTINCTION BETWEEN NEW AND
EXISTING BUILDINGS; MINIMUM CREDIT RATE FOR NON-
FEDERALLY SUBSIDIZED BUILDINGS.—

(1) IN GENERAL.—Subsection (b) section 42 is
amended to read as follows:

“(b) APPLICABLE PERCENTAGE.—For purposes of this
section—

“(1) IN GENERAL.—The term ‘applicable per-
centage’ means, with respect to any building, the ap-
propriate percentage prescribed by the Secretary for
the earlier of—

“(A) the month in which such building is
placed in service, or

“(B) at the election of the taxpayer—

“(i) the month in which the taxpayer
and the housing credit agency enter into an
agreement with respect to such building
(which is binding on such agency, the tax-

payer, and all successors in interest) as to
the housing credit dollar amount to be allo-
cated to such building, or

“(ii) in the case of any building to
which subsection (h)(4)(B) applies, the
month in which the tax-exempt obligations
are issued.

A month may be elected under clause (ii) only if the
election is made not later than the 5th day after the
close of such month. Such an election, once made,
shall be irrevocable.

“(2) METHOD OF PRESCRIBING PERCENTAGES.—

“(A) IN GENERAL.—For purposes of para-
graph (1), the percentages prescribed by the Sec-
retary for any month shall be—

“(i) in the case of any building which
is not federally subsidized for the taxable
year, the greater of—

“(I) the average percentage deter-
mined under subclause (II) for months
in the preceding calendar year, or

“(II) the percentage which will
yield over a 10-year period amounts of
credit under subsection (a) which have
a present value equal to 70 percent of
the qualified basis of such building,

and

“(ii) in the case of any other building,

the percentage which will yield over a 10-
year period amounts of credit under sub-
section (a) which have a present value equal
to 30 percent of the qualified basis of such
building.

“(B) METHOD OF DISCOUNTING.—The
present value under subparagraph (A) shall be
determined—

“(i) as of the last day of the 1st year
of the 10-year period referred to in subpara-
graph (A),

“(ii) by using a discount rate equal to
72 percent of the average of the annual Fed-
eral mid-term rate and the annual Federal
long-term rate applicable under section
1274(d)(1) to the month applicable under
subparagraph (A) and compounded annu-
ally, and

“(iii) by assuming that the credit al-
lowable under this section for any year is
received on the last day of such year.

“(3) CROSS REFERENCES.—
“(A) For treatment of certain rehabilitation expenditures as separate buildings, see subsection (e).

“(B) For determination of applicable percentage for increases in qualified basis after the 1st year of the credit period, see subsection (f)(3).

“(C) For authority of housing credit agency to limit applicable percentage and qualified basis which may be taken into account under this section with respect to any building, see subsection (h)(7).”.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 42(e)(3) is amended by striking “subsection (b)(2)(B)(ii)” and inserting “subsection (b)(2)(A)(ii)”.

(B) Subparagraph (A) of section 42(i)(2) is amended by striking “new building” and inserting “building”.

(b) MODIFICATIONS TO DEFINITION OF FEDERALLY SUBSIDIZED BUILDING.—

(1) IN GENERAL.—Subparagraph (A) of section 42(i)(2) is amended by striking “, or any below market Federal loan,”.

(2) CONFORMING AMENDMENTS.—
(A) Subparagraph (B) of section 42(i)(2) is amended—

(i) by striking “BALANCE OF LOAN OR” in the heading thereof,

(ii) by striking “loan or” in the matter preceding clause (i), and

(iii) by striking “subsection (d)—” and all that follows and inserting “subsection (d) the proceeds of such obligation.”.

(B) Subparagraph (C) of section 42(i)(2) is amended—

(i) by striking “or below market Federal loan” in the matter preceding clause (i),

(ii) in clause (i)—

(I) by striking “or loan (when issued or made)” and inserting “(when issued)”, and

(II) by striking “the proceeds of such obligation or loan” and inserting “the proceeds of such obligation”, and

(iii) by striking “, and such loan is repaid,” in clause (ii).
(C) Paragraph (2) of section 42(i) is amended by striking subparagraphs (D) and (E).

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to buildings placed in service after the date of the enactment of this Act.

SEC. 103. MODIFICATIONS TO DEFINITION OF ELIGIBLE BASIS.

(a) INCREASE IN CREDIT FOR CERTAIN STATE DESIGNATED BUILDINGS.—Subparagraph (C) of section 42(d)(5) (relating to increase in credit for buildings in high cost areas), before redesignation under subsection (f), is amended by adding at the end the following new clause:

“(v) BUILDINGS DESIGNATED BY STATE HOUSING CREDIT AGENCY.—Any building which is designated by the State housing credit agency as requiring the increase in credit under this subparagraph in order for such building to be financially feasible as part of a qualified low-income housing project shall be treated for purposes of this subparagraph as located in a difficult development area which is designated for purposes of this subparagraph. The preceding sentence shall not apply to any
building if paragraph (1) of subsection (h) does not apply to any portion of the eligible basis of such building by reason of paragraph (4) of such subsection.”.

(b) Modification to Rehabilitation Requirements.—

(1) In General.—Clause (ii) of section 42(e)(3)(A) is amended—

(A) by striking “10 percent” in subclause (I) and inserting “20 percent”, and

(B) by striking “$3,000” in subclause (II) and inserting “$6,000”.

(2) Inflation Adjustment.—Paragraph (3) of section 42(e) is amended by adding at the end the following new subparagraph:

“(D) Inflation Adjustment.—In the case of any expenditures which are treated under paragraph (4) as placed in service during any calendar year after 2009, the $6,000 amount in subparagraph (A)(ii)(II) shall be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ‘calendar year
Any increase under the preceding sentence which is not a multiple of $100 shall be rounded to the nearest multiple of $100.”

(3) Conforming Amendment.—Subclause (II) of section 42(f)(5)(B)(ii) is amended by striking “if subsection (e)(3)(A)(ii)(II)” and all that follows and inserting “if the dollar amount in effect under subsection (e)(3)(A)(ii)(II) were two-thirds of such amount.”

(c) Increase in Allowable Community Service Facility Space for Small Projects.—Clause (ii) of section 42(d)(4)(C) (relating to limitation) is amended by striking “10 percent of the eligible basis of the qualified low-income housing project of which it is a part. For purposes of” and inserting “the sum of—

“(I) 15 percent of so much of the eligible basis of the qualified low-income housing project of which it is a part as does not exceed $5,000,000, plus

“(II) 10 percent of so much of the eligible basis of such project as is not taken into account under subclause (I).
(d) CLARIFICATION OF TREATMENT OF FEDERAL GRANTS.—Subparagraph (A) of section 42(d)(5) is amended to read as follows:

“(A) FEDERAL GRANTS NOT TAKEN INTO ACCOUNT IN DETERMINING ELIGIBLE BASIS.—The eligible basis of a building shall not include any costs financed with the proceeds of a Federally funded grant.”.

(e) SIMPLIFICATION OF RELATED PARTY RULES.—Clause (iii) of section 42(d)(2)(D), before redesignation under subsection (f)(2), is amended—

(1) by striking all that precedes subclause (II),
(2) by redesignating subclause (II) as clause (iii) and moving such clause two ems to the left, and
(3) by striking the last sentence thereof.

(f) REPEAL OF DEADWOOD.—

(1) Clause (ii) of section 42(d)(2)(B) is amended by striking “the later of—” and all that follows and inserting “the date the building was last placed in service,”.

(2) Subparagraph (D) of section 42(d)(2) is amended by striking clause (i) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.
(3) Paragraph (5) of section 42(d) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(g) EFFECTIVE DATE.—The amendments made by this subsection shall apply to buildings placed in service after the date of the enactment of this Act.

SEC. 104. OTHER SIMPLIFICATION AND REFORM OF LOW-INCOME HOUSING TAX INCENTIVES.

