

110TH CONGRESS
2D SESSION

H. R. 6275

IN THE SENATE OF THE UNITED STATES

JUNE 26, 2008

Received; read twice and referred to the Committee on Finance

AN ACT

To amend the Internal Revenue Code of 1986 to provide individuals temporary relief from the alternative minimum tax, and for other purposes.

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

1 **SECTION 1. SHORT TITLE, ETC.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Alternative Minimum Tax Relief Act of 2008”.

4 (b) **REFERENCE.**—Except as otherwise expressly pro-
5 vided, whenever in this Act an amendment or repeal is
6 expressed in terms of an amendment to, or repeal of, a
7 section or other provision, the reference shall be consid-
8 ered to be made to a section or other provision of the In-
9 ternal Revenue Code of 1986.

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

Sec. 1. Short title, etc.

TITLE I—INDIVIDUAL TAX RELIEF

Sec. 101. Extension of increased alternative minimum tax exemption amount.

Sec. 102. Extension of alternative minimum tax relief for nonrefundable personal credits.

TITLE II—REVENUE PROVISIONS

Sec. 201. Income of partners for performing investment management services treated as ordinary income received for performance of services.

Sec. 202. Limitation of deduction for income attributable to domestic production of oil, gas, or primary products thereof.

Sec. 203. Limitation on treaty benefits for certain deductible payments.

Sec. 204. Returns relating to payments made in settlement of payment card and third party network transactions.

Sec. 205. Application of continuous levy to property sold or leased to the Federal Government.

Sec. 206. Time for payment of corporate estimated taxes.

1 **TITLE I—INDIVIDUAL TAX**
2 **RELIEF**

3 **SEC. 101. EXTENSION OF INCREASED ALTERNATIVE MIN-**
4 **IMUM TAX EXEMPTION AMOUNT.**

5 (a) IN GENERAL.—Paragraph (1) of section 55(d) is
6 amended—

7 (1) by striking “(\$66,250 in the case of taxable
8 years beginning in 2007)” in subparagraph (A) and
9 inserting “(\$69,950 in the case of taxable years be-
10 ginning in 2008)”, and

11 (2) by striking “(\$44,350 in the case of taxable
12 years beginning in 2007)” in subparagraph (B) and
13 inserting “(\$46,200 in the case of taxable years be-
14 ginning in 2008)”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2007.

18 **SEC. 102. EXTENSION OF ALTERNATIVE MINIMUM TAX RE-**
19 **LIEF FOR NONREFUNDABLE PERSONAL**
20 **CREDITS.**

21 (a) IN GENERAL.—Paragraph (2) of section 26(a) is
22 amended—

23 (1) by striking “or 2007” and inserting “2007,
24 or 2008”, and

1 (2) by striking “2007” in the heading thereof
2 and inserting “2008”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2007.

6 **TITLE II—REVENUE PROVISIONS**

7 **SEC. 201. INCOME OF PARTNERS FOR PERFORMING IN-** 8 **VESTMENT MANAGEMENT SERVICES TREAT-** 9 **ED AS ORDINARY INCOME RECEIVED FOR** 10 **PERFORMANCE OF SERVICES.**

11 (a) IN GENERAL.—Part I of subchapter K of chapter
12 1 is amended by adding at the end the following new sec-
13 tion:

14 **“SEC. 710. SPECIAL RULES FOR PARTNERS PROVIDING IN-** 15 **VESTMENT MANAGEMENT SERVICES TO** 16 **PARTNERSHIP.**

17 “(a) TREATMENT OF DISTRIBUTIVE SHARE OF
18 PARTNERSHIP ITEMS.—For purposes of this title, in the
19 case of an investment services partnership interest—

20 “(1) IN GENERAL.—Notwithstanding section
21 702(b)—

22 “(A) any net income with respect to such
23 interest for any partnership taxable year shall
24 be treated as ordinary income for the perform-
25 ance of services, and

1 “(B) any net loss with respect to such in-
2 terest for such year, to the extent not dis-
3 allowed under paragraph (2) for such year,
4 shall be treated as an ordinary loss.

5 All items of income, gain, deduction, and loss which
6 are taken into account in computing net income or
7 net loss shall be treated as ordinary income or ordi-
8 nary loss (as the case may be).

9 “(2) TREATMENT OF LOSSES.—

10 “(A) LIMITATION.—Any net loss with re-
11 spect to such interest shall be allowed for any
12 partnership taxable year only to the extent that
13 such loss does not exceed the excess (if any)
14 of—

15 “(i) the aggregate net income with re-
16 spect to such interest for all prior partner-
17 ship taxable years, over

18 “(ii) the aggregate net loss with re-
19 spect to such interest not disallowed under
20 this subparagraph for all prior partnership
21 taxable years.

22 “(B) CARRYFORWARD.—Any net loss for
23 any partnership taxable year which is not al-
24 lowed by reason of subparagraph (A) shall be
25 treated as an item of loss with respect to such

1 partnership interest for the succeeding partner-
2 ship taxable year.

