

Calendar No. 482

110TH CONGRESS
1ST SESSION**S. 2345****[Report No. 110–228]**

To amend the Internal Revenue Code of 1986 and to extend the financing for the Airport and Airway Trust Fund, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 13, 2007

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

A BILL

To amend the Internal Revenue Code of 1986 and to extend the financing for the Airport and Airway Trust Fund, 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,*

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “American Infrastructure Investment and Improvement
6 Act of 2007”.

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

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

Sec. 1. Short title, etc.

TITLE I—AIRPORT AND AIRWAY TRUST FUND PROVISIONS AND RELATED TAXES

Sec. 101. Extension of taxes funding Airport and Airway Trust Fund.
 Sec. 102. Extension of Airport and Airway Trust Fund expenditure authority.
 Sec. 103. Modification of excise tax on kerosene used in aviation .
 Sec. 104. Increase in tax on use of international air facilities.
 Sec. 105. Air Traffic Control System Modernization Account.
 Sec. 106. Treatment of fractional aircraft ownership programs.
 Sec. 107. Termination of exemption for small aircraft on nonestablished lines.
 Sec. 108. Transparency in passenger tax disclosures.
 Sec. 109. Required funding of new accruals under air carrier pension plans.

TITLE II—INCREASED FUNDING FOR HIGHWAY TRUST FUND

Sec. 201. Replenish emergency spending from Highway Trust Fund.
 Sec. 202. Suspension of transfers from highway trust fund for certain repay-
 ments and credit.
 Sec. 203. Taxation of taxable fuels in foreign trade zones.
 Sec. 204. Clarification of penalty for sale of fuel failing to meet EPA regula-
 tions.
 Sec. 205. Treatment of qualified alcohol fuel mixtures and qualified biodiesel
 fuel mixtures as taxable fuels.
 Sec. 206. Calculation of volume of alcohol for fuel credits.
 Sec. 207. Bulk transfer exception not to apply to finished gasoline.
 Sec. 208. Increase and extension of Oil Spill Liability Trust Fund tax.
 Sec. 209. Application of rules treating inverted corporations as domestic cor-
 porations to certain transactions occurring after March 20,
 2002.
 Sec. 210. Denial of deduction for punitive damages.
 Sec. 211. Fuel technical corrections.
 Sec. 212. Motor fuel tax enforcement advisory commission.
 Sec. 213. Highway Trust Fund conforming expenditure amendment.

TITLE III—ADDITIONAL INFRASTRUCTURE MODIFICATIONS AND REVENUE PROVISIONS

Sec. 301. Restructuring of New York Liberty Zone tax credits.

Sec. 302. Participants in government section 457 plans allowed to treat elective deferrals as Roth contributions.

Sec. 303. Increased information return penalties.

Sec. 304. Exemption of certain commercial cargo from harbor maintenance tax.

Sec. 305. Credit to holders of qualified rail infrastructure bonds.

Sec. 306. Repeal of suspension of certain penalties and interest.

Sec. 307. Denial of deduction for certain fines, penalties, and other amounts.

Sec. 308. Revision of tax rules on expatriation.

1 TITLE I—AIRPORT AND AIRWAY 2 TRUST FUND PROVISIONS 3 AND RELATED TAXES

4 SEC. 101. EXTENSION OF TAXES FUNDING AIRPORT AND 5 AIRWAY TRUST FUND.

6 (a) FUEL TAXES.—Subparagraph (B) of section
7 4081(d)(2) is amended by striking “September 30, 2007”
8 and inserting “September 30, 2011”.

9 (b) TICKET TAXES.—

10 (1) PERSONS.—Clause (ii) of section
11 4261(j)(1)(A) is amended by striking “September
12 30, 2007” and inserting “September 30, 2011”.

13 (2) PROPERTY.—Clause (ii) of section
14 4271(d)(1)(A) is amended by striking “September
15 30, 2007” and inserting “September 30, 2011”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall take effect on October 1, 2007.

18 SEC. 102. EXTENSION OF AIRPORT AND AIRWAY TRUST 19 FUND EXPENDITURE AUTHORITY.

20 (a) IN GENERAL.—Paragraph (1) of section 9502(d)
21 is amended—

1 (1) by striking “October 1, 2007” in the matter
 2 preceding subparagraph (A) and inserting “October
 3 1, 2011”, and

4 (2) by striking the semicolon at the end of sub-
 5 paragraph (A) and inserting “or the Aviation Invest-
 6 ment and Modernization Act of 2007;”.

7 (b) CONFORMING AMENDMENT.—Paragraph (2) of
 8 section 9502(f) is amended by striking “October 1, 2007”
 9 and inserting “October 1, 2011”.

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall take effect on October 1, 2007.

12 **SEC. 103. MODIFICATION OF EXCISE TAX ON KEROSENE**
 13 **USED IN AVIATION .**

14 (a) RATE OF TAX ON AVIATION-GRADE KER-
 15 OSENE.—

16 (1) IN GENERAL.—Subparagraph (A) of section
 17 4081(a)(2) (relating to rates of tax) is amended by
 18 striking “and” at the end of clause (ii), by striking
 19 the period at the end of clause (iii) and inserting “,
 20 and”, and by adding at the end the following new
 21 clause:

22 “(iv) in the case of aviation-grade ker-
 23 osene, 35.9 cents per gallon.”.

24 (2) FUEL REMOVED DIRECTLY INTO FUEL
 25 TANK OF AIRPLANE USED IN NONCOMMERCIAL AVIA-

1 TION.—Subparagraph (C) of section 4081(a)(2) is
 2 amended to read as follows:

3 “(C) TAXES IMPOSED ON FUEL USED IN
 4 COMMERCIAL AVIATION.—In the case of avia-
 5 tion-grade kerosene which is removed from any
 6 refinery or terminal directly into the fuel tank
 7 of an aircraft for use in commercial aviation by
 8 a person registered for such use under section
 9 4101, the rate of tax under subparagraph
 10 (A)(iv) shall be 4.3 cents per gallon.”.

11 (3) EXEMPTION FOR AVIATION-GRADE KER-
 12 OSENE REMOVED INTO AN AIRCRAFT.—Subsection
 13 (e) of section 4082 is amended—

14 (A) by striking “kerosene” and inserting
 15 “aviation-grade kerosene”,

16 (B) by striking “section
 17 4081(a)(2)(A)(iii)” and inserting “section
 18 4081(a)(2)(A)(iv)”, and

19 (C) by striking “KEROSENE” in the head-
 20 ing and inserting “AVIATION-GRADE KER-
 21 OSENE”.

22 (4) CONFORMING AMENDMENTS.—

23 (A) Clause (iii) of section 4081(a)(2)(A) is
 24 amended by inserting “other than aviation-
 25 grade kerosene” after “kerosene”.

(B) The following provisions are each amended by striking “kerosene” and inserting “aviation-grade kerosene”:

(i) Section 4081(a)(3)(A)(ii).

(ii) Section 4081(a)(3)(A)(iv).

(iii) Section 4081(a)(3)(D).

(C) Section 4081(a)(3)(D) is amended—

(i) by striking “paragraph (2)(C)(i)” in clause (i) and inserting “paragraph (2)(C)”, and

(ii) by striking “paragraph (2)(C)(ii)” in clause (ii) and inserting “paragraph (2)(A)(iv)”.

(D) Section 4081(a)(4) is amended—

(i) in the heading by striking “KER-
OSENE” and inserting “AVIATION-GRADE
KEROSENE”, and

(ii) by striking “paragraph (2)(C)(i)” and inserting “paragraph (2)(C)”.

(E) Section 4081(d)(2) is amended by striking “(a)(2)(C)(ii)” and inserting “(a)(2)(A)(iv)”.

(b) RETAIL TAX ON AVIATION FUEL.—

(1) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—Paragraph (2) of section 4041(c) is amend-

1 ed by inserting “at the rate specified in subsection
2 (a)(2)(A)(iv) thereof” after “section 4081”.

3 (2) RATE OF TAX.—Paragraph (3) of section
4 4041(c) is amended to read as follows:

5 “(3) RATE OF TAX.—The rate of tax imposed
6 by this subsection shall be the rate of tax in effect
7 under section 4081(a)(2)(A)(iv) (4.3 cents per gallon
8 with respect to any sale or use for commercial avia-
9 tion).”.

10 (c) REFUNDS RELATING TO AVIATION-GRADE KER-
11 OSENE.—

12 (1) KEROSENE USED IN COMMERCIAL AVIA-
13 TION.—Clause (ii) of section 6427(l)(4)(A) is
14 amended by striking “specified in section 4041(c) or
15 4081(a)(2)(A)(iii), as the case may be,” and insert-
16 ing “so imposed”.

17 (2) KEROSENE USED IN AVIATION.—Paragraph
18 (4) of section 6427(l) is amended—

19 (A) by striking subparagraph (B) and re-
20 designating subparagraph (C) as subparagraph
21 (B), and

22 (B) by amending subparagraph (B), as re-
23 designated by subparagraph (A), to read as fol-
24 lows:

“(B) PAYMENTS TO ULTIMATE, REGISTERED VENDOR.—With respect to any kerosene used in aviation (other than kerosene to which paragraph (6) applies), if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay (without interest) the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

“(i) is registered under section 4101,
and

“(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).”.

(3) AVIATION-GRADE KEROSENE NOT USED IN AVIATION.—Subsection (l) of section 6427 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

“(5) REFUNDS FOR AVIATION-GRADE KEROSENE NOT USED IN AVIATION.—If tax has been imposed under section 4081 at the rate specified in

1 section 4081(a)(2)(A)(iv) and the fuel is used other
 2 than in an aircraft, the Secretary shall pay (without
 3 interest) to the ultimate purchaser of such fuel an
 4 amount equal to the amount of tax imposed on such
 5 fuel reduced by the amount of tax that would be im-
 6 posed under section 4041 if no tax under section
 7 4081 had been imposed.”.

8 (4) CONFORMING AMENDMENTS.—

9 (A) Section 4082(d)(2)(B) is amended by
 10 striking “6427(l)(5)(B)” and inserting
 11 “6427(l)(6)(B)”.

12 (B) Section 6427(i)(4) is amended—

13 (i) by striking “(4)(C)” the first two
 14 places it occurs and inserting “(4)(B)”,
 15 and

16 (ii) by striking “, (l)(4)(C)(ii), and”
 17 and inserting “and”.

18 (C) The heading of section 6427(l) is
 19 amended by striking “DIESEL FUEL AND KER-
 20 OSENE” and inserting “DIESEL FUEL, KER-
 21 OSENE, AND AVIATION FUEL”.

22 (D) Section 6427(l)(1) is amended by
 23 striking “paragraph (4)(C)(i)” and inserting
 24 “paragraph (4)(B)”.

25 (E) Section 6427(l)(4) is amended—

(i) by striking “KEROSENE USED IN AVIATION” in the heading and inserting “AVIATION-GRADE KEROSENE USED IN COMMERCIAL AVIATION”, and

(ii) in subparagraph (A)—

(I) by striking “kerosene” and inserting “aviation-grade kerosene”,

(II) by striking “KEROSENE USED IN COMMERCIAL AVIATION” in the heading and inserting “IN GENERAL”.

(d) TRANSFERS TO THE AIRPORT AND AIRWAY TRUST FUND.—

(1) IN GENERAL.—Subparagraph (C) of section 9502(b)(1) is amended to read as follows:

“(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and”.

(2) TRANSFERS ON ACCOUNT OF CERTAIN RE-FUNDS.—

(A) IN GENERAL.—Subsection (d) of section 9502 is amended—

(i) in paragraph (2) by striking “(other than subsection (l)(4) thereof)”, and

1 (ii) in paragraph (3) by striking
2 “(other than payments made by reason of
3 paragraph (4) of section 6427(l))”.

4 (B) CONFORMING AMENDMENTS.—

5 (i) Section 9503(b)(4) is amended by
6 striking “or” at the end of subparagraph
7 (C), by striking the period at the end of
8 subparagraph (D) and inserting a comma,
9 and by inserting after subparagraph (D)
10 the following:

11 “(E) section 4081 to the extent attrib-
12 utable to the rate specified in clause (ii) or (iv)
13 of section 4081(a)(2)(A), or

14 “(F) section 4041(c).”.

15 (ii) Section 9503(c) is amended by
16 striking the last paragraph (relating to
17 transfers from the Trust Fund for certain
18 aviation fuel taxes).

19 (iii) Section 9502(a) is amended—

20 (I) by striking “appropriated,
21 credited, or paid into” and inserting
22 “appropriated or credited to”, and

23 (II) by striking “, section
24 9503(c)(7),”.

1 (e) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to fuels removed, entered, or sold
 3 after December 31, 2007.

4 (f) FLOOR STOCKS TAX.—

5 (1) IMPOSITION OF TAX.—In the case of avia-
 6 tion fuel which is held on January 1, 2008, by any
 7 person, there is hereby imposed a floor stocks tax on
 8 aviation fuel equal to—

9 (A) the tax which would have been imposed
 10 before such date on such fuel had the amend-
 11 ments made by this section been in effect at all
 12 times before such date, reduced by

13 (B) the sum of—

14 (i) the tax imposed before such date
 15 on such fuel under section 4081 of the In-
 16 ternal Revenue Code of 1986, as in effect
 17 on such date, and

18 (ii) in the case of kerosene held exclu-
 19 sively for such person's own use, the
 20 amount which such person would (but for
 21 this clause) reasonably expect (as of such
 22 date) to be paid as a refund under section
 23 6427(l) of such Code with respect to such
 24 kerosene.