(a) REPEAL PROHIBITION ON MODERATE REHABILITATION ASSISTANCE.—Paragraph (2) of section 42(c) (defining qualified low-income building) is amended by striking the flush sentence at the end.

(b) MODIFICATION OF TIME LIMIT FOR INCURRING 10 PERCENT OF PROJECT’S COST.—Clause (ii) of section 42(h)(1)(E) is amended by striking “(as of the later of the date which is 6 months after the date that the allocation was made or the close of the calendar year in which the allocation is made)” and inserting “(as of the date which is 1 year after the date that the allocation was made)”.

(c) REPEAL OF BONDING REQUIREMENT ON DISPOSITION OF BUILDING.—Paragraph (6) of section 42(j) (relating to no recapture on disposition of building (or interest therein) where bond posted) is amended to read as follows:

“(6) NO RECAPTURE ON DISPOSITION OF BUILDING WHICH CONTINUES IN QUALIFIED USE.—
“(A) In general.—The increase in tax under this subsection shall not apply solely by reason of the disposition of a building (or an interest therein) if it is reasonably expected that such building will continue to be operated as a qualified low-income building for the remaining compliance period with respect to such building.

“(B) Statute of limitations.—If a building (or an interest therein) is disposed of during any taxable year and there is any reduction in the qualified basis of such building which results in an increase in tax under this subsection for such taxable or any subsequent taxable year, then—

“(i) the statutory period for the assessment of any deficiency with respect to such increase in tax shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of such reduction in qualified basis, and

“(ii) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other
law or rule of law which would otherwise prevent such assessment.”.

(d) ENERGY EFFICIENCY AND HISTORIC NATURE TAKEN INTO ACCOUNT IN MAKING ALLOCATIONS.—Subparagraph (C) of section 42(m)(1) (relating to plans for allocation of credit among projects) is amended by striking “and” at the end of clause (vii), by striking the period at the end of clause (viii) and inserting a comma, and by adding at the end the following new clauses:

“(ix) the energy efficiency of the project, and

“(x) the historic nature of the project.”.

(e) CONTINUED ELIGIBILITY FOR STUDENTS WHO RECEIVED FOSTER CARE ASSISTANCE.—Clause (i) of section 42(i)(3)(D) is amended by striking “or” at the end of subclause (I), by redesignating subclause (II) as subclause (III), and by inserting after subclause (I) the following new subclause:

“(II) a student who was previously under the care and placement responsibility of the State agency responsible for administering a plan under part B or part E of title IV of the Social Security Act, or”.
(f) TREATMENT OF RURAL PROJECTS.—Section 42(i) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

“(8) TREATMENT OF RURAL PROJECTS.—For purposes of this section, in the case of any project for residential rental property located in a rural area (as defined in section 520 of the Housing Act of 1949), any income limitation measured by reference to area median gross income shall be measured by reference to the greater of area median gross income or national non-metropolitan median income. The preceding sentence shall not apply with respect to any building if paragraph (1) of section 42(h) does not apply by reason of paragraph (4) thereof to any portion of the credit determined under this section with respect to such building.”.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to buildings placed in service after the date of the enactment of this Act.

(2) REPEAL OF BONDING REQUIREMENT ON DISPOSITION OF BUILDING.—The amendment made by subsection (c) shall apply to—
(A) interests in buildings disposed after the
date of the enactment of this Act, and

(B) interests in buildings disposed of on or
before such date if—

(i) it is reasonably expected that such
building will continue to be operated as a
qualified low-income building (within the
meaning of section 42 of the Internal Rev-

enue Code of 1986) for the remaining com-
pliance period (within the meaning of such
section) with respect to such building, and

(ii) the taxpayer elects the application
of this subparagraph with respect to such
disposition.

Notwithstanding the preceding sentence, the amend-
ments made by subsection (c) shall not apply to any
disposition after the date 5 years after the date of the
enactment of this Act.

(3) ENERGY EFFICIENCY AND HISTORIC NATURE
TAKEN INTO ACCOUNT IN MAKING ALLOCATIONS.—The
amendments made by subsection (d) shall apply to al-
locations made after December 31, 2008.

(4) CONTINUED ELIGIBILITY FOR STUDENTS WHO
RECEIVED FOSTER CARE ASSISTANCE.—The amend-
ments made by subsection (e) shall apply to deter-
minations made after the date of the enactment of this Act.

(5) Treatment of Rural Projects.—The amendment made by subsection (f) shall apply to determinations made after the date of the enactment of this Act.

PART 2—MODIFICATIONS TO TAX-EXEMPT HOUSING BOND RULES

SEC. 111. RECYCLING OF TAX-EXEMPT DEBT FOR FINANCING RESIDENTIAL RENTAL PROJECTS.

(a) In General.—Subsection (i) of section 146 (relating to treatment of refunding issues) is amended by adding at the end the following new paragraph:

“(6) Treatment of Certain Residential Rental Project Bonds as Refunding Bonds Irrespective of Obligor.—

“(A) In General.—If, during the 6-month period beginning on the date of a repayment of a loan financed by an issue 95 percent or more of the net proceeds of which are used to provide projects described in section 142(d), such repayment is used to provide a new loan for any project so described, any bond which is issued to refinance such issue shall be treated as a refunding issue to the extent the principal amount of
such refunding issue does not exceed the principal amount of the bonds refunded.

“(B) LIMITATIONS.—Subparagraph (A) shall apply to only one refunding of the original issue and only if—

“(i) the refunding issue is issued not later than 4 years after the date on which the original issue was issued,

“(ii) the latest maturity date of any bond of the refunding issue is not later than 34 years after the date on which the refunded bond was issued, and

“(iii) the refunding issue is approved in accordance with section 147(f) before the issuance of the refunding issue.”.

(b) LOW-INCOME HOUSING CREDIT.—Clause (ii) of section 42(h)(4)(A) is amended by inserting “or such financing is refunded as described in section 146(i)(6)” before the period at the end.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to repayments of loans received after the date of the enactment of this Act.
SEC. 112. COORDINATION OF CERTAIN RULES APPLICABLE TO LOW-INCOME HOUSING CREDIT AND QUALIFIED RESIDENTIAL RENTAL PROJECT EXEMPT FACILITY BONDS.

(a) Determination of Next Available Unit.—Paragraph (3) of section 142(d) (relating to current income determinations) is amended by adding at the end the following new subparagraph:

“(C) Exception for projects with respect to which affordable housing credit is allowed.—In the case of a project with respect to which credit is allowed under section 42, the second sentence of subparagraph (B) shall be applied by substituting ‘building (within the meaning of section 42)’ for ‘project’.”.

(b) Students.—Paragraph (2) of section 142(d) (relating to definitions and special rules) is amended by adding at the end the following new subparagraph:

“(C) Students.—Rules similar to the rules of 42(i)(3)(D) shall apply for purposes of this subsection.”.

(c) Single-Room Occupancy Units.—Paragraph (2) of section 142(d) (relating to definitions and special rules), as amended by subsection (b), is further amended by adding at the end the following new subparagraph:
“(D) SINGLE-ROOM OCCUPANCY UNITS.—A unit shall not fail to be treated as a residential unit merely because such unit is a single-room occupancy unit (within the meaning of section 42).”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to determinations of the status of qualified residential rental projects for periods beginning after the date of the enactment of this Act, with respect to bonds issued before, on, or after such date.

PART 3—REFORMS RELATED TO THE LOW-INCOME HOUSING CREDIT AND TAX-EXEMPT HOUSING BONDS

SEC. 121. HOLD HARMLESS FOR REDUCTIONS IN AREA MEDIAN GROSS INCOME.

(a) IN GENERAL.—Paragraph (2) of section 142(d), as amended by section 112, is further amended by adding at the end the following new subparagraph:

“(E) HOLD HARMLESS FOR REDUCTIONS IN AREA MEDIAN GROSS INCOME.—

“(i) IN GENERAL.—Any determination of area median gross income under subparagraph (B) with respect to any project for any calendar year after 2008 shall not be less than the area median gross income
determined under such subparagraph with respect to such project for the calendar year preceding the calendar year for which such determination is made.