3 “(C) BASIS ADJUSTMENT.—No adjustment
4 to the basis of a partnership interest shall be
5 made on account of any net loss which is not
6 allowed by reason of subparagraph (A).

7 “(D) EXCEPTION FOR BASIS ATTRIB-
8 UTABLE TO PURCHASE OF A PARTNERSHIP IN-
9 TEREST.—In the case of an investment services
10 partnership interest acquired by purchase, para-
11 graph (1)(B) shall not apply to so much of any
12 net loss with respect to such interest for any
13 taxable year as does not exceed the excess of—

14 “(i) the basis of such interest imme-
15 diately after such purchase, over

16 “(ii) the aggregate net loss with re-
17 spect to such interest to which paragraph
18 (1)(B) did not apply by reason of this sub-
19 paragraph for all prior taxable years.

20 Any net loss to which paragraph (1)(B) does
21 not apply by reason of this subparagraph shall
22 not be taken into account under subparagraph
23 (A).

24 “(E) PRIOR PARTNERSHIP YEARS.—Any
25 reference in this paragraph to prior partnership

1 taxable years shall only include prior partner-
2 ship taxable years to which this section applies.

3 “(3) NET INCOME AND LOSS.—For purposes of
4 this section—

5 “(A) NET INCOME.—The term ‘net in-
6 come’ means, with respect to any investment
7 services partnership interest, for any partner-
8 ship taxable year, the excess (if any) of—

9 “(i) all items of income and gain
10 taken into account by the holder of such
11 interest under section 702 with respect to
12 such interest for such year, over

13 “(ii) all items of deduction and loss so
14 taken into account.

15 “(B) NET LOSS.—The term ‘net loss’
16 means with respect to such interest for such
17 year, the excess (if any) of the amount de-
18 scribed in subparagraph (A)(ii) over the amount
19 described in subparagraph (A)(i).

20 “(b) DISPOSITIONS OF PARTNERSHIP INTERESTS.—

21 “(1) GAIN.—Any gain on the disposition of an
22 investment services partnership interest shall be
23 treated as ordinary income for the performance of
24 services.

1 “(2) LOSS.—Any loss on the disposition of an
2 investment services partnership interest shall be
3 treated as an ordinary loss to the extent of the ex-
4 cess (if any) of—

5 “(A) the aggregate net income with respect
6 to such interest for all partnership taxable
7 years, over

8 “(B) the aggregate net loss with respect to
9 such interest allowed under subsection (a)(2)
10 for all partnership taxable years.

11 “(3) DISPOSITION OF PORTION OF INTEREST.—
12 In the case of any disposition of an investment serv-
13 ices partnership interest, the amount of net loss
14 which otherwise would have (but for subsection
15 (a)(2)(C)) applied to reduce the basis of such inter-
16 est shall be disregarded for purposes of this section
17 for all succeeding partnership taxable years.

18 “(4) DISTRIBUTIONS OF PARTNERSHIP PROP-
19 ERTY.—In the case of any distribution of property
20 by a partnership with respect to any investment
21 services partnership interest held by a partner—

22 “(A) the excess (if any) of—

23 “(i) the fair market value of such
24 property at the time of such distribution,
25 over

1 “(ii) the adjusted basis of such prop-
2 erty in the hands of the partnership,
3 shall be taken into account as an increase in
4 such partner’s distributive share of the taxable
5 income of the partnership (except to the extent
6 such excess is otherwise taken into account in
7 determining the taxable income of the partner-
8 ship),

9 “(B) such property shall be treated for
10 purposes of subpart B of part II as money dis-
11 tributed to such partner in an amount equal to
12 such fair market value, and

13 “(C) the basis of such property in the
14 hands of such partner shall be such fair market
15 value.

16 Subsection (b) of section 734 shall be applied with-
17 out regard to the preceding sentence.

18 “(5) APPLICATION OF SECTION 751.—In apply-
19 ing section 751(a), an investment services partner-
20 ship interest shall be treated as an inventory item.

21 “(c) INVESTMENT SERVICES PARTNERSHIP INTER-
22 EST.—For purposes of this section—

23 “(1) IN GENERAL.—The term ‘investment serv-
24 ices partnership interest’ means any interest in a
25 partnership which is held by any person if such per-

son provides (directly or indirectly) a substantial quantity of any of the following services with respect to the assets of the partnership in the conduct of the trade or business of providing such services:

“(A) Advising as to the advisability of investing in, purchasing, or selling any specified asset.

“(B) Managing, acquiring, or disposing of any specified asset.

“(C) Arranging financing with respect to acquiring specified assets.

“(D) Any activity in support of any service described in subparagraphs (A) through (C).

For purposes of this paragraph, the term ‘specified asset’ means securities (as defined in section 475(c)(2) without regard to the last sentence thereof), real estate, commodities (as defined in section 475(e)(2))), or options or derivative contracts with respect to securities (as so defined), real estate, or commodities (as so defined).