1 (2) LIABILITY FOR TAX AND METHOD OF PAY-
2 MENT.—

3 (A) LIABILITY FOR TAX.—A person hold-
4 ing aviation fuel on January 1, 2008, shall be
5 liable for such tax.

6 (B) TIME AND METHOD OF PAYMENT.—
7 The tax imposed by paragraph (1) shall be paid
8 at such time and in such manner as the Sec-
9 retary of the Treasury shall prescribe.

10 (3) TRANSFER OF FLOOR STOCK TAX REVE-
11 NUES TO TRUST FUNDS.—For purposes of deter-
12 mining the amount transferred to the Airport and
13 Airway Trust Fund, the tax imposed by this sub-
14 section shall be treated as imposed by section
15 4081(a)(2)(A)(iv) of the Internal Revenue Code of
16 1986.

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

19 (A) AVIATION FUEL.—The term “aviation
20 fuel” means aviation-grade kerosene and avia-
21 tion gasoline, as such terms are used within the
22 meaning of section 4081 of the Internal Rev-
23 enue Code of 1986.

24 (B) HELD BY A PERSON.—Aviation fuel
25 shall be considered as held by a person if title

1 thereto has passed to such person (whether or
2 not delivery to the person has been made).

3 (C) SECRETARY.—The term “Secretary”
4 means the Secretary of the Treasury or the
5 Secretary’s delegate.

6 (5) EXCEPTION FOR EXEMPT USES.—The tax
7 imposed by paragraph (1) shall not apply to any
8 aviation fuel held by any person exclusively for any
9 use to the extent a credit or refund of the tax is al-
10 lowable under the Internal Revenue Code of 1986
11 for such use.

12 (6) EXCEPTION FOR CERTAIN AMOUNTS OF
13 FUEL.—

14 (A) IN GENERAL.—No tax shall be im-
15 posed by paragraph (1) on any aviation fuel
16 held on January 1, 2008, by any person if the
17 aggregate amount of such aviation fuel held by
18 such person on such date does not exceed 2,000
19 gallons. The preceding sentence shall apply only
20 if such person submits to the Secretary (at the
21 time and in the manner required by the Sec-
22 retary) such information as the Secretary shall
23 require for purposes of this subparagraph.

24 (B) EXEMPT FUEL.—For purposes of sub-
25 paragraph (A), there shall not be taken into ac-

1 count any aviation fuel held by any person
2 which is exempt from the tax imposed by para-
3 graph (1) by reason of paragraph (6).

4 (C) CONTROLLED GROUPS.—For purposes
5 of this subsection—

6 (i) CORPORATIONS.—

7 (I) IN GENERAL.—All persons
8 treated as a controlled group shall be
9 treated as 1 person.

10 (II) CONTROLLED GROUP.—The
11 term “controlled group” has the
12 meaning given to such term by sub-
13 section (a) of section 1563 of the In-
14 ternal Revenue Code of 1986; except
15 that for such purposes the phrase
16 “more than 50 percent” shall be sub-
17 stituted for the phrase “at least 80
18 percent” each place it appears in such
19 subsection.

20 (ii) NONINCORPORATED PERSONS
21 UNDER COMMON CONTROL.—Under regula-
22 tions prescribed by the Secretary, prin-
23 ciples similar to the principles of subpara-
24 graph (A) shall apply to a group of per-

1 sons under common control if 1 or more of
2 such persons is not a corporation.

3 (7) OTHER LAWS APPLICABLE.—All provisions
4 of law, including penalties, applicable with respect to
5 the taxes imposed by section 4081 of the Internal
6 Revenue Code of 1986 on the aviation fuel involved
7 shall, insofar as applicable and not inconsistent with
8 the provisions of this subsection, apply with respect
9 to the floor stock taxes imposed by paragraph (1) to
10 the same extent as if such taxes were imposed by
11 such section.

12 **SEC. 104. INCREASE IN TAX ON USE OF INTERNATIONAL**
13 **AIR FACILITIES.**

14 (a) IN GENERAL.—Section 4261(c)(1) is amended by
15 striking “\$12.00” and inserting “\$16.65”.

16 (b) INFLATION ADJUSTMENT.—Section
17 4261(e)(4)(B) is amended—

18 (1) by striking “and” at the end of clause (i),

19 (2) by striking “amounts contained in sub-
20 section (c).” in clause (ii) and inserting “amount
21 contained in subsection (c)(3), and”, and

22 (3) by adding at the end the following new
23 clause:

24 “(iii) 2008 in the case of the dollar
25 amount contained in subsection (c)(1).”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall take effect on January 1, 2008.

3 **SEC. 105. AIR TRAFFIC CONTROL SYSTEM MODERNIZATION**
 4 **ACCOUNT.**

5 (a) IN GENERAL.—Section 9502 (relating to the Air-
 6 port and Airway Trust Fund) is amended by adding at
 7 the end the following new subsection:

8 “(g) ESTABLISHMENT OF AIR TRAFFIC CONTROL
 9 SYSTEM MODERNIZATION ACCOUNT.—

10 “(1) CREATION OF ACCOUNT.—There is estab-
 11 lished in the Airport and Airway Trust Fund a sepa-
 12 rate account to be known as the ‘Air Traffic Control
 13 System Modernization Account’ consisting of such
 14 amounts as may be transferred or credited to the
 15 Air Traffic Control System Modernization Account
 16 as provided in this subsection or section 9602(b).

17 “(2) TRANSFERS TO AIR TRAFFIC CONTROL
 18 SYSTEM MODERNIZATION ACCOUNT.—The Secretary
 19 of the Treasury shall annually transfer from the Air-
 20 port and Airway Trust Fund to the Air Traffic Con-
 21 trol System Modernization Account an amount equal
 22 to \$400,000,000.

23 “(3) EXPENDITURES FROM ACCOUNT.—
 24 Amounts in the Air Traffic Control System Mod-
 25 ernization Account shall be available to the Adminis-

1 trator of the Federal Aviation Administration for ex-
 2 penditures relating the modernization of the air traf-
 3 fic control system (including facility and equipment
 4 account expenditures) approved by the Air Traffic
 5 Control Modernization Oversight Board.”.

6 (b) CONFORMING AMENDMENT.—Section 9502(d)(1)
 7 is amended by striking “Amounts” and inserting “Except
 8 as provided in subsection (g), amounts”.

9 (c) EFFECTIVE DATE.—The amendments made by
 10 this section shall take effect on the date of the enactment
 11 of this Act.

12 **SEC. 106. TREATMENT OF FRACTIONAL AIRCRAFT OWNER-**
 13 **SHIP PROGRAMS.**

14 (a) DEPARTURE TAX IN LIEU OF PERSONS AND
 15 PROPERTY TAX.—

16 (1) DEPARTURE TAX.—

17 (A) IN GENERAL.—Subchapter C of chap-
 18 ter 33 is amended by redesignating part III as
 19 part IV and by inserting after part II the fol-
 20 lowing new part:

21 **“PART III—DEPARTURES**

“Sec. 4266. Fractional aircraft ownership programs.

1 **“SEC. 4266. FRACTIONAL AIRCRAFT OWNERSHIP PRO-**
 2 **GRAMS.**

3 “(a) IN GENERAL.—There is hereby imposed a tax
 4 of \$58 on each departure of an aircraft which is part of
 5 a fractional ownership aircraft program.

6 “(b) FRACTIONAL OWNERSHIP AIRCRAFT PRO-
 7 GRAM.—For purposes of this section—

8 “(1) IN GENERAL.—The term ‘fractional owner-
 9 ship aircraft program’ means a program under
 10 which—

11 “(A) a single fractional ownership program
 12 manager provides fractional ownership program
 13 management services on behalf of the fractional
 14 owners,

15 “(B) 2 or more airworthy aircraft are part
 16 of the program,

17 “(C) there are 1 or more fractional owners
 18 per program aircraft, with at least 1 program
 19 aircraft having more than 1 owner,

20 “(D) each fractional owner possesses at
 21 least a minimum fractional ownership interest
 22 in 1 or more program aircraft,

23 “(E) there exists a dry-lease exchange ar-
 24 rangement among all of the fractional owners,
 25 and

1 “(F) there are multi-year program agree-
 2 ments covering the fractional ownership, frac-
 3 tional ownership program management services,
 4 and dry-lease aircraft exchange aspects of the
 5 program.

6 “(2) MINIMUM FRACTIONAL OWNERSHIP INTER-
 7 EST.—The term ‘minimum fractional ownership in-
 8 terest’ means, with respect to each type of aircraft—

9 “(A) a fractional ownership interest equal
 10 to or greater than $\frac{1}{16}$ of at least 1 subsonic,
 11 fixed wing or powered lift program aircraft, or

12 “(B) a fractional ownership interest equal
 13 to or greater than $\frac{1}{32}$ of a least 1 rotorcraft
 14 program aircraft.

15 “(3) DRY-LEASE EXCHANGE ARRANGEMENT.—
 16 A ‘dry-lease aircraft exchange’ means an agreement,
 17 documented by the written program agreements,
 18 under which the program aircraft are available, on
 19 an as needed basis without crew, to each fractional
 20 owner.

21 “(c) APPLICATION OF TAXES.—

22 “(1) IN GENERAL.—The taxes imposed by this
 23 section shall apply to departures during the period
 24 beginning on January 1, 2008, and ending on Sep-
 25 tember 30, 2011.”.

1 (B) TRANSFER OF REVENUES TO AIRPORT
 2 AND AIRWAY TRUST FUND.—Section
 3 9502(b)(1)(B) is amended by striking “and
 4 4271” and inserting “4266, and 4271”.

5 (C) CONFORMING AMENDMENTS.—The
 6 table of parts for subchapter C of chapter 33
 7 is amended by redesignating the item relating
 8 to part III as relating to part IV and by insert-
 9 ing after the item relating to part II the fol-
 10 lowing new item:

“Part III. Departures.”.

11 (2) EXEMPTION FROM TAX ON TRANSPOR-
 12 TATION OF PERSONS.—Section 4261, as amended by
 13 section 101(b)(1), is amended by redesignating sub-
 14 section (j) as subsection (k) and by inserting after
 15 subsection (i) the following new subsection:

16 “(j) EXEMPTION FOR AIRCRAFT IN FRACTIONAL
 17 OWNERSHIP AIRCRAFT PROGRAMS.—No tax shall be im-
 18 posed by this section on any air transportation by an air-
 19 craft which is part of a fractional ownership aircraft pro-
 20 gram (as defined by section 4266(b)).”.

21 (b) TREATMENT OF PROGRAMS UNDER FUEL
 22 TAXES.—Subsection (b) of section 4083 is amended by
 23 adding at the end the following new sentence: “Such term
 24 shall not include the use of any aircraft which is part of

1 a fractional ownership aircraft program (as defined by sec-
 2 tion 4266(b)).”.

3 (c) EFFECTIVE DATES.—

4 (1) DEPARTURE TAX.—The amendments made
 5 by subsection (a) shall apply to transportation begin-
 6 ning after December 31, 2007.

7 (2) FUEL TAXES.—The amendment made by
 8 subsection (b) shall apply to fuel sold or used after
 9 December 31, 2007.

10 **SEC. 107. TERMINATION OF EXEMPTION FOR SMALL AIR-**
 11 **CRAFT ON NONESTABLISHED LINES.**

12 (a) IN GENERAL.—Section 4281 is amended to read
 13 as follows:

14 **“SEC. 4281. SMALL AIRCRAFT OPERATED SOLELY FOR**
 15 **SIGHTSEEING.**

16 “The taxes imposed by sections 4261 and 4271 shall
 17 not apply to transportation by an aircraft having a max-
 18 imum certificated takeoff weight of 6,000 pounds or less
 19 at any time during which such aircraft is being operated
 20 on a flight the sole purpose of which is sightseeing. For
 21 purposes of the preceding sentence, the term ‘maximum
 22 certificated takeoff weight’ means the maximum such
 23 weight contained in the type certificate or airworthiness
 24 certificate.”.

1 (b) CONFORMING AMENDMENT.—The item relating
 2 to section 4281 in the table of sections for part III of
 3 subchapter C of chapter 33 is amended by striking “on
 4 nonestablished lines” and inserting “operated solely for
 5 sightseeing”.

6 (c) EFFECTIVE DATE.—The amendments made by
 7 this section shall apply to transportation beginning after
 8 December 31, 2007.