“(ii) Special rule for certain census changes.—In the case of a HUD hold harmless impacted project, the area median gross income with respect to such project for any calendar year after 2008 (hereafter in this clause referred to as the current calendar year) shall be the greater of the amount determined without regard to this clause or the sum of—

“(I) the area median gross income determined under the HUD hold harmless policy with respect to such project for calendar year 2008, plus

“(II) any increase in the area median gross income determined under subparagraph (B) (determined without regard to the HUD hold harmless policy and this subparagraph) with respect to such project for the current calendar year over the area median gross income (as so determined) with
respect to such project for calendar year 2008.

“(iii) HUD hold harmless policy.—The term ‘HUD hold harmless policy’ means the regulations under which a policy similar to the rules of clause (i) applied to prevent a change in the method of determining area median gross income from resulting in a reduction in the area median gross income determined with respect to certain projects in calendar years 2007 and 2008.

“(iv) HUD hold harmless impacted project.—The term ‘HUD hold harmless impacted project’ means any project with respect to which area median gross income was determined under subparagraph (B) for calendar year 2007 or 2008 if such determination would have been less but for the HUD hold harmless policy.”.

(b) Effective Date.—The amendment made by this section shall apply to determinations of area median gross income for calendar years after 2008.
SEC. 122. EXCEPTION TO ANNUAL CURRENT INCOME DETERMINATION REQUIREMENT WHERE DETERMINATION NOT RELEVANT.

(a) In General.—Subparagraph (A) of section 142(d)(3) is amended by adding at the end the following new sentence: “The preceding sentence shall not apply with respect to any project for any year if during such year no residential unit in the project is occupied by a new resident whose income exceeds the applicable income limit.”.

(b) Effective Date.—The amendment made by this section shall apply to years ending after the date of the enactment of this Act.

Subtitle B—Single Family Housing

SEC. 131. FIRST-TIME HOMEBUYER CREDIT.

(a) In General.—Subpart C of part IV of subchapter A of chapter 1 is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

“SEC. 36. FIRST-TIME HOMEBUYER CREDIT.

“(a) Allowance of Credit.—In the case of an individual who is a first-time homebuyer of a principal residence in the United States during a taxable year, there shall be allowed as a credit against the tax imposed by this subtitle for such taxable year an amount equal to 10 percent of the purchase price of the residence.

“(b) Limitations.—
“(1) Dollar limitation.—

“(A) In general.—Except as otherwise provided in this paragraph, the credit allowed under subsection (a) shall not exceed $7,500.

“(B) Married individuals filing separately.—In the case of a married individual filing a separate return, subparagraph (A) shall be applied by substituting ‘$3,750’ for ‘$7,500’.

“(C) Other individuals.—If two or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $7,500.

“(2) Limitation based on modified adjusted gross income.—

“(A) In general.—The amount allowable as a credit under subsection (a) (determined without regard to this paragraph) for the taxable year shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which is so allowable as—

“(i) the excess (if any) of—
“(I) the taxpayer’s modified adjusted gross income for such taxable year, over
“(II) $70,000 ($140,000 in the case of a joint return), bears to
“(ii) $20,000.
“(B) Modified Adjusted Gross Income.—For purposes of subparagraph (A), the term ‘modified adjusted gross income’ means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.
“(c) Definitions.—For purposes of this section—
“(1) First-time Homebuyer.—The term ‘first-time homebuyer’ means any individual if such individual (and if married, such individual’s spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of the purchase of the principal residence to which this section applies.
“(2) Principal Residence.—The term ‘principal residence’ has the same meaning as when used in section 121.
“(3) Purchase.—
“(A) IN GENERAL.—The term ‘purchase’
means any acquisition, but only if—

“(i) the property is not acquired from
a person related to the person acquiring it,
and

“(ii) the basis of the property in the
hands of the person acquiring it is not de-
termined—

“(I) in whole or in part by ref-
ERENCE TO THE ADJUSTED BASIS OF SUCH
PROPERTY IN THE HANDS OF THE PERSON
FROM WHOM ACQUIRED, OR

“(II) UNDER SECTION 1014(a) (relat-
ing to property acquired from a dece-
dent).

“(B) CONSTRUCTION.—A residence which is
constructed by the taxpayer shall be treated as
purchased by the taxpayer on the date the tax-
payer first occupies such residence.

“(4) PURCHASE PRICE.—The term ‘purchase
price’ means the adjusted basis of the principal resi-
dence on the date such residence is purchased.

“(5) RELATED PERSONS.—A person shall be
treated as related to another person if the relationship
between such persons would result in the disallowance
of losses under section 267 or 707(b) (but, in applying
section 267(b) and (c) for purposes of this section,
paragraph (4) of section 267(c) shall be treated as
providing that the family of an individual shall in-
clude only his spouse, ancestors, and lineal descend-
ants).

“(d) EXCEPTIONS.—No credit under subsection (a)
shall be allowed to any taxpayer for any taxable year with
respect to the purchase of a residence if—

“(1) a credit under section 1400C (relating to
first-time homebuyer in the District of Columbia) is
allowable to the taxpayer (or the taxpayer’s spouse)
for such taxable year or any prior taxable year,

“(2) the residence is financed by the proceeds of
a qualified mortgage issue the interest on which is ex-
empt from tax under section 103,

“(3) the taxpayer is a nonresident alien, or

“(4) the taxpayer disposes of such residence (or
such residence ceases to be the principal residence of
the taxpayer (and, if married, the taxpayer’s spouse))
before the close of such taxable year.

“(e) REPORTING.—If the Secretary requires infor-
tation reporting under section 6045 by a person described in
subsection (e)(2) thereof to verify the eligibility of taxpayers
for the credit allowable by this section, the exception provided by section 6045(e) shall not apply.

“(f) Recapture of Credit.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, if a credit under subsection (a) is allowed to a taxpayer, the tax imposed by this chapter shall be increased by 6 2⁄3 percent of the amount of such credit for each taxable year in the recapture period.

“(2) Acceleration of Recapture.—If a taxpayer disposes of the principal residence with respect to which a credit was allowed under subsection (a) (or such residence ceases to be the principal residence of the taxpayer (and, if married, the taxpayer’s spouse)) before the end of the recapture period—

“(A) the tax imposed by this chapter for the taxable year of such disposition or cessation, shall be increased by the excess of the amount of the credit allowed over the amounts of tax imposed by paragraph (1) for preceding taxable years, and

“(B) paragraph (1) shall not apply with respect to such credit for such taxable year or any subsequent taxable year.
“(3) LIMITATION BASED ON GAIN.—In the case of the sale of the principal residence to a person who is not related to the taxpayer, the increase in tax determined under paragraph (2) shall not exceed the amount of gain (if any) on such sale. Solely for purposes of the preceding sentence, the adjusted basis of such residence shall be reduced by the amount of the credit allowed under subsection (a) to the extent not previously recaptured under paragraph (1).

“(4) EXCEPTIONS.—

“(A) DEATH OF TAXPAYER.—Paragraphs (1) and (2) shall not apply to any taxable year ending after the date of the taxpayer's death.

“(B) INVOLUNTARY CONVERSION.—Paragraph (2) shall not apply in the case of a residence which is compulsorily or involuntarily converted (within the meaning of section 1033(a)) if the taxpayer acquires a new principal residence during the 2-year period beginning on the date of the disposition or cessation referred to in paragraph (2). Paragraph (2) shall apply to such new principal residence during the recapture period in the same manner as if such new principal residence were the converted residence.
“(C) Transfers between spouses or incident to divorce.—In the case of a transfer of a residence to which section 1041(a) applies—

“(i) paragraph (2) shall not apply to such transfer, and

“(ii) in the case of taxable years ending after such transfer, paragraphs (1) and (2) shall apply to the transferee in the same manner as if such transferee were the transferor (and shall not apply to the transferor).