“(2) EXCEPTION FOR CERTAIN CAPITAL INTERESTS.—

“(A) IN GENERAL.—If—

“(i) a portion of an investment services partnership interest is acquired on ac-

1 count of a contribution of invested capital,
2 and

3 “(ii) the partnership makes a reason-
4 able allocation of partnership items be-
5 tween the portion of the distributive share
6 that is with respect to invested capital and
7 the portion of such distributive share that
8 is not with respect to invested capital,

9 then subsection (a) shall not apply to the por-
10 tion of the distributive share that is with re-
11 spect to invested capital. An allocation will not
12 be treated as reasonable for purposes of this
13 subparagraph if such allocation would result in
14 the partnership allocating a greater portion of
15 income to invested capital than any other part-
16 ner not providing services would have been allo-
17 cated with respect to the same amount of in-
18 vested capital.

19 “(B) SPECIAL RULE FOR DISPOSITIONS.—
20 In any case to which subparagraph (A) applies,
21 subsection (b) shall not apply to any gain or
22 loss allocable to invested capital. The portion of
23 any gain or loss attributable to invested capital
24 is the proportion of such gain or loss which is
25 based on the distributive share of gain or loss

1 that would have been allocable to invested cap-
2 ital under subparagraph (A) if the partnership
3 sold all of its assets immediately before the dis-
4 position.

5 “(C) INVESTED CAPITAL.—For purposes
6 of this paragraph, the term ‘invested capital’
7 means, the fair market value at the time of con-
8 tribution of any money or other property con-
9 tributed to the partnership.

10 “(D) TREATMENT OF CERTAIN LOANS.—

11 “(i) PROCEEDS OF PARTNERSHIP
12 LOANS NOT TREATED AS INVESTED CAP-
13 ITAL OF SERVICE PROVIDING PARTNERS.—
14 For purposes of this paragraph, an invest-
15 ment services partnership interest shall not
16 be treated as acquired on account of a con-
17 tribution of invested capital to the extent
18 that such capital is attributable to the pro-
19 ceeds of any loan or other advance made or
20 guaranteed, directly or indirectly, by any
21 partner or the partnership.

22 “(ii) LOANS FROM NONSERVICE PRO-
23 VIDING PARTNERS TO THE PARTNERSHIP
24 TREATED AS INVESTED CAPITAL.—For
25 purposes of this paragraph, any loan or

1 other advance to the partnership made or
2 guaranteed, directly or indirectly, by a
3 partner not providing services to the part-
4 nership shall be treated as invested capital
5 of such partner and amounts of income
6 and loss treated as allocable to invested
7 capital shall be adjusted accordingly.

8 “(d) OTHER INCOME AND GAIN IN CONNECTION
9 WITH INVESTMENT MANAGEMENT SERVICES.—

10 “(1) IN GENERAL.—If—

11 “(A) a person performs (directly or indi-
12 rectly) investment management services for any
13 entity,

14 “(B) such person holds a disqualified in-
15 terest with respect to such entity, and

16 “(C) the value of such interest (or pay-
17 ments thereunder) is substantially related to
18 the amount of income or gain (whether or not
19 realized) from the assets with respect to which
20 the investment management services are per-
21 formed,

22 any income or gain with respect to such interest
23 shall be treated as ordinary income for the perform-
24 ance of services. Rules similar to the rules of sub-

1 section (c)(2) shall apply where such interest was ac-
2 quired on account of invested capital in such entity.

3 “(2) DEFINITIONS.—For purposes of this sub-
4 section—

5 “(A) DISQUALIFIED INTEREST.—The term
6 ‘disqualified interest’ means, with respect to
7 any entity—

8 “(i) any interest in such entity other
9 than indebtedness,

10 “(ii) convertible or contingent debt of
11 such entity,

12 “(iii) any option or other right to ac-
13 quire property described in clause (i) or
14 (ii), and

15 “(iv) any derivative instrument en-
16 tered into (directly or indirectly) with such
17 entity or any investor in such entity.

18 Such term shall not include a partnership inter-
19 est and shall not include stock in a taxable cor-
20 poration.

21 “(B) TAXABLE CORPORATION.—The term
22 ‘taxable corporation’ means—

23 “(i) a domestic C corporation, or

24 “(ii) a foreign corporation subject to a
25 comprehensive foreign income tax.

1 “(C) INVESTMENT MANAGEMENT SERV-
2 ICES.—The term ‘investment management serv-
3 ices’ means a substantial quantity of any of the
4 services described in subsection (c)(1) which are
5 provided in the conduct of the trade or business
6 of providing such services.

7 “(D) COMPREHENSIVE FOREIGN INCOME
8 TAX.—The term ‘comprehensive foreign income
9 tax’ means, with respect to any foreign corpora-
10 tion, the income tax of a foreign country if—

11 “(i) such corporation is eligible for the
12 benefits of a comprehensive income tax
13 treaty between such foreign country and
14 the United States, or

15 “(ii) such corporation demonstrates to
16 the satisfaction of the Secretary that such
17 foreign country has a comprehensive in-
18 come tax.