9 **SEC. 108. TRANSPARENCY IN PASSENGER TAX DISCLO-**
 10 **SURES.**

11 (a) IN GENERAL.—Section 7275 (relating to penalty
 12 for offenses relating to certain airline tickets and adver-
 13 tising) is amended—

14 (1) by redesignating subsection (c) as sub-
 15 section (d),

16 (2) by striking “subsection (a) or (b)” in sub-
 17 section (d), as so redesignated, and inserting “sub-
 18 section (a), (b), or (c)”, and

19 (3) by inserting after subsection (b) the fol-
 20 lowing new subsection:

21 “(c) NON-TAX CHARGES.—

22 “(1) IN GENERAL.—In the case of transpor-
 23 tation by air for which disclosure on the ticket or
 24 advertising for such transportation of the amounts
 25 paid for passenger taxes is required by subsection

1 (a)(2) or (b)(1)(B), it shall be unlawful for the dis-
 2 closure of the amount of such taxes on such ticket
 3 or advertising to include any amounts not attrib-
 4 utable to the taxes imposed by subsection (a), (b),
 5 or (c) of section 4261.

6 “(2) INCLUSION IN TRANSPORTATION COST.—
 7 Nothing in this subsection shall prohibit the inclu-
 8 sion of amounts not attributable to the taxes im-
 9 posed by subsection (a), (b), or (c) of section 4261
 10 in the disclosure of the amount paid for transpor-
 11 tation as required by subsection (a)(1) or (b)(1)(A),
 12 or in a separate disclosure of amounts not attrib-
 13 utable to such taxes.”.

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

17 **SEC. 109. REQUIRED FUNDING OF NEW ACCRUALS UNDER**
 18 **AIR CARRIER PENSION PLANS.**

19 (a) IN GENERAL.—Section 402(a) of the Pension
 20 Protection Act of 2006, as amended by section 6615(a)
 21 of the U. S. Troop Readiness, Veterans’ Care, Katrina Re-
 22 covery, and Iraq Accountability Appropriations Act, 2007
 23 (Public Law 110–28), is amended—

24 (1) in paragraph (2)—

1 (A) by striking “to its first taxable year
2 beginning in 2008”,

3 (B) by striking “for such taxable year”
4 and inserting “for its first plan year beginning
5 in 2008”, and

6 (C) by striking “and by using, in deter-
7 mining the funding target for each of the 10
8 plan years during such period, an interest rate
9 of 8.25 percent (rather than the segment rates
10 calculated on the basis of the corporate bond
11 yield curve)”, and

12 (2) by adding at the end the following new
13 flush matter:

14 “If the plan sponsor of an eligible plan elects the applica-
15 tion of paragraph (2), the plan sponsor may also elect,
16 in determining the funding target for each of the 10 plan
17 years during the period described in paragraph (2), to use
18 an interest rate of 8.25 percent (rather than the segment
19 rates calculated on the basis of the corporate bond yield
20 curve). Notwithstanding the preceding sentence, in the
21 case of any plan year of the eligible plan for which such
22 8.25 percent interest rate is used, the minimum required
23 contribution under section 303 of such Act and section
24 430 of such Code shall in no event be less than the target
25 normal cost of the plan for such plan year (as determined

1 under section 303(b) of such Act and section 430(b) of
 2 such Code). A plan sponsor may revoke the election to use
 3 the 8.25 percent interest rate and if the revocation is
 4 made, the revocation shall apply to the plan year for which
 5 made and all subsequent plan years and the plan sponsor
 6 may not elect to use the 8.25 percent interest rate for any
 7 subsequent plan year.”.

8 (b) EFFECTIVE DATE.—The amendments made by
 9 this section shall take effect as if included in the provisions
 10 of the Pension Protection Act of 2006 to which such
 11 amendments relate.

12 **TITLE II—INCREASED FUNDING** 13 **FOR HIGHWAY TRUST FUND**

14 **SEC. 201. REPLENISH EMERGENCY SPENDING FROM HIGH-** 15 **WAY TRUST FUND.**

16 (a) IN GENERAL.—Section 9503(b) is amended—

17 (1) by adding at the end the following new
 18 paragraph:

19 “(7) EMERGENCY SPENDING REPLENISH-
 20 MENT.—There is hereby appropriated to the High-
 21 way Trust Fund \$3,400,000,000.”, and

22 (2) by striking “AMOUNTS EQUIVALENT TO
 23 CERTAIN TAXES AND PENALTIES” in the heading
 24 and inserting “CERTAIN AMOUNTS”.

1 (b) EFFECTIVE DATE.—The amendments made by
 2 this section shall take effect on the date of the enactment
 3 of this Act.

4 **SEC. 202. SUSPENSION OF TRANSFERS FROM HIGHWAY**
 5 **TRUST FUND FOR CERTAIN REPAYMENTS**
 6 **AND CREDIT.**

7 Section 9503(c)(2) is amended by adding at the end
 8 the following new subparagraph:

9 “(D) TEMPORARY SUSPENSION.—This
 10 paragraph shall not apply to amounts estimated
 11 by the Secretary to be attributable to the 6-
 12 month period beginning on the date of the en-
 13 actment of the American Infrastructure Invest-
 14 ment and Improvement Act of 2007.”.

15 **SEC. 203. TAXATION OF TAXABLE FUELS IN FOREIGN**
 16 **TRADE ZONES.**

17 (a) TAX IMPOSED ON REMOVALS AND ENTRIES IN
 18 FOREIGN TRADE ZONES.—

19 (1) IN GENERAL.—Subsection (a) of section
 20 4083 (relating to definitions) is amended by adding
 21 at the end the following new paragraph:

22 “(4) UNITED STATES.—The term ‘United
 23 States’ includes any foreign trade zone or bonded
 24 warehouse located in the United States.”.

1 (2) CONFORMING AMENDMENT.—Section
 2 4081(a)(1)(A) (relating to imposition of tax) is
 3 amended—

4 (A) in clause (i), by inserting “in the
 5 United States” after “refinery”; and

6 (B) in clause (ii), by inserting “in the
 7 United States” after “terminal”.

8 (b) TREATMENT OF TAXABLE FUEL IN FOREIGN
 9 TRADE ZONES.—Paragraph (2) of section 81c(a) of title
 10 19, United States Code, is amended by inserting “(other
 11 than the provisions relating to taxable fuel (as defined
 12 under section 4083(a) of the Internal Revenue Code of
 13 1986))” after “thereunder”.

14 (c) EFFECTIVE DATES.—

15 (1) SUBSECTION (a).—The amendments made
 16 by subsection (a) shall apply to removals and entries
 17 after December 31, 2007.

18 (2) SUBSECTION (b).—The amendment made
 19 by subsection (b) shall take effect on January 1,
 20 2008.

21 **SEC. 204. CLARIFICATION OF PENALTY FOR SALE OF FUEL**
 22 **FAILING TO MEET EPA REGULATIONS.**

23 (a) IN GENERAL.—Subsection (a) of section 6720A
 24 (relating to penalty with respect to certain adulterated
 25 fuels) is amended by striking “applicable EPA regulations

1 (as defined in section 45H(c)(3))” and inserting “the re-
 2 quirements for diesel fuel under section 211 of the Clean
 3 Air Act, as determined by the Secretary,”.

4 (b) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to any transfer, sale, or holding
 6 out for sale or resale occurring after the date of the enact-
 7 ment of this Act.

8 **SEC. 205. TREATMENT OF QUALIFIED ALCOHOL FUEL MIX-**
 9 **TURES AND QUALIFIED BIODIESEL FUEL MIX-**
 10 **TURES AS TAXABLE FUELS.**

11 (a) IN GENERAL.—

12 (1) QUALIFIED ALCOHOL FUEL MIXTURES.—
 13 Paragraph (2) of section 4083(a) (relating to gaso-
 14 line) is amended—

15 (A) by striking “and” at the end of sub-
 16 paragraph (A),

17 (B) by redesignating subparagraph (B) as
 18 subparagraph (C), and

19 (C) by inserting after subparagraph (A)
 20 the following new subparagraph:

21 “(B) includes any qualified mixture (as de-
 22 fined in section 40(b)(1)(B)) which is a mixture
 23 of alcohol and special fuel, and”.

24 (2) QUALIFIED BIODIESEL FUEL MIXTURES.—
 25 Subparagraph (A) of section 4083(a)(3) (relating to

1 diesel fuel) is amended by striking “and” at the end
 2 of clause (ii), by redesignating clause (iii) as clause
 3 (iv), and inserting after clause (ii) the following new
 4 clause:

5 “(iii) any qualified biodiesel mixture
 6 (as defined in section 40A(b)(1)(B)), and”.

7 (b) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to fuels removed, entered, or sold
 9 after December 31, 2007.

10 **SEC. 206. CALCULATION OF VOLUME OF ALCOHOL FOR**
 11 **FUEL CREDITS.**

12 (a) IN GENERAL.—Paragraph (4) of section 40(d)
 13 (relating to volume of alcohol) is amended by striking “the
 14 volume of alcohol” and all that follows and inserting “the
 15 volume of alcohol shall not include any denaturant added
 16 to such alcohol.”.

17 (b) CONFORMING AMENDMENT FOR EXCISE TAX
 18 CREDIT.—Section 6426(b) (relating to alcohol fuel mix-
 19 ture credit) is amended by redesignating paragraph (5)
 20 as paragraph (6) and by inserting after paragraph (4) the
 21 following new paragraph:

22 “(5) VOLUME OF ALCOHOL.—For purposes of
 23 determining under subsection (a) the number of gal-
 24 lons of alcohol with respect to which a credit is al-
 25 lowable under subsection (a), the volume of alcohol

1 shall not include any denaturant added to such alco-
2 hol.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to fuel sold or used after December
5 31, 2007.

6 **SEC. 207. BULK TRANSFER EXCEPTION NOT TO APPLY TO**
7 **FINISHED GASOLINE.**

8 (a) IN GENERAL.—Subparagraph (B) of section
9 4081(a)(1) (relating to tax on removal, entry, or sale) is
10 amended by adding at the end the following new clause:

11 “(iii) EXCEPTION FOR FINISHED GAS-
12 OLINE.—Clause (i) shall not apply to any
13 finished gasoline.”.

14 (b) EXCEPTION TO TAX ON FINISHED GASOLINE FOR
15 PRIOR TAXABLE REMOVALS.—Paragraph (1) of section
16 4081(a) is amended by adding at the end the following
17 new subparagraph:

18 “(C) EXEMPTION FOR PREVIOUSLY TAXED
19 FINISHED GASOLINE.—The tax imposed by this
20 paragraph shall not apply to the removal of
21 gasoline described in subparagraph (B)(iii)
22 from any terminal if there was a prior taxable
23 removal or entry of such fuel under clause (i),
24 (ii), or (iii) of subparagraph (A). The preceding
25 sentence shall not apply to the volume of any

1 product added to such gasoline at the terminal
 2 unless there was a prior taxable removal or
 3 entry of such product under clause (i), (ii), or
 4 (iii) of subparagraph (A).”.

5 (c) EFFECTIVE DATE.—The amendment made by
 6 this section shall apply to fuel removed, entered, or sold
 7 after December 31, 2007.

8 **SEC. 208. INCREASE AND EXTENSION OF OIL SPILL LIABIL-**
 9 **ITY TRUST FUND TAX.**

10 (a) INCREASE IN RATE.—

11 (1) IN GENERAL.—Section 4611(c)(2)(B) (re-
 12 lating to rates) is amended by striking “5 cents”
 13 and inserting “10 cents”.

14 (2) EFFECTIVE DATE.—The amendment made
 15 by this subsection shall apply on and after the first
 16 day of the first calendar quarter beginning more
 17 than 60 days after the date of the enactment of this
 18 Act.

19 (b) EXTENSION.—

20 (1) IN GENERAL.—Section 4611(f) (relating to
 21 application of Oil Spill Liability Trust Fund financ-
 22 ing rate) is amended by striking paragraphs (2) and
 23 (3) and inserting the following new paragraph:

1 “(2) TERMINATION.—The Oil Spill Liability
2 Trust Fund financing rate shall not apply after De-
3 cember 31, 2017.”.

4 (2) CONFORMING AMENDMENT.—Section
5 4611(f)(1) is amended by striking “paragraphs (2)
6 and (3)” and inserting “paragraph (2)”.

7 (3) EFFECTIVE DATE.—The amendments made
8 by this subsection shall take effect on the date of the
9 enactment of this Act.

10 **SEC. 209. APPLICATION OF RULES TREATING INVERTED**
11 **CORPORATIONS AS DOMESTIC CORPORA-**
12 **TIONS TO CERTAIN TRANSACTIONS OCCUR-**
13 **RING AFTER MARCH 20, 2002.**

14 (a) IN GENERAL.—Section 7874(b) (relating to in-
15 verted corporations treated as domestic corporations) is
16 amended to read as follows:

17 “(b) INVERTED CORPORATIONS TREATED AS DO-
18 MESTIC CORPORATIONS.—

19 “(1) IN GENERAL.—Notwithstanding section
20 7701(a)(4), a foreign corporation shall be treated for
21 purposes of this title as a domestic corporation if
22 such corporation would be a surrogate foreign cor-
23 poration if subsection (a)(2) were applied by sub-
24 stituting ‘80 percent’ for ‘60 percent’.