“(5) Joint returns.—In the case of a credit allowed under subsection (a) with respect to a joint return, half of such credit shall be treated as having been allowed to each individual filing such return for purposes of this subsection.

“(6) Recapture period.—For purposes of this subsection, the term ‘recapture period’ means the 15 taxable years beginning with the second taxable year following the taxable year in which the purchase of the principal residence for which a credit is allowed under subsection (a) was made.

“(g) Application of section.—This section shall only apply to a principal residence purchased by the taxpayer on or after April 9, 2008, and before April 1, 2009.”.
(1) Section 26(b)(2) is amended by striking “and” at the end of subparagraph (U), by striking the period and inserting “, and” and the end of subparagraph (V), and by inserting after subparagraph (V) the following new subparagraph:

“(W) section 36(f) (relating to recapture of homebuyer credit).”.

(2) Section 6211(b)(4)(A) is amended by striking “34,” and all that follows through “6428” and inserting “34, 35, 36, 53(e), and 6428”.

(3) Section 1324(b)(2) of title 31, United States Code, is amended by inserting “, 36,” after “section 35”.

(4) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by redesignating the item relating to section 36 as an item relating to section 37 and by inserting before such item the following new item:

“Sec. 36. First-time homebuyer credit.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to residences purchased on or after April 9, 2008, in taxable years ending on or after such date.

SEC. 132. ADDITIONAL STANDARD DEDUCTION FOR REAL PROPERTY TAXES FOR NONITEMIZERS.

(a) IN GENERAL.—Section 63(c)(1) (defining standard deduction) is amended by striking “and” at the end of sub-
paragraph (A), by striking the period at the end of subparagraph (B) and inserting “, and”, and by adding at the end the following new subparagraph:

“(C) in the case of any taxable year beginning in 2008, the real property tax deduction.”.

(b) Definition.—Section 63(c) is amended by adding at the end the following new paragraph:

“(7) Real property tax deduction.—For purposes of paragraph (1), the real property tax deduction is the lesser of—

“(A) the amount allowable as a deduction under this chapter for State and local taxes described in section 164(a)(1), or

“(B) $350 ($700 in the case of a joint return).

Any taxes taken into account under section 62(a) shall not be taken into account under this paragraph.”.

(c) Effective date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

Subtitle C—General Provisions

SEC. 141. TEMPORARY LIBERALIZATION OF TAX-EXEMPT HOUSING BOND RULES.

(a) Temporary Increase in Volume Cap.—
(1) IN GENERAL.—Subsection (d) of section 146 is amended by adding at the end the following new paragraph:

“(5) INCREASE AND SET ASIDE FOR HOUSING BONDS FOR 2008.—

“(A) INCREASE FOR 2008.—In the case of calendar year 2008, the State ceiling for each State shall be increased by an amount equal to $10,000,000,000 multiplied by a fraction—

“(i) the numerator of which is the population of such State, and

“(ii) the denominator of which is the total population of all States.

“(B) SET ASIDE.—

“(i) IN GENERAL.—Any amount of the State ceiling for any State which is attributable to an increase under this paragraph shall be allocated solely for one or more qualified housing issues.

“(ii) QUALIFIED HOUSING ISSUE.—For purposes of this paragraph, the term ‘qualified housing issue’ means—

“(I) an issue described in section 142(a)(7) (relating to qualified residential rental projects), or
“(II) a qualified mortgage issue (determined by substituting ‘12-month period’ for ‘42-month period’ each place it appears in section 143(a)(2)(D)(i)).”.

(2) Carryforward of unused limitations.— Subsection (f) of section 146 is amended by adding at the end the following new paragraph:

“(6) Special rules for increased volume cap under subsection (d)(5).—No amount which is attributable to the increase under subsection (d)(5) may be used—

“(A) for any issue other than a qualified housing issue (as defined in subsection (d)(5)), or

“(B) to issue any bond after calendar year 2010.”.

(b) Temporary Rule for Use of Qualified Mortgage Bonds Proceeds for Subprime Refinancing Loans.—

(1) In general.—Section 143(k) (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

“(12) Special rules for subprime refinancings.—
“(A) IN GENERAL.—Notwithstanding the requirements of subsection (i)(1), the proceeds of a qualified mortgage issue may be used to refinance a mortgage on a residence which was originally financed by the mortgagor through a qualified subprime loan.

“(B) SPECIAL RULES.—In applying subparagraph (A) to any refinancing—

“(i) subsection (a)(2)(D)(i) shall be applied by substituting ‘12-month period’ for ‘42-month period’ each place it appears,

“(ii) subsection (d) (relating to 3-year requirement) shall not apply, and

“(iii) subsection (e) (relating to purchase price requirement) shall be applied by using the market value of the residence at the time of refinancing in lieu of the acquisition cost.

“(C) QUALIFIED SUBPRIME LOAN.—The term ‘qualified subprime loan’ means an adjustable rate single-family residential mortgage loan made after December 31, 2001, and before January 1, 2008, that the bond issuer determines would be reasonably likely to cause financial hardship to the borrower if not refinanced.
“(D) TERMINATION.—This paragraph shall not apply to any bonds issued after December 31, 2010.”.

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

SEC. 142. REPEAL OF ALTERNATIVE MINIMUM TAX LIMITATIONS ON TAX-EXEMPT HOUSING BONDS, LOW-INCOME HOUSING TAX CREDIT, AND REHABILITATION CREDIT.

(a) TAX-EXEMPT INTEREST ON CERTAIN HOUSING BONDS EXEMPTED FROM ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subparagraph (C) of section 57(a)(5) (relating to specified private activity bonds) is amended by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively, and by inserting after clause (ii) the following new clause:

“(iii) Exception for certain housing bonds.—For purposes of clause (i), the term ‘private activity bond’ shall not include any bond issued after the date of the enactment of this clause if such bond is—

“(I) an exempt facility bond issued as part of an issue 95 percent or more of the net proceeds of which are
to be used to provide qualified residential rental projects (as defined in section 142(d)),

“(II) a qualified mortgage bond (as defined in section 143(a)), or

“(III) a qualified veterans’ mortgage bond (as defined in section 143(b)).

The preceding sentence shall not apply to any refunding bond unless such preceding sentence applied to the refunded bond (or in the case of a series of refundings, the original bond).”.

(2) No adjustment to adjusted current earnings.—Subparagraph (B) of section 56(g)(4) is amended by adding at the end the following new clause:

“(iii) Tax exempt interest on certain housing bonds.—Clause (i) shall not apply in the case of any interest on a bond to which section 57(a)(5)(C)(iii) applies.”.

(b) Allowance of low-income housing credit against alternative minimum tax.—Subparagraph (B) of section 38(c)(4) (relating to specified credits) is amended by redesignating clauses (ii) through (iv) as clauses (iii)
through (v) and inserting after clause (i) the following new clause:

“(ii) the credit determined under section 42 to the extent attributable to buildings placed in service after December 31, 2007,”.

(c) Allowance of Rehabilitation Credit Against Alternative Minimum Tax.—Subparagraph (B) of section 38(c)(4), as amended by subsection (b), is amended by striking “and” at the end of clause (iv), by redesignating clause (v) as clause (vi), and by inserting after clause (iv) the following new clause:

“(v) the credit determined under section 47 to the extent attributable to qualified rehabilitation expenditures properly taken into account for periods after December 31, 2007, and”.

(d) Effective Date.—

(1) Housing Bonds.—The amendments made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

(2) Low Income Housing Credit.—The amendments made by subsection (b) shall apply to credits determined under section 42 of the Internal Revenue

(3) REHABILITATION CREDIT.—The amendments made by subsection (c) shall apply to credits determined under section 47 of the Internal Revenue Code of 1986 to the extent attributable to qualified rehabilitation expenditures properly taken into account for periods after December 31, 2007.