19 “(e) REGULATIONS.—The Secretary shall prescribe
20 such regulations as are necessary or appropriate to carry
21 out the purposes of this section, including regulations to—

22 “(1) prevent the avoidance of the purposes of
23 this section, and

24 “(2) coordinate this section with the other pro-
25 visions of this subchapter.

1 “(f) CROSS REFERENCE.—For 40 percent no fault
2 penalty on certain underpayments due to the avoidance
3 of this section, see section 6662.”.

4 (b) APPLICATION TO REAL ESTATE INVESTMENT
5 TRUSTS.—

6 (1) IN GENERAL.—Subsection (c) of section
7 856 is amended by adding at the end the following
8 new paragraph:

9 “(9) EXCEPTION FROM RECHARACTERIZATION
10 OF INCOME FROM INVESTMENT SERVICES PARTNER-
11 SHIP INTERESTS.—

12 “(A) IN GENERAL.—Paragraphs (2), (3),
13 and (4) shall be applied without regard to sec-
14 tion 710 (relating to special rules for partners
15 providing investment management services to
16 partnership).

17 “(B) SPECIAL RULE FOR PARTNERSHIPS
18 OWNED BY REITS.—Section 7704 shall be ap-
19 plied without regard to section 710 in the case
20 of a partnership which meets each of the fol-
21 lowing requirements:

22 “(i) Such partnership is treated as
23 publicly traded under section 7704 solely
24 by reason of interests in such partnership
25 being convertible into interests in a real es-

1 tate investment trust which is publicly
2 traded.

3 “(ii) 50 percent or more of the capital
4 and profits interests of such partnership
5 are owned, directly or indirectly, at all
6 times during the taxable year by such real
7 estate investment trust (determined with
8 the application of section 267(c)).

9 “(iii) Such partnership meets the re-
10 quirements of paragraphs (2), (3), and (4)
11 (applied without regard to section 710).”.

12 (2) CONFORMING AMENDMENT.—Paragraph (4)
13 of section 7704(d) is amended by inserting “(deter-
14 mined without regard to section 856(c)(8))” after
15 “856(c)(2)”.

16 (c) IMPOSITION OF PENALTY ON UNDERPAY-
17 MENTS.—

18 (1) IN GENERAL.—Subsection (b) of section
19 6662 is amended by inserting after paragraph (5)
20 the following new paragraph:

21 “(6) The application of subsection (d) of section
22 710 or the regulations prescribed under section
23 710(e) to prevent the avoidance of the purposes of
24 section 710.”.

25 (2) AMOUNT OF PENALTY.—

1 (A) IN GENERAL.—Section 6662 is amend-
2 ed by adding at the end the following new sub-
3 section:

4 “(i) INCREASE IN PENALTY IN CASE OF PROPERTY
5 TRANSFERRED FOR INVESTMENT MANAGEMENT SERV-
6 ICES.—In the case of any portion of an underpayment to
7 which this section applies by reason of subsection (b)(6),
8 subsection (a) shall be applied with respect to such portion
9 by substituting ‘40 percent’ for ‘20 percent’.”.

10 (B) CONFORMING AMENDMENTS.—Sub-
11 paragraph (B) of section 6662A(e)(2) is
12 amended—

13 (i) by striking “section 6662(h)” and
14 inserting “subsection (h) or (i) of section
15 6662”, and

16 (ii) by striking “GROSS VALUATION
17 MISSTATEMENT PENALTY” in the heading
18 and inserting “CERTAIN INCREASED UN-
19 DERPAYMENT PENALTIES”.

20 (3) REASONABLE CAUSE EXCEPTION NOT AP-
21 PPLICABLE.—Subsection (c) of section 6664 is
22 amended—

23 (A) by redesignating paragraphs (2) and
24 (3) as paragraphs (3) and (4), respectively,

1 (B) by striking “paragraph (2)” in para-
2 graph (4), as so redesignated, and inserting
3 “paragraph (3)”, and

4 (C) by inserting after paragraph (1) the
5 following new paragraph:

6 “(2) EXCEPTION.—Paragraph (1) shall not
7 apply to any portion of an underpayment to which
8 this section applies by reason of subsection (b)(6).”.

9 (d) CONFORMING AMENDMENTS.—

10 (1) Subsection (d) of section 731 is amended by
11 inserting “section 710(b)(4) (relating to distribu-
12 tions of partnership property),” before “section
13 736”.

14 (2) Section 741 is amended by inserting “or
15 section 710 (relating to special rules for partners
16 providing investment management services to part-
17 nership)” before the period at the end.

18 (3) Paragraph (13) of section 1402(a) is
19 amended—

20 (A) by striking “other than guaranteed”
21 and inserting “other than—

22 “(A) guaranteed”,

23 (B) by striking the semicolon at the end
24 and inserting “, and”, and

1 (C) by adding at the end the following new
 2 subparagraph:

3 “(B) any income treated as ordinary in-
 4 come under section 710 received by an indi-
 5 vidual who provides investment management
 6 services (as defined in section 710(d)(2));”.