1 “(2) SPECIAL RULE FOR CERTAIN TRANS-
2 ACTIONS OCCURRING AFTER MARCH 20, 2002.—

3 “(A) IN GENERAL.—If—

4 “(i) paragraph (1) does not apply to
5 a foreign corporation, but

6 “(ii) paragraph (1) would apply to
7 such corporation if, in addition to the sub-
8 stitution under paragraph (1), subsection
9 (a)(2) were applied by substituting ‘March
10 20, 2002’ for ‘March 4, 2003’ each place
11 it appears,

12 then paragraph (1) shall apply to such corpora-
13 tion but only with respect to taxable years of
14 such corporation beginning after the date of the
15 enactment of the American Infrastructure In-
16 vestment and Improvement Act of 2007.

17 “(B) SPECIAL RULES.—Subject to such
18 rules as the Secretary may prescribe, in the
19 case of a corporation to which paragraph (1)
20 applies by reason of this paragraph—

21 “(i) the corporation shall be treated,
22 as of the close of its first taxable year end-
23 ing after the date of the enactment of the
24 American Infrastructure Investment and
25 Improvement Act of 2007, as having trans-

ferred all of its assets, liabilities, and earnings and profits to a domestic corporation in a transaction with respect to which no tax is imposed under this title,

“(ii) the bases of the assets transferred in the transaction to the domestic corporation shall be the same as the bases of the assets in the hands of the foreign corporation, subject to any adjustments under this title for built-in losses,

“(iii) the basis of the stock of any shareholder in the domestic corporation shall be the same as the basis of the stock of the shareholder in the foreign corporation for which it is treated as exchanged, and

“(iv) the transfer of any earnings and profits by reason of clause (i) shall be disregarded in determining any deemed dividend or foreign tax creditable to the domestic corporation with respect to such transfer.

“(C) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this paragraph, in-

1 including regulations to prevent the avoidance of
 2 the purposes of this paragraph.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
 4 this section shall apply to taxable years beginning after
 5 the date of the enactment of this Act.

6 **SEC. 210. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.**

7 (a) **DISALLOWANCE OF DEDUCTION.**—

8 (1) **IN GENERAL.**—Section 162(g) (relating to
 9 treble damage payments under the antitrust laws) is
 10 amended—

11 (A) by redesignating paragraphs (1) and
 12 (2) as subparagraphs (A) and (B), respectively,

13 (B) by striking “If” and inserting:

14 “(1) **TREBLE DAMAGES.**—If”, and

15 (C) by adding at the end the following new
 16 paragraph:

17 “(2) **PUNITIVE DAMAGES.**—No deduction shall
 18 be allowed under this chapter for any amount paid
 19 or incurred for punitive damages in connection with
 20 any judgment in, or settlement of, any action. This
 21 paragraph shall not apply to punitive damages de-
 22 scribed in section 104(c).”.

23 (2) **CONFORMING AMENDMENT.**—The heading
 24 for section 162(g) is amended by inserting “OR PU-
 25 NITIVE DAMAGES” after “LAWS”.

1 (b) INCLUSION IN INCOME OF PUNITIVE DAMAGES
 2 PAID BY INSURER OR OTHERWISE.—

3 (1) IN GENERAL.—Part II of subchapter B of
 4 chapter 1 (relating to items specifically included in
 5 gross income) is amended by adding at the end the
 6 following new section:

7 **“SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSUR-**
 8 **ANCE OR OTHERWISE.**

9 “Gross income shall include any amount paid to or
 10 on behalf of a taxpayer as insurance or otherwise by rea-
 11 son of the taxpayer’s liability (or agreement) to pay puni-
 12 tive damages.”.

13 (2) REPORTING REQUIREMENTS.—Section 6041
 14 (relating to information at source) is amended by
 15 adding at the end the following new subsection:

16 “(h) SECTION TO APPLY TO PUNITIVE DAMAGES
 17 COMPENSATION.—This section shall apply to payments by
 18 a person to or on behalf of another person as insurance
 19 or otherwise by reason of the other person’s liability (or
 20 agreement) to pay punitive damages.”.

21 (3) CONFORMING AMENDMENT.—The table of
 22 sections for part II of subchapter B of chapter 1 is
 23 amended by adding at the end the following new
 24 item:

“Sec. 91. Punitive damages compensated by insurance or otherwise.”.

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

4 **SEC. 211. FUEL TECHNICAL CORRECTIONS.**

5 (a) AMENDMENTS RELATED TO SECTION 11113 OF
 6 THE SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT
 7 TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS.—

8 (1) Paragraph (3) of section 6427(i) is amend-
 9 ed—

10 (A) by inserting “or under subsection
 11 (e)(2) by any person with respect to an alter-
 12 native fuel (as defined in section 6426(d)(2))”
 13 after “section 6426” in subparagraph (A),

14 (B) by inserting “or (e)(2)” after “sub-
 15 section (e)(1)” in subparagraphs (A)(i) and
 16 (B), and

17 (C) by inserting “AND ALTERNATIVE FUEL
 18 CREDIT” after “MIXTURE CREDIT” in the head-
 19 ing thereof.

20 (2)(A) Subparagraph (F) of section 6426(d)(2)
 21 is amended by striking “hydrocarbons” and insert-
 22 ing “fuel”.

23 (B) Section 6426 is amended by adding at the
 24 end the following new subsection:

1 “(h) DENIAL OF DOUBLE BENEFIT.—No credit shall
 2 be determined under subsection (d) or (e) with respect to
 3 any fuel which is described in subsection (b) or (c) or sec-
 4 tion 40 or 40A.”.

5 (3) The amendments made by this subsection
 6 shall take effect as if included in section 11113 of
 7 the SAFETEA-LU.

8 (b) AMENDMENTS RELATED TO THE ENERGY POL-
 9 ICY ACT OF 2005.—

10 (1) AMENDMENT RELATED TO SECTION 1342 OF
 11 THE ACT.—

12 (A) So much of subsection (b) of section
 13 30C as precedes paragraph (1) thereof is
 14 amended to read as follows:

15 “(b) LIMITATION.—The credit allowed under sub-
 16 section (a) with respect to all alternative fuel vehicle re-
 17 fueling property placed in service by the taxpayer during
 18 the taxable year at a location shall not exceed—”.

19 (B) Subsection (c) of section 30C is
 20 amended to read as follows:

21 “(c) QUALIFIED ALTERNATIVE FUEL VEHICLE RE-
 22 FUELING PROPERTY.—For purposes of this section, the
 23 term ‘qualified alternative fuel vehicle refueling property’
 24 has the same meaning as the term ‘qualified clean-fuel ve-

1 hicle refueling property’ would have under section 179A
2 if—

3 “(1) paragraph (1) of section 179A(d) did not
4 apply to property installed on property which is used
5 as the principal residence (within the meaning of
6 section 121) of the taxpayer, and

7 “(2) only the following were treated as clean
8 burning fuels for purposes of section 179A(d):

9 “(A) Any fuel at least 85 percent of the
10 volume of which consists of one or more of the
11 following: ethanol, natural gas, compressed nat-
12 ural gas, liquified natural gas, liquefied petro-
13 leum gas, or hydrogen.

14 “(B) Any mixture—

15 “(i) which consists of two or more of
16 the following: biodiesel (as so defined), die-
17 sel fuel (as defined in section 4083(a)(3)),
18 or kerosene, and

19 “(ii) at least 20 percent of the volume
20 of which consists of biodiesel (as so de-
21 fined) determined without regard to any
22 kerosene in such mixture.”.

23 (2) AMENDMENTS RELATED TO SECTION 1362
24 OF THE ACT.—

1 (A)(i) Paragraph (1) of section 4041(d) is
2 amended by adding at the end the following
3 new sentence: “No tax shall be imposed under
4 the preceding sentence on the sale or use of any
5 liquid if tax was imposed with respect to such
6 liquid under section 4081 at the Leaking Un-
7 derground Storage Tank Trust Fund financing
8 rate.”.

9 (ii) Paragraph (3) of section 4042(b) is
10 amended to read as follows:

11 “(3) EXCEPTION FOR FUEL ON WHICH LEAK-
12 ING UNDERGROUND STORAGE TANK TRUST FUND FI-
13 NANCING RATE SEPARATELY IMPOSED.—The Leak-
14 ing Underground Storage Tank Trust Fund financ-
15 ing rate under paragraph (2)(B) shall not apply to
16 the use of any fuel if tax was imposed with respect
17 to such fuel under section 4041(d) or 4081 at the
18 Leaking Underground Storage Tank Trust Fund fi-
19 nancing rate.”.

20 (iii) Notwithstanding section 6430 of the
21 Internal Revenue Code of 1986, a refund, cred-
22 it, or payment may be made under subchapter
23 B of chapter 65 of such Code for taxes imposed
24 with respect to any liquid after September 30,
25 2005, and before the date of the enactment of

1 this Act under section 4041(d)(1) or 4042 of
 2 such Code at the Leaking Underground Storage
 3 Tank Trust Fund financing rate to the extent
 4 that tax was imposed with respect to such liq-
 5 uid under section 4081 at the Leaking Under-
 6 ground Storage Tank Trust Fund financing
 7 rate.

8 (B)(i) Paragraph (5) of section 4041(d) is
 9 amended—

10 (I) by striking “(other than with re-
 11 spect to any sale for export under para-
 12 graph (3) thereof)”, and

13 (II) by adding at the end the fol-
 14 lowing new sentence: “The preceding sen-
 15 tence shall not apply with respect to sub-
 16 section (g)(3) and so much of subsection
 17 (g)(1) as relates to vessels (within the
 18 meaning of section 4221(d)(3)) employed
 19 in foreign trade or trade between the
 20 United States and any of its possessions.”

21 (ii) Section 4082 is amended—

22 (I) by striking “(other than such tax
 23 at the Leaking Underground Storage Tank
 24 Trust Fund financing rate imposed in all

1 cases other than for export)” in subsection
 2 (a), and
 3 (II) by redesignating subsections (f)
 4 and (g) as subsections (g) and (h) and by
 5 inserting after subsection (e) the following
 6 new subsection:

7 “(f) EXCEPTION FOR LEAKING UNDERGROUND
 8 STORAGE TANK TRUST FUND FINANCING RATE.—

9 “(1) IN GENERAL.—Subsection (a) shall not
 10 apply to the tax imposed under section 4081 at the
 11 Leaking Underground Storage Tank Trust Fund fi-
 12 nancing rate.

13 “(2) EXCEPTION FOR EXPORT, ETC.—Para-
 14 graph (1) shall not apply with respect to any fuel if
 15 the Secretary determines that such fuel is destined
 16 for export or for use by the purchaser as supplies for
 17 vessels (within the meaning of section 4221(d)(3))
 18 employed in foreign trade or trade between the
 19 United States and any of its possessions.”.

20 (iii) Subsection (e) of section 4082, as
 21 amended by this Act, is amended—

22 (I) by striking “an aircraft, the rate
 23 of tax under section 4081(a)(2)(A)(iv)
 24 shall be zero.” and inserting “an aircraft—

1 “(1) the rate of tax under section
2 4081(a)(2)(A)(iv) shall be zero, and

3 “(2) if such aircraft is employed in foreign
4 trade or trade between the United States and any of
5 its possessions, the increase in such rate under sec-
6 tion 4081(a)(2)(B) shall be zero.”; and

7 (II) by moving the last sentence flush
8 with the margin of such subsection (fol-
9 lowing the paragraph (2) added by clause
10 (i)).

11 (iv) Section 6430 is amended to read as
12 follows:

13 **“SEC. 6430. TREATMENT OF TAX IMPOSED AT LEAKING UN-**
14 **DERGROUND STORAGE TANK TRUST FUND**
15 **FINANCING RATE.**

16 “No refunds, credits, or payments shall be made
17 under this subchapter for any tax imposed at the Leaking
18 Underground Storage Tank Trust Fund financing rate,
19 except in the case of fuels—

20 “(1) which are exempt from tax under section
21 4081(a) by reason of section 4082(f)(2),

22 “(2) which are exempt from tax under section
23 4041(d) by reason of the last sentence of paragraph
24 (5) thereof, or

1 “(3) with respect to which the rate increase
 2 under section 4081(a)(2)(B) is zero by reason of
 3 section 4082(e)(2).”.

4 (C) Paragraph (5) of section 4041(d) is
 5 amended by inserting “(b)(1)(A),” after “sub-
 6 sections”.

7 (3) EFFECTIVE DATE.—

8 (A) IN GENERAL.—Except as otherwise
 9 provided in this paragraph, the amendments
 10 made by this subsection shall take effect as if
 11 included in the provisions of the Energy Policy
 12 Act of 2005 to which they relate.

13 (B) NONAPPLICATION OF EXEMPTION FOR
 14 OFF-HIGHWAY BUSINESS USE.—The amend-
 15 ment made by paragraph (2)(C) shall apply to
 16 fuel sold for use or used after the date of the
 17 enactment of this Act.

18 (C) AMENDMENT MADE BY THE SAFETEA-
 19 LU.—The amendment made by paragraph
 20 (2)(B)(iii)(II) shall take effect as if included in
 21 section 11161 of the SAFETEA-LU.

22 (c) AMENDMENTS RELATED TO SECTION 339 OF
 23 THE AMERICAN JOBS CREATION ACT OF 2004.—

1 (1)(A) Section 45H is amended by striking sub-
 2 section (d) and by redesignating subsections (e), (f),
 3 and (g) as subsections (d), (e), and (f), respectively.