SEC. 143. BONDS GUARANTEED BY FEDERAL HOME LOAN BANKS ELIGIBLE FOR TREATMENT AS TAX-EXEMPT BONDS.

(a) IN GENERAL.—Subparagraph (A) of section 149(b)(3) (relating to exceptions for certain insurance programs) is amended by striking “or” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, or” and by adding at the end the following new clause:

“(iv) any guarantee by a Federal home loan bank made in connection with the original issuance of a bond during the period beginning on the date of the enactment of this Act and ending on December 31, 2010 (or a renewal or extension of a guarantee so made).”.

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(b) SAFETY AND SOUNDNESS REQUIREMENTS.—Paragraph (3) of section 149(b) is amended by adding at the end the following new subparagraph:

“(E) SAFETY AND SOUNDNESS REQUIREMENTS FOR FEDERAL HOME LOAN BANKS.—Clause (iv) of subparagraph (A) shall not apply to any guarantee by a Federal home loan bank unless such bank meets safety and soundness collateral requirements for such guarantees which are at least as stringent as such requirements which apply under regulations applicable to such guarantees by Federal home loan banks as in effect on April 9, 2008.”.

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

SEC. 144. MODIFICATION OF RULES PERTAINING TO FIRPTA NONFOREIGN AFFIDAVITS.

(a) IN GENERAL.—Subsection (b) of section 1445 (relating to exemptions) is amended by adding at the end the following:

“(9) ALTERNATIVE PROCEDURE FOR FURNISHING NONFOREIGN AFFIDAVIT.—For purposes of paragraphs (2) and (7)—
“(A) IN GENERAL.—Paragraph (2) shall be treated as applying to a transaction if, in connection with a disposition of a United States real property interest—

“(i) the affidavit specified in paragraph (2) is furnished to a qualified substitute, and

“(ii) the qualified substitute furnishes a statement to the transferee stating, under penalty of perjury, that the qualified substitute has such affidavit in his possession.

“(B) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this paragraph.”.

(b) QUALIFIED SUBSTITUTE.—Subsection (f) of section 1445 (relating to definitions) is amended by adding at the end the following new paragraph:

“(6) QUALIFIED SUBSTITUTE.—The term ‘qualified substitute’ means, with respect to a disposition of a United States real property interest—

“(A) the person (including any attorney or title company) responsible for closing the transaction, other than the transferor’s agent, and

“(B) the transferee’s agent.”.
(c) Exemption Not To Apply If Knowledge or Notice That Affidavit or Statement Is False.—

(1) In general.—Paragraph (7) of section 1445(b) (relating to special rules for paragraphs (2) and (3)) is amended to read as follows:

“(7) Special rules for paragraphs (2), (3), and (9).—Paragraph (2), (3), or (9) (as the case may be) shall not apply to any disposition—

“(A) if—

“(i) the transferee or qualified substitute has actual knowledge that the affidavit referred to in such paragraph, or the statement referred to in paragraph (9)(A)(ii), is false, or

“(ii) the transferee or qualified substitute receives a notice (as described in subsection (d)) from a transferor’s agent, transferee’s agent, or qualified substitute that such affidavit or statement is false, or

“(B) if the Secretary by regulations requires the transferee or qualified substitute to furnish a copy of such affidavit or statement to the Secretary and the transferee or qualified substitute fails to furnish a copy of such affidavit or state-
ment to the Secretary at such time and in such manner as required by such regulations.”.

(2) LIABILITY.—

(A) NOTICE.—Paragraph (1) of section 1445(d) (relating to notice of false affidavit; foreign corporations) is amended to read as follows:

“(1) NOTICE OF FALSE AFFIDAVIT; FOREIGN CORPORATIONS.—If—

“(A) the transferor furnishes the transferee or qualified substitute an affidavit described in paragraph (2) of subsection (b) or a domestic corporation furnishes the transferee an affidavit described in paragraph (3) of subsection (b), and

“(B) in the case of—

“(i) any transferor’s agent—

“(I) such agent has actual knowledge that such affidavit is false, or

“(II) in the case of an affidavit described in subsection (b)(2) furnished by a corporation, such corporation is a foreign corporation, or

“(ii) any transferee’s agent or qualified substitute, such agent or substitute has actual knowledge that such affidavit is false,
such agent or qualified substitute shall so notify
the transferee at such time and in such manner
as the Secretary shall require by regulations.”.

(B) Failure to furnish notice.—Paragraph (2) of section 1445(d) (relating to failure
to furnish notice) is amended to read as follows:
“(2) Failure to furnish notice.—
“(A) In general.—If any transferor’s
agent, transferee’s agent, or qualified substitute
is required by paragraph (1) to furnish notice,
but fails to furnish such notice at such time or
times and in such manner as may be required
by regulations, such agent or substitute shall
have the same duty to deduct and withhold that
the transferee would have had if such agent or
substitute had complied with paragraph (1).

“(B) Liability limited to amount of
compensation.—An agent’s or substitute’s li-
ability under subparagraph (A) shall be limited
to the amount of compensation the agent or sub-
stitute derives from the transaction.”.

(C) Conforming amendment.—The head-
ing for section 1445(d) is amended by striking
“or transferee’s agents” and inserting “,
TRANSFEREE’S AGENTS, OR QUALIFIED SUBSTITUTES”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions of United States real property interests after the date of the enactment of this Act.

SEC. 145. MODIFICATION OF DEFINITION OF TAX-EXEMPT USE PROPERTY FOR PURPOSES OF THE REHABILITATION CREDIT.

(a) IN GENERAL.—Subclause (I) of section 47(c)(2)(B)(v) is amended by striking “section 168(h)” and inserting “section 168(h), except that ‘50 percent’ shall be substituted for ‘35 percent’ in paragraph (1)(B)(iii) thereof”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures properly taken into account for periods after December 31, 2007.
TITLE II—REFORMS RELATED TO REAL ESTATE INVESTMENT TRUSTS

Subtitle A—Foreign Currency and Other Qualified Activities

SEC. 201. REVISIONS TO REIT INCOME TESTS.

(a) ADDITION OF PERMISSIBLE INCOME CATEGORIES.—Section 856(c) (relating to limitations) is amended—

(1) by striking “and” at the end of paragraph (2)(G) and by inserting after paragraph (2)(H) the following new subparagraphs:

“(I) passive foreign exchange gains; and

“(J) any other item of income or gain as determined by the Secretary;”, and

(2) by striking “and” at the end of paragraphs (3)(H) and (3)(I) and by inserting after paragraph (3)(I) the following new subparagraphs:

“(J) real estate foreign exchange gains; and

“(K) any other item of income or gain as determined by the Secretary; and”.

(b) RULES REGARDING FOREIGN CURRENCY TRANSACTIONS.—Section 856 (defining real estate investment trust) is amended by adding at the end the following new subsection:
“(n) Rules Regarding Foreign Currency Transactions.—With respect to any taxable year—

“(1) Real Estate Foreign Exchange Gains.—For purposes of subsection (c)(3)(J), the term ‘real estate foreign exchange gains’ means—

“(A) foreign currency gains (as defined in section 988(b)(1)) which are attributable to—

“(i) any item described in subsection (c)(3) (other than in subparagraph (J) thereof),

“(ii) the acquisition or ownership of obligations secured by mortgages on real property or on interests in real property (other than foreign currency gains attributable to any item described in clause (i)), or

“(iii) becoming or being the obligor under obligations secured by mortgages on real property or on interests in real property (other than foreign currency gains attributable to any item described in clause (i)),

“(B) gains described in section 987 attributable to a qualified business unit (as defined by section 989) of the real estate investment trust,
but only if such qualified business unit meets the requirements under—

“(i) subsection (c)(3) (without regard to subparagraph (J) thereof) for the taxable year, and

“(ii) subsection (c)(4)(A) at the close of each quarter that the real estate investment trust has directly or indirectly held the qualified business unit, and

“(C) any other foreign currency gains as determined by the Secretary.