7 (4) Paragraph (12) of section 211(a) of the So-
 8 cial Security Act is amended—

9 (A) by striking “other than guaranteed”
 10 and inserting “other than—

11 “(A) guaranteed”,

12 (B) by striking the semicolon at the end
 13 and inserting “, and”, and

14 (C) by adding at the end the following new
 15 subparagraph:

16 “(B) any income treated as ordinary in-
 17 come under section 710 of the Internal Revenue
 18 Code of 1986 received by an individual who
 19 provides investment management services (as
 20 defined in section 710(d)(2) of such Code);”.

21 (5) The table of sections for part I of sub-
 22 chapter K of chapter 1 is amended by adding at the
 23 end the following new item:

“Sec. 710. Special rules for partners providing investment management services
 to partnership.”.

24 (e) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as otherwise pro-
2 vided in this subsection, the amendments made by
3 this section shall apply to taxable years ending after
4 June 18, 2008.

5 (2) PARTNERSHIP TAXABLE YEARS WHICH IN-
6 CLUDE EFFECTIVE DATE.—In applying section
7 710(a) of the Internal Revenue Code of 1986 (as
8 added by this section) in the case of any partnership
9 taxable year which includes June 18, 2008, the
10 amount of the net income referred to in such section
11 shall be treated as being the lesser of the net income
12 for the entire partnership taxable year or the net in-
13 come determined by only taking into account items
14 attributable to the portion of the partnership taxable
15 year which is after such date.

16 (3) DISPOSITIONS OF PARTNERSHIP INTER-
17 ESTS.—Section 710(b) of the Internal Revenue Code
18 of 1986 (as added by this section) shall apply to dis-
19 positions and distributions after June 18, 2008.

20 (4) OTHER INCOME AND GAIN IN CONNECTION
21 WITH INVESTMENT MANAGEMENT SERVICES.—Sec-
22 tion 710(d) of such Code (as added by this section)
23 shall take effect on June 18, 2008.

24 (5) PUBLICLY TRADED PARTNERSHIPS.—For
25 purposes of applying section 7704, the amendments

1 made by this section shall apply to taxable years be-
 2 ginning after December 31, 2010.

3 **SEC. 202. LIMITATION OF DEDUCTION FOR INCOME AT-**
 4 **TRIBUTABLE TO DOMESTIC PRODUCTION OF**
 5 **OIL, GAS, OR PRIMARY PRODUCTS THEREOF.**

6 (a) DENIAL OF DEDUCTION FOR MAJOR INTE-
 7 GRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO
 8 DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY
 9 PRODUCTS THEREOF.—

10 (1) IN GENERAL.—Subparagraph (B) of section
 11 199(c)(4) (relating to exceptions) is amended by
 12 striking “or” at the end of clause (ii), by striking
 13 the period at the end of clause (iii) and inserting “,
 14 or”, and by inserting after clause (iii) the following
 15 new clause:

16 “(iv) in the case of any major inte-
 17 grated oil company (as defined in section
 18 167(h)(5)(B)), the production, refining,
 19 processing, transportation, or distribution
 20 of oil, gas, or any primary product thereof
 21 during any taxable year described in sec-
 22 tion 167(h)(5)(B).”.

23 (2) PRIMARY PRODUCT.—Section 199(c)(4)(B)
 24 is amended by adding at the end the following flush
 25 sentence:

1 “For purposes of clause (iv), the term ‘primary
 2 product’ has the same meaning as when used in
 3 section 927(a)(2)(C), as in effect before its re-
 4 peal.”.

5 (b) LIMITATION ON OIL RELATED QUALIFIED PRO-
 6 DUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER
 7 THAN MAJOR INTEGRATED OIL COMPANIES.—

8 (1) IN GENERAL.—Section 199(d) is amended
 9 by redesignating paragraph (9) as paragraph (10)
 10 and by inserting after paragraph (8) the following
 11 new paragraph:

12 “(9) SPECIAL RULE FOR TAXPAYERS WITH OIL
 13 RELATED QUALIFIED PRODUCTION ACTIVITIES IN-
 14 COME.—

15 “(A) IN GENERAL.—If a taxpayer (other
 16 than a major integrated oil company (as defined
 17 in section 167(h)(5)(B))) has oil related quali-
 18 fied production activities income for any taxable
 19 year beginning after 2009, the amount of the
 20 deduction under subsection (a) shall be reduced
 21 by 3 percent of the least of—

22 “(i) the oil related qualified produc-
 23 tion activities income of the taxpayer for
 24 the taxable year,

1 “(ii) the qualified production activities
2 income of the taxpayer for the taxable
3 year, or

4 “(iii) taxable income (determined
5 without regard to this section).