4 (B) Subsection (d) of section 280C is amended
 5 to read as follows:

6 “(d) CREDIT FOR LOW SULFUR DIESEL FUEL PRO-
 7 DUCTION.—The deductions otherwise allowed under this
 8 chapter for the taxable year shall be reduced by the
 9 amount of the credit determined for the taxable year
 10 under section 45H(a).”.

11 (C) Subsection (a) of section 1016 is amended
 12 by striking paragraph (31) and by redesignating
 13 paragraphs (32) through (37) as paragraphs (31)
 14 through (36), respectively.

15 (2)(A) Section 45H, as amended by paragraph
 16 (1), is amended by adding at the end the following
 17 new subsection:

18 “(g) ELECTION TO NOT TAKE CREDIT.—No credit
 19 shall be determined under subsection (a) for the taxable
 20 year if the taxpayer elects not to have subsection (a) apply
 21 to such taxable year.”.

22 (B) Subsection (m) of section 6501 is amended
 23 by inserting “45H(g),” after “45C(d)(4),”.

24 (3)(A) Subsections (b)(1)(A), (c)(2), (e)(1), and
 25 (e)(2) of section 45H (as amended by paragraph

1 (1)) and section 179B(a) are each amended by strik-
 2 ing “qualified capital costs” and inserting “qualified
 3 costs”.

4 (B) The heading of paragraph (2) of section
 5 45H(c) is amended by striking “CAPITAL”.

6 (C) Subsection (a) of section 179B is amended
 7 by inserting “and which are properly chargeable to
 8 capital account” before the period at the end.

9 (4) The amendments made by this subsection
 10 shall take effect as if included in section 339 of the
 11 American Jobs Creation Act of 2004.

12 **SEC. 212. MOTOR FUEL TAX ENFORCEMENT ADVISORY**
 13 **COMMISSION.**

14 (a) IN GENERAL.—Section 11141 of the Safe, Ac-
 15 countable, Flexible, Efficient Transportation Equity Act:
 16 A Legacy for Users is amended to read as follows:

17 **“SEC. 11141. MOTOR FUEL TAX ENFORCEMENT ADVISORY**
 18 **COMMISSION.**

19 “(a) ESTABLISHMENT.—There is established a Motor
 20 Fuel Tax Enforcement Advisory Commission (in this sec-
 21 tion referred to as the ‘Commission’).

22 “(b) MEMBERSHIP.—

23 “(1) APPOINTMENT.—The Commission shall be
 24 composed of 14 members, of which—

1 “(A) 1 shall be appointed by the Adminis-
2 trator of the Federal Highway Administration
3 as a representative of the Federal Highway Ad-
4 ministration,

5 “(B) 1 shall be appointed by the Inspector
6 General for the Department of Transportation
7 as a representative the Office of Inspector Gen-
8 eral for the Department of Transportation,

9 “(C) 1 shall be appointed by the Secretary
10 of Transportation as a representative of the De-
11 partment of Transportation,

12 “(D) 1 shall be appointed by the Secretary
13 of Homeland Security to be a representative of
14 the Department of Homeland Security,

15 “(E) 1 shall be appointed by the Secretary
16 of Defense to be a representative of the Depart-
17 ment of Defense,

18 “(F) 1 shall be appointed by the Attorney
19 General to be a representative of the Depart-
20 ment of Justice,

21 “(G) 2 shall be appointed by the Chairman
22 of the Committee on Finance of the Senate,

23 “(H) 2 shall be appointed by the Ranking
24 Member of the Committee on Finance of the
25 Senate,

1 “(I) 2 shall be appointed by Chairman of
2 the Committee on Ways and Means of the
3 House of Representatives, and

4 “(J) 2 shall be appointed by Ranking
5 Member of the Committee on Ways and Means
6 of the House of Representatives.

7 “(2) QUALIFICATION FOR CERTAIN MEM-
8 BERS.—Of the members appointed under subpara-
9 graphs (G), (H), (I) and (J)—

10 “(A) at least 1 shall be representative from
11 the Federation of State Tax Administrators,

12 “(B) at least 1 shall be a representative
13 from any State department of transportation,

14 “(C) at least 1 shall be a representative
15 from industries relating to fuel distribution, and

16 “(D) at least 1 shall be a representative
17 from industries relating to fuel distribution
18 (such a refiners, distributors, pipeline opera-
19 tors, and terminal operators).

20 “(3) TERMS.—Members shall be appointed for
21 the life of the Commission.

22 “(4) VACANCIES.—A vacancy in the Commis-
23 sion shall be filled in the manner in which the origi-
24 nal appointment was made.

1 “(5) TRAVEL EXPENSES.—Members of the
2 Commission shall serve without pay but shall receive
3 travel expenses, including per diem in lieu of subsist-
4 ence, in accordance with sections 5702 and 5703 of
5 title 5, United States Code.

6 “(6) CHAIRMAN.—The Chairman of the Com-
7 mission shall be elected by the members.

8 “(c) DUTIES.—

9 “(1) IN GENERAL.—The Commission shall—

10 “(A) review motor fuel revenue collections,
11 historical and current;

12 “(B) review the progress of investigations;

13 “(C) develop and review legislative pro-
14 posals with respect to motor fuel taxes;

15 “(D) monitor the progress of administra-
16 tive regulation projects relating to motor fuel
17 taxes;

18 “(E) evaluate and make recommendations
19 to the President and Congress regarding—

20 “(i) the effectiveness of existing Fed-
21 eral enforcement programs regarding
22 motor fuel taxes,

23 “(ii) enforcement personnel allocation,
24 and

1 “(iii) proposals for regulatory
2 projects, legislation, and funding.

3 “(2) REPORT.—Not later than September 30,
4 2009, the Commission shall submit to Congress a
5 final report that contains a detailed statement on
6 the findings and conclusions of the Commission, to-
7 gether with recommendations for such legislation
8 and administrative action as the Commission con-
9 sider appropriate or necessary.

10 “(d) POWERS.—

11 “(1) HEARINGS.—The Commission may hold
12 such hearings for the purpose of carrying out this
13 Act, sit and act at such times and places, take such
14 testimony, and receive such evidence as the Commis-
15 sion considers advisable to carry out this Act. The
16 Commission may administer oaths and affirmations
17 to witnesses appearing before the Commission.

18 “(2) OBTAINING DATA.—The Commission may
19 secure directly from any department or agency of
20 the United States, information (other than informa-
21 tion required by any law to be kept confidential by
22 such department or agency) necessary for the Com-
23 mission to carry out its duties under this section.
24 Upon request of the Commission, the head of that
25 department or agency shall furnish such noncon-

1 confidential information to the Commission. The Com-
2 mission shall also gather evidence through such
3 means as it may determine appropriate, including
4 through holding hearings and soliciting comments by
5 means of Federal Register notices.

6 “(3) POSTAL SERVICES.—The Commission may
7 use the United States mails in the same manner and
8 under the same conditions as other departments and
9 agencies of the Federal Government.

10 “(4) GIFTS.—The Commission may accept,
11 hold, administer, and utilize gifts, donations, and re-
12 quests of property, both real and personal, for the
13 purposes of aiding or facilitating the work of the
14 Commission. Gifts and bequests of money, and the
15 proceeds from the sale of any other property re-
16 ceived as gifts or bequests, shall be deposited in the
17 Treasury in a separate fund and shall be disbursed
18 upon order of the Commission. For purposes of Fed-
19 eral income, estate, and gift taxation, property ac-
20 cepted under this section shall be considered as a
21 gift or bequest to or for the use of the United
22 States.

23 “(e) SUPPORT SERVICES.—

24 “(1) ADMINISTRATIVE SUPPORT SERVICES.—
25 Upon the request of the Commission, the Secretary

1 of Transportation shall provide to the Commission
2 administrative support services necessary to enable
3 the Commission to carry out its duties under this
4 Act.

5 “(2) DETAIL OF GOVERNMENT EMPLOYEES.—
6 Any Federal Government employee may be detailed
7 to the Commission without reimbursement, and such
8 detail shall be without interruption or loss of civil
9 service status or privilege.

10 “(3) VOLUNTARY SERVICES.—

11 “(A) IN GENERAL.—Notwithstanding the
12 provisions of section 1342 of title 31, United
13 States Code, the Commission is authorized to
14 accept and utilize the services of volunteers
15 serving without compensation. The Commission
16 may reimburse such volunteers for local travel
17 and office supplies, and for other travel ex-
18 penses, including per diem in lieu of subsistence
19 as authorized by section 5703, United States
20 Code.

21 “(B) TREATMENT OF VOLUNTEERS.—A
22 person providing volunteer services to the Com-
23 mission shall be considered an employee of the
24 Federal Government in the performance of

1 those services for the purposes of the following
2 provisions of law:

3 “(i) chapter 81 of title 5, United
4 States Code, relating to compensation for
5 work-related injuries;

6 “(ii) chapter 171 of title 28, United
7 States Code, relating to tort claims; and

8 “(iii) chapter 11 of title 18, United
9 States Code, relating to conflicts of inter-
10 est.

11 “(4) CONSULTATION.—Upon request of the
12 Commission, representatives of the Department of
13 the Treasury and the Internal Revenue Service shall
14 be available for consultation to assist the Commis-
15 sion in carrying out its duties under this section.

16 “(5) COOPERATION.—The staff of the Depart-
17 ment of Transportation, the Department of Home-
18 land Security, the Department of Justice, and the
19 Department of Defense shall cooperate with the
20 Commission as necessary.

21 “(f) INAPPLICABILITY OF FEDERAL ADVISORY COM-
22 MITTEE ACT.—The Federal Advisory Committee Act (5
23 U.S.C. App.) shall not apply to the Commission.

24 “(g) TERMINATION.—

1 “(1) IN GENERAL.—The Commission shall ter-
 2 minate on the date that is 90 days after the date on
 3 which the Commission submits the report required
 4 under subsection (c)(2).

5 “(2) RECORDS.—Not later than the date on
 6 which the Commission terminates, the Commission
 7 shall transmit all records of the Commission to the
 8 National Archives.”.

9 (b) EFFECTIVE DATE.—The amendment made by
 10 this section shall take effect on the date of the enactment
 11 of this Act.

12 **SEC. 213. HIGHWAY TRUST FUND CONFORMING EXPENDI-**
 13 **TURE AMENDMENT.**

14 (a) IN GENERAL.—Subsections (c)(1) and (e)(3) of
 15 section 9503 are each amended by inserting “, as amended
 16 by An Act to authorize additional funds for emergency re-
 17 pairs and reconstruction of the Interstate I-35 bridge lo-
 18 cated in Minneapolis, Minnesota, that collapsed on August
 19 1, 2007, to waive the \$100,000,000 limitation on emer-
 20 gency relief funds for those emergency repairs and recon-
 21 struction, and for other purposes,” after “Users”.

22 (b) EFFECTIVE DATE.—The amendments made by
 23 this section shall take effect as if included in the enact-
 24 ment of An Act to authorize additional funds for emer-
 25 gency repairs and reconstruction of the Interstate I-35

1 bridge located in Minneapolis, Minnesota, that collapsed
 2 on August 1, 2007, to waive the \$100,000,000 limitation
 3 on emergency relief funds for those emergency repairs and
 4 reconstruction, and for other purposes.

5 **TITLE III—ADDITIONAL INFRA-**
 6 **STRUCTURE MODIFICATIONS**
 7 **AND REVENUE PROVISIONS**

8 **SEC. 301. RESTRUCTURING OF NEW YORK LIBERTY ZONE**
 9 **TAX CREDITS.**

10 (a) IN GENERAL.—Part I of subchapter Y of chapter
 11 1 is amended by redesignating section 1400L as 1400K
 12 and by adding at the end the following new section:

13 **“SEC. 1400L. NEW YORK LIBERTY ZONE TAX CREDITS.**

14 “(a) IN GENERAL.—In the case of a New York Lib-
 15 erty Zone governmental unit, there shall be allowed as a
 16 credit against any taxes imposed for any payroll period
 17 by section 3402 for which such governmental unit is liable
 18 under section 3403 an amount equal to so much of the
 19 portion of the qualifying project expenditure amount allo-
 20 cated under subsection (b)(3) to such governmental unit
 21 for the calendar year as is allocated by such governmental
 22 unit to such period under subsection (b)(4).

23 “(b) QUALIFYING PROJECT EXPENDITURE
 24 AMOUNT.—For purposes of this section—

1 “(1) IN GENERAL.—The term ‘qualifying
2 project expenditure amount’ means, with respect to
3 any calendar year, the sum of—

4 “(A) the total expenditures paid or in-
5 curred during such calendar year by all New
6 York Liberty Zone governmental units and the
7 Port Authority of New York and New Jersey
8 for any portion of qualifying projects located
9 wholly within the City of New York, New York,
10 and

11 “(B) any such expenditures—

12 “(i) paid or incurred in any preceding
13 calendar year which begins after the date
14 of enactment of this section, and

15 “(ii) not previously allocated under
16 paragraph (3).