“(2) Passive foreign exchange gains.—For purposes of subsection (c)(2)(I), the term ‘passive foreign exchange gains’ means—

“(A) real estate foreign exchange gains,

“(B) foreign currency gains (as defined in section 988(b)(1)) which are not described in subparagraph (A) and which are attributable to any item described in subsection (c)(2) (other than in subparagraph (I) thereof), and

“(C) any other foreign currency gains as determined by the Secretary.”.

(c) Addition to REIT Hedging Rule.—Subparagraph (G) of section 856(c)(5) is amended to read as follows:
“(G) Treatment of certain hedging instruments.—Except to the extent as determined by the Secretary—

“(i) any income of a real estate investment trust from a hedging transaction (as defined in clause (ii) or (iii) of section 1221(b)(2)(A)) which is clearly identified pursuant to section 1221(a)(7), including gain from the sale or disposition of such a transaction, shall not constitute gross income under paragraphs (2) and (3) to the extent that the transaction hedges any indebtedness incurred or to be incurred by the trust to acquire or carry real estate assets, and

“(ii) any income of a real estate investment trust from a transaction entered into by the trust primarily to manage risk of currency fluctuations with respect to any item described in paragraph (2) or (3), including gain from the termination of such a transaction, shall not constitute gross income under paragraphs (2) and (3), but only if such transaction is clearly identified as such before the close of the day on which
it was acquired, originated, or entered into
(or such other time as the Secretary may
prescribe).”.

(d) Authority to Exclude Items of Income From
REIT Income Tests.—Section 856(c)(5) is amended by
adding at the end the following new subparagraph:

“(H) Secretarial Authority to Exclude Other Items of Income.—The Sec-
retary is authorized to determine whether any
item of income or gain which does not otherwise
qualify under paragraph (2) or (3) may be con-
sidered as not constituting gross income solely
for purposes of this part.”.

SEC. 202. REVISIONS TO REIT ASSET TESTS.

(a) Clarification of Valuation Test.—The first
sentence in the matter following section
856(c)(4)(B)(iii)(III) is amended by inserting “(including
a discrepancy caused solely by the change in the foreign
currency exchange rate used to value a foreign asset)” after
“such requirements”.

(b) Clarification of Permissible Asset Cat-
egory.—Section 856(c)(5), as amended by section 201(d),
is amended by adding at the end the following new subpara-
graph:
“(I) CASH.—The term ‘cash’ includes foreign currency if the real estate investment trust or its qualified business unit (as defined in section 989) uses such foreign currency as its functional currency (as defined in section 985(b)).”.

SEC. 203. CONFORMING FOREIGN CURRENCY REVISIONS.

(a) Net Income From Foreclosure Property.—Clause (i) of section 857(b)(4)(B) is amended to read as follows:

“(i) gain (including any foreign currency gain, as defined in section 988(b)(1)) from the sale or other disposition of foreclosure property described in section 1221(a)(1) and the gross income for the taxable year derived from foreclosure property (as defined in section 856(e)), but only to the extent such gross income is not described in (or, in the case of foreign currency gain, not attributable to gross income described in) section 856(c)(3) other than subparagraph (F) thereof, over”.

(b) Net Income From Prohibited Transactions.—Clause (i) of section 857(b)(6)(B) is amended to read as follows:
“(i) the term ‘net income derived from prohibited transactions’ means the excess of the gain (including any foreign currency gain, as defined in section 988(b)(1)) from prohibited transactions over the deductions (including any foreign currency loss, as defined in section 988(b)(2)) allowed by this chapter which are directly connected with prohibited transactions;”.

Subtitle B—Taxable REIT Subsidiaries

SEC. 211. CONFORMING TAXABLE REIT SUBSIDIARY ASSET TEST.

Section 856(c)(4)(B)(ii) is amended by striking “20 percent” and inserting “25 percent”.

Subtitle C—Dealer Sales

SEC. 221. HOLDING PERIOD UNDER SAFE HARBOR.

Section 857(b)(6) (relating to income from prohibited transactions) is amended—

(1) by striking “4 years” in subparagraphs (C)(i), (C)(iv), and (D)(i) and inserting “2 years”,

(2) by striking “4-year period” in subparagraphs (C)(ii), (D)(ii), and (D)(iii) and inserting “2-year period”, and
(3) by striking “real estate asset” and all that follows through “if” in the matter preceding clause (i) of subparagraphs (C) and (D), respectively, and inserting “real estate asset (as defined in section 856(c)(5)(B)) and which is described in section 1221(a)(1) if”.

SEC. 222. DETERMINING VALUE OF SALES UNDER SAFE HARBOR.

Section 857(b)(6) is amended—

(1) by striking the semicolon at the end of subparagraph (C)(iii) and inserting “, or (III) the fair market value of property (other than sales of foreclosure property or sales to which section 1033 applies) sold during the taxable year does not exceed 10 percent of the fair market value of all of the assets of the trust as of the beginning of the taxable year;”; and

(2) by adding “or” at the end of subclause (II) of subparagraph (D)(iv) and by adding at the end of such subparagraph the following new subclause:

“(III) the fair market value of property (other than sales of foreclosure property or sales to which section 1033 applies) sold during the taxable year does not exceed 10 percent of the fair market value of all of the
assets of the trust as of the beginning of the taxable year,”.

Subtitle D—Health Care REITs

SEC. 231. CONFORMITY FOR HEALTH CARE FACILITIES.

(a) RELATED PARTY RENTALS.—Subparagraph (B) of section 856(d)(8) (relating to special rule for taxable REIT subsidiaries) is amended to read as follows:

“(B) EXCEPTION FOR CERTAIN LODGING FACILITIES AND HEALTH CARE PROPERTY.—The requirements of this subparagraph are met with respect to an interest in real property which is a qualified lodging facility or a qualified health care property (as defined in subsection (e)(6)(D)(i)) leased by the trust to a taxable REIT subsidiary of the trust if the property is operated on behalf of such subsidiary by a person who is an eligible independent contractor. For purposes of this section, a taxable REIT subsidiary is not considered to be operating or managing a qualified health care property or qualified lodging facility solely because it directly or indirectly possesses a license, permit or similar instrument enabling it to do so.”.
(b) Eligible Independent Contractor.—Subparagraphs (A) and (B) of section 856(d)(9) (relating to eligible independent contractor) are amended to read as follows:

“(A) IN GENERAL.—The term ‘eligible independent contractor’ means, with respect to any qualified lodging facility or qualified health care property (as defined in subsection (e)(6)(D)(i)), any independent contractor if, at the time such contractor enters into a management agreement or other similar service contract with the taxable REIT subsidiary to operate such qualified lodging facility or qualified health care property, such contractor (or any related person) is actively engaged in the trade or business of operating qualified lodging facilities or qualified health care properties, respectively, for any person who is not a related person with respect to the real estate investment trust or the taxable REIT subsidiary.

“(B) SPECIAL RULES.—Solely for purposes of this paragraph and paragraph (8)(B), a person shall not fail to be treated as an independent contractor with respect to any qualified lodging facility or qualified health care property (as so defined) by reason of the following:
“(i) The taxable REIT subsidiary bears the expenses for the operation of such qualified lodging facility or qualified health care property pursuant to the management agreement or other similar service contract.

“(ii) The taxable REIT subsidiary receives the revenues from the operation of such qualified lodging facility or qualified health care property, net of expenses for such operation and fees payable to the operator pursuant to such agreement or contract.

“(iii) The real estate investment trust receives income from such person with respect to another property that is attributable to a lease of such other property to such person that was in effect as of the later of—

“(I) January 1, 1999, or

“(II) the earliest date that any taxable REIT subsidiary of such trust entered into a management agreement or other similar service contract with such person with respect to such quali-
fied lodging facility or qualified health
care property.”.