6 “(B) OIL RELATED QUALIFIED PRODUC-
7 TION ACTIVITIES INCOME.—The term ‘oil re-
8 lated qualified production activities income’
9 means for any taxable year the qualified pro-
10 duction activities income which is attributable
11 to the production, refining, processing, trans-
12 portation, or distribution of oil, gas, or any pri-
13 mary product thereof during such taxable
14 year.”.

15 (2) CONFORMING AMENDMENT.—Section
16 199(d)(2) (relating to application to individuals) is
17 amended by striking “subsection (a)(1)(B)” and in-
18 serting “subsections (a)(1)(B) and (d)(9)(A)(iii)”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 2008.

1 **SEC. 203. LIMITATION ON TREATY BENEFITS FOR CERTAIN**
2 **DEDUCTIBLE PAYMENTS.**

3 (a) IN GENERAL.—Section 894 (relating to income
4 affected by treaty) is amended by adding at the end the
5 following new subsection:

6 “(d) LIMITATION ON TREATY BENEFITS FOR CER-
7 TAIN DEDUCTIBLE PAYMENTS.—

8 “(1) IN GENERAL.—In the case of any deduct-
9 ible related-party payment, any withholding tax im-
10 posed under chapter 3 (and any tax imposed under
11 subpart A or B of this part) with respect to such
12 payment may not be reduced under any treaty of the
13 United States unless any such withholding tax would
14 be reduced under a treaty of the United States if
15 such payment were made directly to the foreign par-
16 ent corporation.

17 “(2) DEDUCTIBLE RELATED-PARTY PAY-
18 MENT.—For purposes of this subsection, the term
19 ‘deductible related-party payment’ means any pay-
20 ment made, directly or indirectly, by any person to
21 any other person if the payment is allowable as a de-
22 duction under this chapter and both persons are
23 members of the same foreign controlled group of en-
24 tities.

25 “(3) FOREIGN CONTROLLED GROUP OF ENTI-
26 TIES.—For purposes of this subsection—

1 “(A) IN GENERAL.—The term ‘foreign
2 controlled group of entities’ means a controlled
3 group of entities the common parent of which
4 is a foreign corporation.

5 “(B) CONTROLLED GROUP OF ENTITIES.—
6 The term ‘controlled group of entities’ means a
7 controlled group of corporations as defined in
8 section 1563(a)(1), except that—

9 “(i) ‘more than 50 percent’ shall be
10 substituted for ‘at least 80 percent’ each
11 place it appears therein, and

12 “(ii) the determination shall be made
13 without regard to subsections (a)(4) and
14 (b)(2) of section 1563.

15 A partnership or any other entity (other than a
16 corporation) shall be treated as a member of a
17 controlled group of entities if such entity is con-
18 trolled (within the meaning of section
19 954(d)(3)) by members of such group (includ-
20 ing any entity treated as a member of such
21 group by reason of this sentence).

22 “(4) FOREIGN PARENT CORPORATION.—For
23 purposes of this subsection, the term ‘foreign parent
24 corporation’ means, with respect to any deductible
25 related-party payment, the common parent of the

1 foreign controlled group of entities referred to in
2 paragraph (3)(A).

3 “(5) REGULATIONS.—The Secretary may pre-
4 scribe such regulations or other guidance as are nec-
5 essary or appropriate to carry out the purposes of
6 this subsection, including regulations or other guid-
7 ance which provide for—

8 “(A) the treatment of two or more persons
9 as members of a foreign controlled group of en-
10 tities if such persons would be the common par-
11 ent of such group if treated as one corporation,
12 and

13 “(B) the treatment of any member of a
14 foreign controlled group of entities as the com-
15 mon parent of such group if such treatment is
16 appropriate taking into account the economic
17 relationships among such entities.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to payments made after the date
20 of the enactment of this Act.

1 **SEC. 204. RETURNS RELATING TO PAYMENTS MADE IN SET-**
 2 **TLEMENT OF PAYMENT CARD AND THIRD**
 3 **PARTY NETWORK TRANSACTIONS.**

4 (a) IN GENERAL.—Subpart B of part III of sub-
 5 chapter A of chapter 61 is amended by adding at the end
 6 the following new section:

7 **“SEC. 6050W. RETURNS RELATING TO PAYMENTS MADE IN**
 8 **SETTLEMENT OF PAYMENT CARD AND THIRD**
 9 **PARTY NETWORK TRANSACTIONS.**

10 “(a) IN GENERAL.—Each payment settlement entity
 11 shall make a return for each calendar year setting forth—

12 “(1) the name, address, and TIN of each par-
 13 ticipating payee to whom one or more payments in
 14 settlement of reportable payment transactions are
 15 made, and

16 “(2) the gross amount of the reportable pay-
 17 ment transactions with respect to each such partici-
 18 pating payee.