17 “(2) QUALIFYING PROJECT.—The term ‘quali-
18 fying project’ means any transportation infrastruc-
19 ture project, including highways, mass transit sys-
20 tems, railroads, airports, ports, and waterways, in or
21 connecting with the New York Liberty Zone (as de-
22 fined in section 1400K(h)), which is designated as a
23 qualifying project under this section jointly by the
24 Governor of the State of New York and the Mayor
25 of the City of New York, New York.

1 “(3) GENERAL ALLOCATION.—

2 “(A) IN GENERAL.—The Governor of the
3 State of New York and the Mayor of the City
4 of New York, New York, shall jointly allocate to
5 each New York Liberty Zone governmental unit
6 the portion of the qualifying project expenditure
7 amount which may be taken into account by
8 such governmental unit under subsection (a) for
9 any calendar year in the credit period.

10 “(B) AGGREGATE LIMIT.—The aggregate
11 amount which may be allocated under subpara-
12 graph (A) for all calendar years in the credit
13 period shall not exceed \$2,000,000,000.

14 “(C) ANNUAL LIMIT.—

15 “(i) IN GENERAL.—The aggregate
16 amount which may be allocated under sub-
17 paragraph (A) for any calendar year in the
18 credit period shall not exceed the sum of—

19 “(I) the applicable limit, plus

20 “(II) the aggregate amount au-
21 thorized to be allocated under this
22 paragraph for all preceding calendar
23 years in the credit period which was
24 not so allocated.

1 “(ii) APPLICABLE LIMIT.—For pur-
 2 poses of clause (i), the applicable limit for
 3 any calendar year in the credit period is
 4 \$169,000,000 and in the case of any cal-
 5 endar year after 2019, zero.

6 “(D) UNALLOCATED AMOUNTS AT END OF
 7 CREDIT PERIOD.—If, as of the close of the cred-
 8 it period, the amount under subparagraph (B)
 9 exceeds the aggregate amount allocated under
 10 subparagraph (A) for all calendar years in the
 11 credit period, the Governor of the State of New
 12 York and the Mayor of the City of New York,
 13 New York, may jointly allocate to New York
 14 Liberty Zone governmental units for any cal-
 15 endar year in the 5-year period following the
 16 credit period an amount equal to—

17 “(i) the lesser of—

18 “(I) such excess, or

19 “(II) the qualifying project ex-
 20 penditure amount for such calendar
 21 year, reduced by

22 “(ii) the aggregate amount allocated
 23 under this subparagraph for all preceding
 24 calendar years.

1 “(4) ALLOCATION TO PAYROLL PERIODS.—

2 Each New York Liberty Zone governmental unit
3 which has been allocated a portion of the qualifying
4 project expenditure amount under paragraph (3) for
5 a calendar year may allocate such portion to payroll
6 periods beginning in such calendar year as such gov-
7 ernmental unit determines appropriate.

8 “(c) CARRYOVER OF UNUSED ALLOCATIONS.—

9 “(1) IN GENERAL.—Except as provided in para-
10 graph (2), if the amount allocated under subsection
11 (b)(3) to a New York Liberty Zone governmental
12 unit for any calendar year exceeds the aggregate
13 taxes imposed by section 3402 for which such gov-
14 ernmental unit is liable under section 3403 for peri-
15 ods beginning in such year, such excess shall be car-
16 ried to the succeeding calendar year and added to
17 the allocation of such governmental unit for such
18 succeeding calendar year. No amount may be carried
19 under the preceding sentence to a calendar year
20 after 2024.

21 “(2) REALLOCATION.—If a New York Liberty
22 Zone governmental unit does not use an amount al-
23 located to it under subsection (b)(3) within the time
24 prescribed by the Governor of the State of New York
25 and the Mayor of the City of New York, New York,

1 then such amount shall after such time be treated
2 for purposes of subsection (b)(3) in the same man-
3 ner as if it had never been allocated.

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

6 “(1) CREDIT PERIOD.—The term ‘credit period’
7 means the 12-year period beginning on January 1,
8 2008.

9 “(2) NEW YORK LIBERTY ZONE GOVERN-
10 MENTAL UNIT.—The term ‘New York Liberty Zone
11 governmental unit’ means—

12 “(A) the State of New York,

13 “(B) the City of New York, New York, and

14 “(C) any agency or instrumentality of such
15 State or City.

16 “(3) TREATMENT OF FUNDS.—Any expenditure
17 for a qualifying project taken into account for pur-
18 poses of the credit under this section shall be consid-
19 ered State and local funds for the purpose of any
20 Federal program.

21 “(4) TREATMENT OF CREDIT AMOUNTS FOR
22 PURPOSES OF WITHHOLDING TAXES.—For purposes
23 of this title, a New York Liberty Zone governmental
24 unit shall be treated as having paid to the Secretary,
25 on the day on which wages are paid to employees,

1 an amount equal to the amount of the credit allowed
 2 to such entity under subsection (a) with respect to
 3 such wages, but only if such governmental unit de-
 4 ducts and withholds wages for such payroll period
 5 under section 3401 (relating to wage withholding).

6 “(e) REPORTING.—The Governor of the State of New
 7 York and the Mayor of the City of New York, New York,
 8 shall jointly submit to the Secretary an annual report—

9 “(1) which certifies—

10 “(A) the qualifying project expenditure
 11 amount for the calendar year, and

12 “(B) the amount allocated to each New
 13 York Liberty Zone governmental unit under
 14 subsection (b)(3) for the calendar year, and

15 “(2) includes such other information as the
 16 Secretary may require to carry out this section.

17 “(f) GUIDANCE.—The Secretary may prescribe such
 18 guidance as may be necessary or appropriate to ensure
 19 compliance with the purposes of this section.

20 “(g) TERMINATION.—No credit shall be allowed
 21 under subsection (a) for any calendar year after 2024.”.

22 (b) TERMINATION OF SPECIAL ALLOWANCE AND EX-
 23 PENSING.—Section 1400K(b)(2)(A)(v), as redesignated by
 24 subsection (a), is amended by striking “the termination
 25 date” and inserting “the date of the enactment of the

1 American Infrastructure Investment and Improvement
 2 Act of 2007 or the termination date if pursuant to a bind-
 3 ing contract in effect on such enactment date”.

4 (c) CONFORMING AMENDMENTS.—

5 (1) Section 38(c)(3)(B) is amended by striking
 6 “section 1400L(a)” and inserting “section
 7 1400K(a)”.

8 (2) Section 168(k)(2)(D)(ii) is amended by
 9 striking “section 1400L(c)(2)” and inserting
 10 “1400K(c)(2)”.

11 (3) The table of sections for part I of sub-
 12 chapter Y of chapter 1 is amended by striking
 13 “1400L” and inserting “1400K”.

14 (d) EFFECTIVE DATES.—

15 (1) IN GENERAL.—Except as provided in para-
 16 graph (2), the amendments made by this section
 17 shall apply to periods beginning after December 31,
 18 2007.

19 (2) TERMINATION OF SPECIAL ALLOWANCE
 20 AND EXPENSING.—The amendment made by sub-
 21 section (b) shall take effect on the date of the enact-
 22 ment of this Act.

1 **SEC. 302. PARTICIPANTS IN GOVERNMENT SECTION 457**
 2 **PLANS ALLOWED TO TREAT ELECTIVE DE-**
 3 **FERRALS AS ROTH CONTRIBUTIONS.**

4 (a) IN GENERAL.—Section 402A(e)(1) (defining ap-
 5 plicable retirement plan) is amended by striking “and” at
 6 the end of subparagraph (A), by striking the period at
 7 the end of subparagraph (B) and inserting “, and”, and
 8 by adding at the end the following:

9 “(C) an eligible deferred compensation
 10 plan (as defined in section 457(b)) of an eligible
 11 employer described in section 457(e)(1)(A).”.

12 (b) ELECTIVE DEFERRALS.—Section 402A(e)(2) (de-
 13 fining elective deferral) is amended to read as follows:

14 “(2) ELECTIVE DEFERRAL.—The term ‘elective
 15 deferral’ means—

16 “(A) any elective deferral described in sub-
 17 paragraph (A) or (C) of section 402(g)(3), and

18 “(B) any elective deferral of compensation
 19 by an individual under an eligible deferred com-
 20 pensation plan (as defined in section 457(b)) of
 21 an eligible employer described in section
 22 457(e)(1)(A).”.

23 (c) EFFECTIVE DATE.—The amendments made by
 24 this section shall apply to taxable years beginning after
 25 December 31, 2007.

1 **SEC. 303. INCREASED INFORMATION RETURN PENALTIES.**

2 (a) FAILURE TO FILE CORRECT INFORMATION RE-
3 TURNS.—

4 (1) IN GENERAL.—Section 6721(a)(1) (relating
5 to imposition of penalty) is amended—

6 (A) by striking “\$50” and inserting
7 “\$250”, and

8 (B) by striking “\$250,000” and inserting
9 “\$3,000,000”.

10 (2) REDUCTION WHERE CORRECTION IN SPECI-
11 FIED PERIOD.—

12 (A) CORRECTION WITHIN 30 DAYS.—Sec-
13 tion 6721(b)(1) is amended—

14 (i) by striking “\$15” and inserting
15 “\$50”,

16 (ii) by striking “in lieu of \$50” and
17 inserting “in lieu of \$250”, and

18 (iii) by striking “\$75,000” and insert-
19 ing “\$500,000”.

20 (B) FAILURES CORRECTED ON OR BEFORE
21 AUGUST 1.—Section 6721(b)(2) is amended—

22 (i) by striking “\$30” and inserting
23 “\$100”,

24 (ii) by striking “\$50” and inserting
25 “\$250”, and

1 (iii) by striking “\$150,000” and in-
 2 serting “\$1,500,000”.

3 (3) LOWER LIMITATION FOR PERSONS WITH
 4 GROSS RECEIPTS OF NOT MORE THAN \$5,000,000.—
 5 Section 6721(d)(1) is amended—

6 (A) in subparagraph (A)—

7 (i) by striking “\$100,000” and insert-
 8 ing “\$1,000,000”, and

9 (ii) by striking “\$250,000” and in-
 10 serting “\$3,000,000”,

11 (B) in subparagraph (B)—

12 (i) by striking “\$25,000” and insert-
 13 ing “\$175,000”, and

14 (ii) by striking “\$75,000” and insert-
 15 ing “\$500,000”, and

16 (C) in subparagraph (C)—

17 (i) by striking “\$50,000” and insert-
 18 ing “\$500,000”, and

19 (ii) by striking “\$150,000” and in-
 20 serting “\$1,500,000”.

21 (4) PENALTY IN CASE OF INTENTIONAL DIS-
 22 REGARD.—Section 6721(e) is amended—

23 (A) by striking “\$100” in paragraph (2)
 24 and inserting “\$500”,

1 (B) by striking “\$250,000” in paragraph
2 (3)(A) and inserting “\$3,000,000”.

3 (b) FAILURE TO FURNISH CORRECT PAYEE STATE-
4 MENTS.—

5 (1) IN GENERAL.—Section 6722(a) is amend-
6 ed—

7 (A) by striking “\$50” and inserting
8 “\$250”, and

9 (B) by striking “\$100,000” and inserting
10 “\$1,000,000”.

11 (2) PENALTY IN CASE OF INTENTIONAL DIS-
12 REGARD.—Section 6722(c) is amended—

13 (A) by striking “\$100” in paragraph (1)
14 and inserting “\$500”, and

15 (B) by striking “\$100,000” in paragraph
16 (2)(A) and inserting “\$1,000,000”.

17 (c) FAILURE TO COMPLY WITH OTHER INFORMA-
18 TION REPORTING REQUIREMENTS.—Section 6723 is
19 amended—

20 (1) by striking “\$50” and inserting “\$250”,
21 and

22 (2) by striking “\$100,000” and inserting
23 “\$1,000,000”.

1 (d) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply with respect to information returns
 3 required to be filed on or after January 1, 2008.

4 **SEC. 304. EXEMPTION OF CERTAIN COMMERCIAL CARGO**
 5 **FROM HARBOR MAINTENANCE TAX.**

6 (a) IN GENERAL.—Section 4462 is amended—

7 (1) by redesignating subsection (i) as subsection
 8 (j), and

9 (2) by inserting after subsection (h) the fol-
 10 lowing new subsection:

11 “(i) EXEMPTION FOR CERTAIN CARGO TRANS-
 12 PORTED ON THE GREAT LAKES SAINT LAWRENCE SEA-
 13 WAY SYSTEM.—

14 “(1) IN GENERAL.—No tax shall be imposed
 15 under section 4461(a) with respect to—

16 “(A) commercial cargo (other than bulk
 17 cargo) loaded at a port in the United States lo-
 18 cated in the Great Lakes Saint Lawrence Sea-
 19 way System and unloaded at another port in
 20 the United States located in such system, and

21 “(B) commercial cargo (other than bulk
 22 cargo) unloaded at a port in the United States
 23 located in the Great Lakes Saint Lawrence Sea-
 24 way System which was loaded at a port in Can-
 25 ada located in such system.

1 “(2) BULK CARGO.—For purposes of this sub-
 2 section, the term ‘bulk cargo’ shall have the meaning
 3 given such term by section 53101(1) of title 46,
 4 United States Code (as in effect on the date of the
 5 enactment of this section).