(c) **TAXABLE REIT SUBSIDIARIES.**—The last sentence
of section 856(l)(3) is amended—

(1) by inserting “or a health care facility” after
“a lodging facility”, and

(2) by inserting “or health care facility” after
“such lodging facility”.

**Subtitle E—Effective Dates**

**SEC. 241. EFFECTIVE DATES.**

(a) **IN GENERAL.**—Except as otherwise provided in
this section, the amendments made by this title shall apply
to taxable years beginning after the date of the enactment
of this Act.

(b) **REIT INCOME TESTS.**—

(1) The amendment made by section 201(a) and
(b) shall apply to gains and items of income recog-
nized after the date of the enactment of this Act.

(2) The amendment made by section 201(c) shall
apply to transactions entered into after the date of the
enactment of this Act.

(3) The amendment made by section 201(d) shall
apply after the date of the enactment of this Act.

(c) **CONFORMING FOREIGN CURRENCY REVISIONS.**—
(1) The amendment made by section 203(a) shall apply to gains recognized after the date of the enactment of this Act.

(2) The amendment made by section 203(b) shall apply to gains and deductions recognized after the date of the enactment of this Act.

(d) Dealer Sales.—The amendments made by subtitle C shall apply to sales made after the date of the enactment of this Act.

TITLE III—REVENUE PROVISIONS

SEC. 301. BROKER REPORTING OF CUSTOMER’S BASIS IN SECURITIES TRANSACTIONS.

(a) In General.—

(1) Broker reporting for securities transactions.—Section 6045 (relating to returns of brokers) is amended by adding at the end the following new subsection:

“(g) Additional Information Required in the Case of Securities Transactions, etc.—

“(1) In General.—If a broker is otherwise required to make a return under subsection (a) with respect to the gross proceeds of the sale of a covered security, the broker shall include in such return the information described in paragraph (2).
“(2) ADDITIONAL INFORMATION REQUIRED.—

“(A) IN GENERAL.—The information re-
quired under paragraph (1) to be shown on a re-
turn with respect to a covered security of a cus-
tomer shall include the customer’s adjusted basis
in such security and whether any gain or loss
with respect to such security is long-term or
short-term (within the meaning of section 1222).

“(B) DETERMINATION OF ADJUSTED
BASIS.—For purposes of subparagraph (A)—

“(i) IN GENERAL.—The customer’s ad-
justed basis shall be determined—

“(I) in the case of any security
(other than any stock for which an av-

erage basis method is permissible
under section 1012), in accordance
with the first-in first-out method unless
the customer notifies the broker by
means of making an adequate identi-
fication of the stock sold or transferred,
and

“(II) in the case of any stock for
which an average basis method is per-
missible under section 1012, in accord-
ance with the broker’s default method
unless the customer notifies the broker that he elects another acceptable method under section 1012 with respect to the account in which such stock is held.

“(ii) Exception for Wash Sales.—

Except as otherwise provided by the Secretary, the customer’s adjusted basis shall be determined without regard to section 1091 (relating to loss from wash sales of stock or securities) unless the transactions occur in the same account with respect to identical securities.

“(3) Covered Security.—For purposes of this subsection—

“(A) In General.—The term ‘covered security’ means any specified security acquired on or after the applicable date if such security—

“(i) was acquired through a transaction in the account in which such security is held, or

“(ii) was transferred to such account from an account in which such security was a covered security, but only if the broker received a statement under section 6045A with respect to the transfer.
“(B) SPECIFIED SECURITY.—The term ‘specified security’ means—

“(i) any share of stock in a corporation,

“(ii) any note, bond, debenture, or other evidence of indebtedness,

“(iii) any commodity, or contract or derivative with respect to such commodity, if the Secretary determines that adjusted basis reporting is appropriate for purposes of this subsection, and

“(iv) any other financial instrument with respect to which the Secretary determines that adjusted basis reporting is appropriate for purposes of this subsection.

“(C) APPLICABLE DATE.—The term ‘applicable date’ means—

“(i) January 1, 2010, in the case of any specified security which is stock in a corporation (other than any stock described in clause (ii)),

“(ii) January 1, 2011, in the case of any stock for which an average basis method is permissible under section 1012, and
“(iii) January 1, 2012, or such later date determined by the Secretary in the case of any other specified security.

“(4) TREATMENT OF S CORPORATIONS.—In the case of the sale of a covered security acquired by an S corporation (other than a financial institution) after December 31, 2011, such S corporation shall be treated in the same manner as a partnership for purposes of this section.

“(5) SPECIAL RULES FOR SHORT SALES.—In the case of a short sale, reporting under this section shall be made for the year in which such sale is closed.”.

(2) BROKER INFORMATION REQUIRED WITH RESPECT TO OPTIONS.—Section 6045, as amended by subsection (a), is amended by adding at the end the following new subsection:

“(h) APPLICATION TO OPTIONS ON SECURITIES.—

“(1) EXERCISE OF OPTION.—For purposes of this section, if a covered security is acquired or disposed of pursuant to the exercise of an option that was granted or acquired in the same account as the covered security, the amount received with respect to the grant or paid with respect to the acquisition of such option shall be treated as an adjustment to gross
proceeds or as an adjustment to basis, as the case may be.

“(2) LAPSE OR CLOSING TRANSACTION.—In the case of the lapse (or closing transaction (as defined in section 1234(b)(2)(A))) of an option on a specified security or the exercise of a cash-settled option on a specified security, reporting under subsections (a) and (g) with respect to such option shall be made for the calendar year which includes the date of such lapse, closing transaction, or exercise.

“(3) PROSPECTIVE APPLICATION.—Paragraphs (1) and (2) shall not apply to any option which is granted or acquired before January 1, 2012.

“(4) DEFINITIONS.—For purposes of this subsection, the terms ‘covered security’ and ‘specified security’ shall have the meanings given such terms in subsection (g)(3).”.

(3) EXTENSION OF PERIOD FOR STATEMENTS SENT TO CUSTOMERS.—

(A) IN GENERAL.—Subsection (b) of section 6045 is amended by striking “January 31” and inserting “February 15”.

(B) STATEMENTS RELATED TO SUBSTITUTE PAYMENTS.—Subsection (d) of section 6045 is amended—
(i) by striking “at such time and”, and

(ii) by inserting after “other item.” the following new sentence: “The written statement required under the preceding sentence shall be furnished on or before February 15 of the year following the calendar year in which the payment was made.”.

(C) OTHER STATEMENTS.—Subsection (b) of section 6045 is amended by adding at the end the following: “In the case of a consolidated reporting statement (as defined in regulations) with respect to any account, any statement which would otherwise be required to be furnished on or before January 31 of a calendar year with respect to any item reportable to the taxpayer shall instead be required to be furnished on or before February 15 of such calendar year if furnished with such consolidated reporting statement.”.

(b) DETERMINATION OF BASIS OF CERTAIN SECURITIES ON ACCOUNT BY ACCOUNT OR AVERAGE BASIS METHOD.—Section 1012 (relating to basis of property–cost) is amended—

(1) by striking “The basis of property” and inserting the following:
“(a) IN GENERAL.—The basis of property”,

(2) by striking “The cost of real property” and

inserting the following:

“(b) SPECIAL RULE FOR APPORTIONED REAL ESTATE TAXES.—The cost of real property”, and

(3) by adding at the end the following new subsections:

“(c) DETERMINATIONS BY ACCOUNT.—

“(1) IN GENERAL.—In the case of the sale, exchange, or other disposition of a specified security on or after the applicable date, the conventions prescribed by regulations under this section shall be applied on an account by account basis.

“(2) APPLICATION TO OPEN-END FUNDS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), any stock in an open-end fund acquired before January 1, 2011, shall be treated as a separate account from any such stock acquired on or after such date.