19 Such return shall be made at such time and in such form
 20 and manner as the Secretary may require by regulations.

21 “(b) PAYMENT SETTLEMENT ENTITY.—For pur-
 22 poses of this section—

23 “(1) IN GENERAL.—The term ‘payment settle-
 24 ment entity’ means—

25 “(A) in the case of a payment card trans-
 26 action, the merchant acquiring bank, and

1 “(B) in the case of a third party network
2 transaction, the third party settlement organi-
3 zation.

4 “(2) MERCHANT ACQUIRING BANK.—The term
5 ‘merchant acquiring bank’ means the bank or other
6 organization which has the contractual obligation to
7 make payment to participating payees in settlement
8 of payment card transactions.

9 “(3) THIRD PARTY SETTLEMENT ORGANIZA-
10 TION.—The term ‘third party settlement organiza-
11 tion’ means the central organization which has the
12 contractual obligation to make payment to partici-
13 pating payees of third party network transactions.

14 “(4) SPECIAL RULES RELATED TO INTER-
15 MEDIARIES.—For purposes of this section—

16 “(A) AGGREGATED PAYEES.—In any case
17 where reportable payment transactions of more
18 than one participating payee are settled
19 through an intermediary—

20 “(i) such intermediary shall be treated
21 as the participating payee for purposes of
22 determining the reporting obligations of
23 the payment settlement entity with respect
24 to such transactions, and

1 “(ii) such intermediary shall be treat-
2 ed as the payment settlement entity with
3 respect to the settlement of such trans-
4 actions with the participating payees.

5 “(B) ELECTRONIC PAYMENT
6 FACILITATORS.—In any case where an elec-
7 tronic payment facilitator or other third party
8 makes payments in settlement of reportable
9 payment transactions on behalf of the payment
10 settlement entity, the return under subsection
11 (a) shall be made by such electronic payment
12 facilitator or other third party in lieu of the
13 payment settlement entity.

14 “(c) REPORTABLE PAYMENT TRANSACTION.—For
15 purposes of this section—

16 “(1) IN GENERAL.—The term ‘reportable pay-
17 ment transaction’ means any payment card trans-
18 action and any third party network transaction.

19 “(2) PAYMENT CARD TRANSACTION.—The term
20 ‘payment card transaction’ means any transaction in
21 which a payment card is accepted as payment.

22 “(3) THIRD PARTY NETWORK TRANSACTION.—
23 The term ‘third party network transaction’ means
24 any transaction which is settled through a third
25 party payment network.

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

3 “(1) PARTICIPATING PAYEE.—

4 “(A) IN GENERAL.—The term ‘partici-
5 pating payee’ means—

6 “(i) in the case of a payment card
7 transaction, any person who accepts a pay-
8 ment card as payment, and

9 “(ii) in the case of a third party net-
10 work transaction, any person who accepts
11 payment from a third party settlement or-
12 ganization in settlement of such trans-
13 action.

14 “(B) EXCLUSION OF FOREIGN PERSONS.—
15 Except as provided by the Secretary in regula-
16 tions or other guidance, such term shall not in-
17 clude any person with a foreign address.

18 “(C) INCLUSION OF GOVERNMENTAL
19 UNITS.—The term ‘person’ includes any govern-
20 mental unit (and any agency or instrumentality
21 thereof).

22 “(2) PAYMENT CARD.—The term ‘payment
23 card’ means any card which is issued pursuant to an
24 agreement or arrangement which provides for—

25 “(A) one or more issuers of such cards,

1 “(B) a network of persons unrelated to
2 each other, and to the issuer, who agree to ac-
3 cept such cards as payment, and

4 “(C) standards and mechanisms for set-
5 tling the transactions between the merchant ac-
6 quiring banks and the persons who agree to ac-
7 cept such cards as payment.

8 The acceptance as payment of any account number
9 or other indicia associated with a payment card shall
10 be treated for purposes of this section in the same
11 manner as accepting such payment card as payment.

12 “(3) THIRD PARTY PAYMENT NETWORK.—The
13 term ‘third party payment network’ means any
14 agreement or arrangement—

15 “(A) which involves the establishment of
16 accounts with a central organization for the
17 purpose of settling transactions between per-
18 sons who establish such accounts,

19 “(B) which provides for standards and
20 mechanisms for settling such transactions,

21 “(C) which involves a substantial number
22 of persons unrelated to such central organiza-
23 tion who provide goods or services and who
24 have agreed to settle transactions for the provi-

1 sion of such goods or services pursuant to such
2 agreement or arrangement, and

3 “(D) which guarantees persons providing
4 goods or services pursuant to such agreement
5 or arrangement that such persons will be paid
6 for providing such goods or services.

7 Such term shall not include any agreement or ar-
8 rangement which provides for the issuance of pay-
9 ment cards.

10 “(e) EXCEPTION FOR DE MINIMIS PAYMENTS BY
11 THIRD PARTY SETTLEMENT ORGANIZATIONS.—A third
12 party settlement organization shall be required to report
13 any information under subsection (a) with respect to third
14 party network transactions of any participating payee only
15 if—

16 “(1) the amount which would otherwise be re-
17 ported under subsection (a)(2) with respect to such
18 transactions exceeds \$10,000, and

19 “(2) the aggregate number of such transactions
20 exceeds 200.