6 “(3) GREAT LAKES SAINT LAWRENCE SEAWAY
 7 SYSTEM.—For purposes of this subsection, the term
 8 ‘Great Lakes Saint Lawrence Seaway System’
 9 means the waterway between Duluth, Minnesota and
 10 Sept. Iles, Quebec, encompassing the five Great
 11 Lakes, their connecting channels, and the Saint
 12 Lawrence River.”.

13 (b) EFFECTIVE DATE.—The amendments made by
 14 this section shall take effect on the date of the enactment
 15 of this Act.

16 **SEC. 305. CREDIT TO HOLDERS OF QUALIFIED RAIL INFRA-**
 17 **STRUCTURE BONDS.**

18 (a) IN GENERAL.—Subpart H of part IV of sub-
 19 chapter A of chapter 1 (relating to credits against tax)
 20 is amended by adding at the end the following new section:

21 **“SEC. 54A. CREDIT TO HOLDERS OF QUALIFIED RAIL IN-**
 22 **FRASTRUCTURE BONDS.**

23 “(a) ALLOWANCE OF CREDIT.—If a taxpayer holds
 24 a qualified rail infrastructure bond on 1 or more credit
 25 allowance dates of the bond occurring during any taxable

1 year, there shall be allowed as a credit against the tax
 2 imposed by this chapter for the taxable year an amount
 3 equal to the sum of the credits determined under sub-
 4 section (b) with respect to such dates.

5 “(b) AMOUNT OF CREDIT.—

6 “(1) IN GENERAL.—The amount of the credit
 7 determined under this subsection with respect to any
 8 credit allowance date for a qualified rail infrastruc-
 9 ture bond is 25 percent of the annual credit deter-
 10 mined with respect to such bond.

11 “(2) ANNUAL CREDIT.—The annual credit de-
 12 termined with respect to any qualified rail infra-
 13 structure bond is the product of—

14 “(A) the credit rate determined by the Sec-
 15 retary under paragraph (3) for the day on
 16 which such bond was sold, multiplied by

17 “(B) the outstanding face amount of the
 18 bond.

19 “(3) DETERMINATION.—For purposes of para-
 20 graph (2), with respect to any qualified rail infra-
 21 structure bond, the Secretary shall determine daily
 22 or cause to be determined daily a credit rate which
 23 shall apply to the first day on which there is a bind-
 24 ing, written contract for the sale or exchange of the
 25 bond. The credit rate for any day is the credit rate

1 which the Secretary or the Secretary’s designee esti-
2 mates will permit the issuance of qualified rail infra-
3 structure bonds with a specified maturity or redemp-
4 tion date, without discount and without interest cost
5 to the qualified issuer.

6 “(4) CREDIT ALLOWANCE DATE.—For purposes
7 of this section, the term ‘credit allowance date’
8 means—

9 “(A) March 15,

10 “(B) June 15,

11 “(C) September 15, and

12 “(D) December 15.

13 Such term also includes the last day on which the
14 bond is outstanding.

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

1 “(c) LIMITATION BASED ON AMOUNT OF TAX.—The
 2 credit allowed under subsection (a) for any taxable year
 3 shall not exceed the excess of—

4 “(1) the sum of the regular tax liability (as de-
 5 fined in section 26(b)) plus the tax imposed by sec-
 6 tion 55, over

7 “(2) the sum of the credits allowable under this
 8 part (other than this subpart, subpart C, and section
 9 1400N(l)).

10 “(d) QUALIFIED RAIL INFRASTRUCTURE BOND.—
 11 For purposes of this section—

12 “(1) IN GENERAL.—The term ‘qualified rail in-
 13 frastructure bond’ means any bond issued as part of
 14 an issue if—

15 “(A) the bond is issued by a qualified
 16 issuer pursuant to an allocation by the Sec-
 17 retary to such issuer of a portion of the na-
 18 tional qualified rail infrastructure bond annual
 19 limitation under subsection (f)(2) by not later
 20 than the end of the calendar year following the
 21 year of such allocation,

22 “(B) 95 percent or more of the proceeds of
 23 such issue are to be used for capital expendi-
 24 tures incurred for 1 or more qualified projects,

1 “(C) the qualified issuer designates such
2 bond for purposes of this section and the bond
3 is in registered form, and

4 “(D) the issue meets the requirements of
5 subsection (h).

6 “(2) QUALIFIED PROJECT; SPECIAL USE
7 RULES.—

8 “(A) IN GENERAL.—The term ‘qualified
9 project’ means a project eligible under sub-
10 section (b) of section 26101 of title 49, United
11 States Code, which the Secretary determines
12 was selected using the criteria of subsection (c)
13 of such section 26101 by the Secretary of
14 Transportation, that makes a substantial con-
15 tribution to improving a rail transportation cor-
16 ridor for intercity passenger rail use.

17 “(B) CERTIFICATION REQUIRED REGARD-
18 ING CERTAIN PROJECTS.—The Secretary shall
19 not consider a project to be a qualified project
20 unless an applicant certifies to the Secretary
21 that—

22 “(i) if a project involves a rail trans-
23 portation corridor which includes the use
24 of rights-of-way owned by a freight rail-
25 road, the applicant has entered into a writ-

1 ten agreement with such freight railroad
2 regarding the use of the rights-of-way and
3 has received assurances that collective bar-
4 gaining agreements between such freight
5 railroad and its employees (including terms
6 regarding the contracting of work per-
7 formed on such corridor) shall remain in
8 full force and effect during the term of
9 such written agreement,

10 “(ii) any person which provides rail-
11 road transportation over infrastructure im-
12 proved or acquired pursuant to this sec-
13 tion, is a rail carrier as defined by section
14 10102 of title 49, United States Code, and

15 “(iii) the applicant shall, with respect
16 to improvements to rail infrastructure
17 made pursuant to this section, comply with
18 the standards applicable to construction
19 work in such title 49, in the same manner
20 in which the National Railroad Passenger
21 Corporation is required to comply with
22 such standards.

23 “(C) REFINANCING RULES.—For purposes
24 of paragraph (1)(B), a qualified project may be
25 refinanced with proceeds of a qualified rail in-

1 frastructure bond only if the indebtedness being
2 refinanced (including any obligation directly or
3 indirectly refinanced by such indebtedness) was
4 originally incurred after the date of the enact-
5 ment of this section.

6 “(D) REIMBURSEMENT.—For purposes of
7 paragraph (1)(B), a qualified rail infrastructure
8 bond may be issued to reimburse for amounts
9 paid after the date of the enactment of this sec-
10 tion with respect to a qualified project, but only
11 if—

12 “(i) prior to the payment of the origi-
13 nal expenditure, the issuer declared its in-
14 tent to reimburse such expenditure with
15 the proceeds of a qualified rail infrastruc-
16 ture bond,

17 “(ii) not later than 60 days after pay-
18 ment of the original expenditure, the quali-
19 fied issuer adopts an official intent to re-
20 imburse the original expenditure with such
21 proceeds, and

22 “(iii) the reimbursement is made not
23 later than 18 months after the date the
24 original expenditure is paid.

1 “(E) TREATMENT OF CHANGES IN USE.—

2 For purposes of paragraph (1)(B), the proceeds
 3 of an issue shall not be treated as used for a
 4 qualified project to the extent that a qualified
 5 issuer takes any action within its control which
 6 causes such proceeds not to be used for a quali-
 7 fied project. The Secretary shall prescribe regu-
 8 lations specifying remedial actions that may be
 9 taken (including conditions to taking such re-
 10 medial actions) to prevent an action described
 11 in the preceding sentence from causing a bond
 12 to fail to be a qualified rail infrastructure bond.

13 “(e) MATURITY LIMITATIONS.—

14 “(1) DURATION OF TERM.—A bond shall not be
 15 treated as a qualified rail infrastructure bond if the
 16 maturity of such bond exceeds the maximum term
 17 determined by the Secretary under paragraph (2)
 18 with respect to such bond.

19 “(2) MAXIMUM TERM.—During each calendar
 20 month, the Secretary shall determine the maximum
 21 term permitted under this paragraph for bonds
 22 issued during the following calendar month. Such
 23 maximum term shall be the term which the Sec-
 24 retary estimates will result in the present value of
 25 the obligation to repay the principal on the bond

1 being equal to 50 percent of the face amount of such
 2 bond. Such present value shall be determined with-
 3 out regard to the requirements of paragraph (3) and
 4 using as a discount rate the average annual interest
 5 rate of tax-exempt obligations having a term of 10
 6 years or more which are issued during the month. If
 7 the term as so determined is not a multiple of a
 8 whole year, such term shall be rounded to the next
 9 highest whole year.

10 “(3) RATABLE PRINCIPAL AMORTIZATION RE-
 11 QUIRED.—A bond shall not be treated as a qualified
 12 rail infrastructure bond unless it is part of an issue
 13 which provides for an equal amount of principal to
 14 be paid by the qualified issuer during each calendar
 15 year that the issue is outstanding.

16 “(f) ANNUAL LIMITATION ON AMOUNT OF BONDS
 17 DESIGNATED.—

18 “(1) NATIONAL ANNUAL LIMITATION.—There is
 19 a national qualified rail infrastructure bond annual
 20 limitation for each calendar year. Such limitation is
 21 \$900,000,000 for 2008, 2009, and 2010, and, ex-
 22 cept as provided in paragraph (3), zero thereafter.

23 “(2) ALLOCATION BY SECRETARY.—The na-
 24 tional qualified rail infrastructure bond annual limi-
 25 tation for a calendar year shall be allocated by the

1 Secretary among qualified projects in such manner
2 as the Secretary determines appropriate.

3 “(3) CARRYOVER OF UNUSED LIMITATION.—If
4 for any calendar year, the national qualified rail in-
5 frastructure bond annual limitation for such year ex-
6 ceeds the amount of bonds allocated during such
7 year, such limitation for the following calendar year
8 shall be increased by the amount of such excess. Any
9 carryforward of a limitation may be carried only to
10 the first 2 years following the unused limitation
11 year. For purposes of the preceding sentence, a limi-
12 tation shall be treated as used on a first-in first-out
13 basis.

14 “(g) CREDIT TREATED AS INTEREST.—For purposes
15 of this title, the credit determined under subsection (a)
16 shall be treated as interest which is includible in gross in-
17 come.

18 “(h) SPECIAL RULES RELATING TO EXPENDI-
19 TURES.—

20 “(1) IN GENERAL.—An issue shall be treated as
21 meeting the requirements of this subsection if, as of
22 the date of issuance, the qualified issuer reasonably
23 expects—

24 “(A) at least 95 percent of the proceeds of
25 the issue are to be spent for 1 or more qualified

1 projects within the 5-year period beginning on
2 the date of issuance of the qualified rail infra-
3 structure bond,

4 “(B) a binding commitment with a third
5 party to spend at least 10 percent of the pro-
6 ceeds of the issue will be incurred within the 6-
7 month period beginning on the date of issuance
8 of the qualified rail infrastructure bond, and

9 “(C) such projects will be completed with
10 due diligence and the proceeds from the sale of
11 the issue will be spent with due diligence.

12 “(2) EXTENSION OF PERIOD.—Upon submis-
13 sion of a request prior to the expiration of the period
14 described in paragraph (1)(A), the Secretary may
15 extend such period if the qualified issuer establishes
16 that the failure to satisfy the 5-year requirement is
17 due to reasonable cause and the related projects will
18 continue to proceed with due diligence.

19 “(3) FAILURE TO SPEND REQUIRED AMOUNT
20 OF BOND PROCEEDS WITHIN 5 YEARS.—To the ex-
21 tent that less than 95 percent of the proceeds of
22 such issue are expended by the close of the 5-year
23 period beginning on the date of issuance (or if an
24 extension has been obtained under paragraph (2), by
25 the close of the extended period), the qualified issuer

1 shall redeem all of the nonqualified bonds within 90
 2 days after the end of such period. For purposes of
 3 this paragraph, the amount of the nonqualified
 4 bonds required to be redeemed shall be determined
 5 in the same manner as under section 142.

6 “(i) SPECIAL RULES RELATING TO ARBITRAGE.—A
 7 bond which is part of an issue shall not be treated as a
 8 qualified rail infrastructure bond unless, with respect to
 9 the issue of which the bond is a part, the qualified issuer
 10 satisfies the arbitrage requirements of section 148 with
 11 respect to proceeds of the issue.

12 “(j) SPECIAL RULES RELATING TO POOL BONDS.—
 13 No portion of a pooled financing bond may be allocable
 14 to loan unless the borrower has entered into a written loan
 15 commitment for such portion prior to the issue date of
 16 such issue.

17 “(k) OTHER DEFINITIONS AND SPECIAL RULES.—
 18 For purposes of this section—

19 “(1) BOND.—The term ‘bond’ includes any ob-
 20 ligation.

21 “(2) POOLED FINANCING BOND.—The term
 22 ‘pooled financing bond’ shall have the meaning given
 23 such term by section 149(f)(4)(A).

1 “(3) QUALIFIED ISSUER.—The term ‘qualified
2 issuer’ means 1 or more States or an interstate com-
3 pact of States.