“(B) ELECTION BY OPEN-END FUND FOR TREATMENT AS SINGLE ACCOUNT.—If an open-end fund elects to have this subparagraph apply with respect to one or more of its stockholders—
“(i) subparagraph (A) shall not apply with respect to any stock in such fund held by such stockholders, and

“(ii) all stock in such fund which is held by such stockholders shall be treated as covered securities described in section 6045(g)(3) without regard to the date of the acquisition of such stock.

A rule similar to the rule of the preceding sentence shall apply with respect to a broker holding stock in an open-end fund as a nominee.

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

“(A) OPEN-END FUND.—The term ‘open-end fund’ means a regulated investment company (as defined in section 851) which is offering for sale or has outstanding any redeemable security of which it is the issuer. Any stock which is traded on an established securities exchange shall not be treated as stock in an open-end fund.

“(B) SPECIFIED SECURITY; APPLICABLE DATE.—The terms ‘specified security’ and ‘applicable date’ shall have the meaning given such terms in section 6045(g).
“(d) AVERAGE BASIS FOR STOCK ACQUIRED PURSUANT TO A DIVIDEND REINVESTMENT PLAN.—

“(1) IN GENERAL.—In the case of any stock acquired after December 31, 2010, in connection with a dividend reinvestment plan, the basis of such stock while held as part of such plan shall be determined using one of the methods which may be used for determining the basis of stock in an open-end fund.

“(2) TREATMENT AFTER TRANSFER.—In the case of the transfer to another account of stock to which paragraph (1) applies, such stock shall have a cost basis in such other account equal to its basis in the dividend reinvestment plan immediately before such transfer (properly adjusted for any fees or other charges taken into account in connection with such transfer).

“(3) SEPARATE ACCOUNTS; ELECTION FOR TREATMENT AS SINGLE ACCOUNT.—Rules similar to the rules of subsection (c)(2) shall apply for purposes of this subsection.

“(4) DIVIDEND REINVESTMENT PLAN.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘dividend reinvestment plan’ means any arrangement under which dividends on any stock are reinvested in
stock identical to the stock with respect to which
the dividends are paid.

“(B) Initial stock acquisition treated
as acquired in connection with plan.—
Stock shall be treated as acquired in connection
with a dividend reinvestment plan if such stock
is acquired pursuant to such plan or if the divi-
dends paid on such stock are subject to such
plan.”.

(c) Information by Transferors to Aid Bro-
kers.—

(1) In general.—Subpart B of part III of sub-
chapter A of chapter 61 is amended by inserting after
section 6045 the following new section:

“SEC. 6045A. INFORMATION REQUIRED IN CONNECTION
WITH TRANSFERS OF COVERED SECURITIES
TO BROKERS.

“(a) Furnishing of information.—Every applicable
person which transfers to a broker (as defined in section
6045(c)(1)) a security which is a covered security (as de-
dined in section 6045(g)(3)) in the hands of such applicable
person shall furnish to such broker a written statement in
such manner and setting forth such information as the Sec-
retary may by regulations prescribe for purposes of ena-
bling such broker to meet the requirements of section 6045(g).

“(b) APPLICABLE PERSON.—For purposes of subsection (a), the term ‘applicable person’ means—

“(1) any broker (as defined in section 6045(c)(1)), and

“(2) any other person as provided by the Secretary in regulations.

“(c) TIME FOR FURNISHING STATEMENT.—Except as otherwise provided by the Secretary, any statement required by subsection (a) shall be furnished not later than 15 days after the date of the transfer described in such subsection.”.

(2) ASSESSABLE PENALTIES.—Paragraph (2) of section 6724(d) (defining payee statement) is amended by redesignating subparagraphs (I) through (CC) as subparagraphs (J) through (DD), respectively, and by inserting after subparagraph (H) the following new subparagraph:

“(I) section 6045A (relating to information required in connection with transfers of covered securities to brokers),”.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6045 the following new item:
(d) **ADDITIONAL ISSUER INFORMATION TO AID BROKERS.**—

(1) **IN GENERAL.**—Subpart B of part III of subchapter A of chapter 61, as amended by subsection (b), is amended by inserting after section 6045A the following new section:

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SEC. 6045B. RETURNS RELATING TO ACTIONS AFFECTING BASIS OF SPECIFIED SECURITIES.

(a) IN GENERAL.—According to the forms or regulations prescribed by the Secretary, any issuer of a specified security shall make a return setting forth—

“(1) a description of any organizational action which affects the basis of such specified security of such issuer,

“(2) the quantitative effect on the basis of such specified security resulting from such action, and

“(3) such other information as the Secretary may prescribe.

(b) TIME FOR FILING RETURN.—Any return required by subsection (a) shall be filed not later than the earlier of—

“(1) 45 days after the date of the action described in subsection (a), or
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“(2) January 15 of the year following the calendar year during which such action occurred.

“(c) Statements To Be Furnished to Holders of Specified Securities or Their Nominees.—According to the forms or regulations prescribed by the Secretary, every person required to make a return under subsection (a) with respect to a specified security shall furnish to the nominee with respect to the specified security (or certificate holder if there is no nominee) a written statement showing—

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

“(2) the information required to be shown on such return with respect to such security, and

“(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the holder on or before January 15 of the year following the calendar year during which the action described in subsection (a) occurred.

“(d) Specified Security.—For purposes of this section, the term ‘specified security’ has the meaning given such term by section 6045(g)(3)(B). No return shall be required under this section with respect to actions described
in subsection (a) with respect to a specified security which occur before the applicable date (as defined in section 6045(g)(3)(C)) with respect to such security.

“(c) **Public Reporting in Lieu of Return.**—The Secretary may waive the requirements under subsections (a) and (c) with respect to a specified security, if the person required to make the return under subsection (a) makes publicly available, in such form and manner as the Secretary determines necessary to carry out the purposes of this section—

“(1) the name, address, phone number, and email address of the information contact of such person, and

“(2) the information described in paragraphs (1), (2), and (3) of subsection (a).”.

(2) **Assessable Penalties.**—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (defining information return) is amended by redesignating clause (iv) and each of the clauses which follow as clauses (v) through (xxii), respectively, and by inserting after clause (iii) the following new clause:

“(iv) section 6045B(a) (relating to returns relating to actions affecting basis of specified securities),”.

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(B) Paragraph (2) of section 6724(d) of such Code (defining payee statement), as amended by subsection (c)(2), is amended by redesignating subparagraphs (J) through (DD) as subparagraphs (K) through (EE), respectively, and by inserting after subparagraph (I) the following new subparagraph:

“(J) subsections (c) and (e) of section 6045B (relating to returns relating to actions affecting basis of specified securities),”.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code, as amended by subsection (b)(3), is amended by inserting after the item relating to section 6045A the following new item:

“Sec. 6045B. Returns relating to actions affecting basis of specified securities.”.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 2010.

(2) EXTENSION OF PERIOD FOR STATEMENTS SENT TO CUSTOMERS.—The amendments made by subsection (a)(3) shall apply to statements required to be furnished after December 31, 2008.
SEC. 302. DELAY IN APPLICATION OF WORLDWIDE ALLOCATION OF INTEREST.

(a) In General.—Paragraphs (5)(D) and (6) of section 864(f) are each amended by striking “December 31, 2008” and inserting “December 31, 2009”.

(b) Transitional Rule.—Subsection (f) of section 864 is amended by adding at the end the following new paragraph:

“(7) Transition.—In the case of the first taxable year to which this subsection applies, the increase (if any) in the amount of the interest expense allocable to sources within the United States by reason of the application of this subsection shall be 78 percent of the amount of such increase determined without regard to this paragraph.”.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 303. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

(a) Repeal of Adjustment for 2012.—Subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking the percentage contained therein and inserting “100 percent”.

(b) Modification of Adjustment for 2013.—The percentage under subparagraph (C) of section 401(1) of the
1 Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 13 percentage points.
To amend the Internal Revenue Code of 1986 to provide assistance for housing.