21 “(f) STATEMENTS TO BE FURNISHED TO PERSONS
22 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—
23 Every person required to make a return under subsection
24 (a) shall furnish to each person with respect to whom such
25 a return is required a written statement showing—

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

4 “(2) the gross amount of the reportable pay-
5 ment transactions with respect to the person re-
6 quired to be shown on the return.

7 The written statement required under the preceding sen-
8 tence shall be furnished to the person on or before Janu-
9 ary 31 of the year following the calendar year for which
10 the return under subsection (a) was required to be made.
11 Such statement may be furnished electronically.

12 “(g) REGULATIONS.—The Secretary may prescribe
13 such regulations or other guidance as may be necessary
14 or appropriate to carry out this section, including rules
15 to prevent the reporting of the same transaction more
16 than once.”.

17 (b) PENALTY FOR FAILURE TO FILE.—

18 (1) RETURN.—Subparagraph (B) of section
19 6724(d)(1) is amended—

20 (A) by striking “and” at the end of clause
21 (xx),

22 (B) by redesignating the clause (xix) that
23 follows clause (xx) as clause (xxi),

1 (C) by striking “and” at the end of clause
2 (xxi), as redesignated by subparagraph (B) and
3 inserting “or”, and

4 (D) by adding at the end the following:

5 “(xxii) section 6050W (relating to re-
6 turns to payments made in settlement of
7 payment card transactions), and”.

8 (2) STATEMENT.—Paragraph (2) of section
9 6724(d) is amended by inserting a comma at the
10 end of subparagraph (BB), by striking the period at
11 the end of the subparagraph (CC) and inserting “,
12 or”, and by inserting after subparagraph (CC) the
13 following:

14 “(DD) section 6050W(c) (relating to re-
15 turns relating to payments made in settlement
16 of payment card transactions).”.

17 (c) APPLICATION OF BACKUP WITHHOLDING.—
18 Paragraph (3) of section 3406(b) is amended by striking
19 “or” at the end of subparagraph (D), by striking the pe-
20 riod at the end of subparagraph (E) and inserting “, or”,
21 and by adding at the end the following new subparagraph:

22 “(F) section 6050W (relating to returns
23 relating to payments made in settlement of pay-
24 ment card transactions).”.

1 (d) CLERICAL AMENDMENT.—The table of sections
 2 for subpart B of part III of subchapter A of chapter 61
 3 is amended by inserting after the item relating to section
 4 6050V the following:

“Sec. 6050W. Returns relating to payments made in settlement of payment
 card and third party network transactions.”.

5 (e) EFFECTIVE DATE.—

6 (1) IN GENERAL.—Except as otherwise pro-
 7 vided in this subsection, the amendments made by
 8 this section shall apply to returns for calendar years
 9 beginning after December 31, 2010.

10 (2) APPLICATION OF BACKUP WITHHOLDING.—

11 (A) IN GENERAL.—The amendment made
 12 by subsection (c) shall apply to amounts paid
 13 after December 31, 2011.

14 (B) ELIGIBILITY FOR TIN MATCHING PRO-
 15 GRAM.—Solely for purposes of carrying out any
 16 TIN matching program established by the Sec-
 17 retary under section 3406(i) of the Internal
 18 Revenue Code of 1986—

19 (i) the amendments made this section
 20 shall be treated as taking effect on the
 21 date of the enactment of this Act, and

22 (ii) each person responsible for setting
 23 the standards and mechanisms referred to
 24 in section 6050W(d)(2)(C) of such Code,

1 as added by this section, for settling trans-
2 actions involving payment cards shall be
3 treated in the same manner as a payment
4 settlement entity.

5 **SEC. 205. APPLICATION OF CONTINUOUS LEVY TO PROP-**
6 **ERTY SOLD OR LEASED TO THE FEDERAL**
7 **GOVERNMENT.**

8 (a) IN GENERAL.—Paragraph (3) of section 6331(h)
9 is amended by striking “goods” and inserting “property”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to levies approved after the date
12 of the enactment of this Act.

13 **SEC. 206. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
14 **TAXES.**

15 (a) REPEAL OF ADJUSTMENT FOR 2012.—Subpara-
16 graph (B) of section 401(1) of the Tax Increase Preven-
17 tion and Reconciliation Act of 2005 is amended by striking
18 the percentage contained therein and inserting “100 per-
19 cent”.

20 (b) MODIFICATION OF ADJUSTMENT FOR 2013.—
21 The percentage under subparagraph (C) of section 401(1)
22 of the Tax Increase Prevention and Reconciliation Act of

1 2005 in effect on the date of the enactment of this Act
2 is increased by 59.5 percentage points.

Passed the House of Representatives June 25, 2008.

Attest: LORRAINE C. MILLER,
Clerk.

By DEBORAH M. SPRIGGS,
Deputy Clerk.