4 “(4) STATE.—The term ‘State’ includes the
5 District of Columbia and any possession of the
6 United States.

7 “(5) S CORPORATIONS AND PARTNERSHIPS.—In
8 the case of a qualified rail infrastructure bond held
9 by an S corporation or partnership, the allocation of
10 the credit allowed by this section to the shareholders
11 of the corporation or partners of such partnership
12 shall be treated as a distribution.

13 “(6) BONDS HELD BY REGULATED INVEST-
14 MENT COMPANIES.—If any qualified rail infrastruc-
15 ture bond is held by a regulated investment com-
16 pany, the credit determined under subsection (a)
17 shall be allowed to shareholders of such company
18 under procedures prescribed by the Secretary.

19 “(7) REPORTING.—Issuers of qualified rail in-
20 frastructure bonds shall submit reports similar to
21 the reports required under section 149(e).

22 “(8) TERMINATION.—This section shall not
23 apply with respect to any bond issued after Decem-
24 ber 31, 2012.”.

1 (b) REPORTING.—Subsection (d) of section 6049 (re-
 2 lating to returns regarding payments of interest) is
 3 amended by adding at the end the following new para-
 4 graph:

5 “(9) REPORTING OF CREDIT ON QUALIFIED
 6 RAIL INFRASTRUCTURE BONDS.—

7 “(A) IN GENERAL.—For purposes of sub-
 8 section (a), the term ‘interest’ includes amounts
 9 includible in gross income under section 54A(g)
 10 and such amounts shall be treated as paid on
 11 the credit allowance date (as defined in section
 12 54A(b)(4)).

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

19 “(C) REGULATORY AUTHORITY.—The Sec-
 20 retary may prescribe such regulations as are
 21 necessary or appropriate to carry out the pur-
 22 poses of this paragraph, including regulations
 23 which require more frequent or more detailed
 24 reporting.”.

25 (c) CONFORMING AMENDMENTS.—

4 (2) Section 54(c)(2) is amended by inserting “,
5 section 54A,” after “subpart C”.

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

16 (a) IN GENERAL.—Section 6404 is amended by strik-
17 ing subsection (g).

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to notices provided by the Secretary of the Treasury, or his delegate after the date which is 6 months after the date of the enactment of the Small Business and Work Opportunity Tax Act of 2007.

1 (2) EXCEPTION FOR CERTAIN TAXPAYERS.—

2 The amendments made by this section shall not
 3 apply to any taxpayer with respect to whom a sus-
 4 pension of any interest, penalty, addition to tax, or
 5 other amount is in effect on the date which is 6
 6 months after the date of the enactment of the Small
 7 Business and Work Opportunity Tax Act of 2007.

8 **SEC. 307. DENIAL OF DEDUCTION FOR CERTAIN FINES,**
 9 **PENALTIES, AND OTHER AMOUNTS.**

10 (a) IN GENERAL.—Subsection (f) of section 162 (re-
 11 lating to trade or business expenses) is amended to read
 12 as follows:

13 “(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

14 “(1) IN GENERAL.—Except as provided in para-
 15 graph (2), no deduction otherwise allowable shall be
 16 allowed under this chapter for any amount paid or
 17 incurred (whether by suit, agreement, or otherwise)
 18 to, or at the direction of, a government or entity de-
 19 scribed in paragraph (4) in relation to—

20 “(A) the violation of any law, or

21 “(B) an investigation or inquiry into the
 22 potential violation of any law which is initiated
 23 by such government or entity.

24 “(2) EXCEPTION FOR AMOUNTS CONSTITUTING
 25 RESTITUTION OR PAID TO COME INTO COMPLIANCE

1 WITH LAW.—Paragraph (1) shall not apply to any
 2 amount which—

3 “(A) the taxpayer establishes—

4 “(i) constitutes restitution (or remedi-
 5 ation of property) for damage or harm
 6 caused by, or which may be caused by, the
 7 violation of any law or the potential viola-
 8 tion of any law, or

9 “(ii) is paid to come into compliance
 10 with any law which was violated or in-
 11 volved in the investigation or inquiry, and

12 “(B) is identified as an amount described
 13 in clause (i) or (ii) of subparagraph (A), as the
 14 case may be, in the court order or settlement
 15 agreement, except that the requirement of this
 16 subparagraph shall not apply in the case of any
 17 settlement agreement which requires the tax-
 18 payer to pay or incur an amount not greater
 19 than \$1,000,000.

20 A taxpayer shall not meet the requirements of sub-
 21 paragraph (A) solely by reason an identification
 22 under subparagraph (B). This paragraph shall not
 23 apply to any amount paid or incurred as reimburse-
 24 ment to the government or entity for the costs of
 25 any investigation or litigation unless such amount is

1 paid or incurred for a cost or fee regularly charged
2 for any routine audit or other customary review per-
3 formed by the government or entity.

4 “(3) EXCEPTION FOR AMOUNTS PAID OR IN-
5 CURRED AS THE RESULT OF CERTAIN COURT OR-
6 DERS.—Paragraph (1) shall not apply to any
7 amount paid or incurred by order of a court in a
8 suit in which no government or entity described in
9 paragraph (4) is a party.

10 “(4) CERTAIN NONGOVERNMENTAL REGU-
11 LATORY ENTITIES.—An entity is described in this
12 paragraph if it is—

13 “(A) a nongovernmental entity which exer-
14 cises self-regulatory powers (including imposing
15 sanctions) in connection with a qualified board
16 or exchange (as defined in section 1256(g)(7)),
17 or

18 “(B) to the extent provided in regulations,
19 a nongovernmental entity which exercises self-
20 regulatory powers (including imposing sanc-
21 tions) as part of performing an essential gov-
22 ernmental function.

23 “(5) EXCEPTION FOR TAXES DUE.—Paragraph
24 (1) shall not apply to any amount paid or incurred
25 as taxes due.”.

1 (b) REPORTING OF DEDUCTIBLE AMOUNTS.—

2 (1) IN GENERAL.—Subpart B of part III of
3 subchapter A of chapter 61 is amended by inserting
4 after section 6050V the following new section:

5 **“SEC. 6050W. INFORMATION WITH RESPECT TO CERTAIN**
6 **FINES, PENALTIES, AND OTHER AMOUNTS.**

7 “(a) REQUIREMENT OF REPORTING.—

8 “(1) IN GENERAL.—The appropriate official of
9 any government or entity which is described in sec-
10 tion 162(f)(4) which is involved in a suit or agree-
11 ment described in paragraph (2) shall make a return
12 in such form as determined by the Secretary setting
13 forth—

14 “(A) the amount required to be paid as a
15 result of the suit or agreement to which para-
16 graph (1) of section 162(f) applies,

17 “(B) any amount required to be paid as a
18 result of the suit or agreement which con-
19 stitutes restitution or remediation of property,
20 and

21 “(C) any amount required to be paid as a
22 result of the suit or agreement for the purpose
23 of coming into compliance with any law which
24 was violated or involved in the investigation or
25 inquiry.

1 “(2) SUIT OR AGREEMENT DESCRIBED.—

2 “(A) IN GENERAL.—A suit or agreement is
3 described in this paragraph if—

4 “(i) it is—

5 “(I) a suit with respect to a vio-
6 lation of any law over which the gov-
7 ernment or entity has authority and
8 with respect to which there has been
9 a court order, or

10 “(II) an agreement which is en-
11 tered into with respect to a violation
12 of any law over which the government
13 or entity has authority, or with re-
14 spect to an investigation or inquiry by
15 the government or entity into the po-
16 tential violation of any law over which
17 such government or entity has author-
18 ity, and

19 “(ii) the aggregate amount involved in
20 all court orders and agreements with re-
21 spect to the violation, investigation, or in-
22 quiry is \$600 or more.

23 “(B) ADJUSTMENT OF REPORTING
24 THRESHOLD.—The Secretary may adjust the
25 \$600 amount in subparagraph (A)(ii) as nec-

1 essary in order to ensure the efficient adminis-
2 tration of the internal revenue laws.

3 “(3) TIME OF FILING.—The return required
4 under this subsection shall be filed not later than—

5 “(A) 30 days after the date on which a
6 court order is issued with respect to the suit or
7 the date the agreement is entered into, as the
8 case may be, or

9 “(B) the date specified by the Secretary.

10 “(b) STATEMENTS TO BE FURNISHED TO INDIVID-
11 UALS INVOLVED IN THE SETTLEMENT.—Every person re-
12 quired to make a return under subsection (a) shall furnish
13 to each person who is a party to the suit or agreement
14 a written statement showing—

15 “(1) the name of the government or entity, and

16 “(2) the information supplied to the Secretary
17 under subsection (a)(1).

18 The written statement required under the preceding sen-
19 tence shall be furnished to the person at the same time
20 the government or entity provides the Secretary with the
21 information required under subsection (a).

22 “(c) APPROPRIATE OFFICIAL DEFINED.—For pur-
23 poses of this section, the term ‘appropriate official’ means
24 the officer or employee having control of the suit, inves-

1 tigation, or inquiry or the person appropriately designated
2 for purposes of this section.”.

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

“Sec. 6050W. Information with respect to certain fines, penalties, and other
amounts.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to amounts paid or incurred on
9 or after the date of the enactment of this Act, except that
10 such amendments shall not apply to amounts paid or in-
11 curred under any binding order or agreement entered into
12 before such date. Such exception shall not apply to an
13 order or agreement requiring court approval unless the ap-
14 proval was obtained before such date.

15 **SEC. 308. REVISION OF TAX RULES ON EXPATRIATION.**

16 (a) IN GENERAL.—Subpart A of part II of sub-
17 chapter N of chapter 1 is amended by inserting after sec-
18 tion 877 the following new section:

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

20 “(a) GENERAL RULES.—For purposes of this sub-
21 title—

22 “(1) MARK TO MARKET.—All property of a cov-
23 ered expatriate shall be treated as sold on the day

1 before the expatriation date for its fair market
2 value.

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

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

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

14 Proper adjustment shall be made in the amount of
15 any gain or loss subsequently realized for gain or
16 loss taken into account under the preceding sen-
17 tence, determined without regard to paragraph (3).

18 “(3) EXCLUSION FOR CERTAIN GAIN.—

19 “(A) IN GENERAL.—The amount which
20 would (but for this paragraph) be includible in
21 the gross income of any individual by reason of
22 paragraph (1) shall be reduced (but not below
23 zero) by \$600,000.

24 “(B) ADJUSTMENT FOR INFLATION.—

1 “(i) IN GENERAL.—In the case of any
 2 taxable year beginning in a calendar year
 3 after 2008, the dollar amount in subpara-
 4 graph (A) shall be increased by an amount
 5 equal to—

6 “(I) such dollar amount, multi-
 7 plied by

8 “(II) the cost-of-living adjust-
 9 ment determined under section 1(f)(3)
 10 for the calendar year in which the tax-
 11 able year begins, by substituting ‘cal-
 12 endar year 2007’ for ‘calendar year
 13 1992’ in subparagraph (B) thereof.

14 “(ii) ROUNDING.—If any amount as
 15 adjusted under clause (i) is not a multiple
 16 of \$1,000, such amount shall be rounded
 17 to the nearest multiple of \$1,000.

18 “(b) ELECTION TO DEFER TAX.—

19 “(1) IN GENERAL.—If the taxpayer elects the
 20 application of this subsection with respect to any
 21 property treated as sold by reason of subsection (a),
 22 the time for payment of the additional tax attrib-
 23 utable to such property shall be extended until the
 24 due date of the return for the taxable year in which
 25 such property is disposed of (or, in the case of prop-

erty disposed of in a transaction in which gain is not
 recognized in whole or in part, until such other date
 as the Secretary may prescribe).

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

“(3) TERMINATION OF EXTENSION.—The due
 date for payment of tax may not be extended under
 this subsection later than the due date for the re-
 turn of tax imposed by this chapter for the taxable
 year which includes the date of death of the expa-
 triate (or, if earlier, the time that the security pro-
 vided with respect to the property fails to meet the
 requirements of paragraph (4), unless the taxpayer
 corrects such failure within the time specified by the
 Secretary).

“(4) SECURITY.—

1 “(A) IN GENERAL.—No election may be
2 made under paragraph (1) with respect to any
3 property unless adequate security is provided
4 with respect to such property.

5 “(B) ADEQUATE SECURITY.—For purposes
6 of subparagraph (A), security with respect to
7 any property shall be treated as adequate secu-
8 rity if—

9 “(i) it is a bond which is furnished to,
10 and accepted by, the Secretary, which is
11 conditioned on the payment of tax (and in-
12 terest thereon), and which meets the re-
13 quirements of section 6325, or

14 “(ii) it is another form of security for
15 such payment (including letters of credit)
16 that meets such requirements as the Sec-
17 retary may prescribe.

18 “(5) WAIVER OF CERTAIN RIGHTS.—No elec-
19 tion may be made under paragraph (1) unless the
20 taxpayer makes an irrevocable waiver of any right
21 under any treaty of the United States which would
22 preclude assessment or collection of any tax imposed
23 by reason of this section.

1 “(6) ELECTIONS.—An election under paragraph
2 (1) shall only apply to property described in the elec-
3 tion and, once made, is irrevocable.

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

8 “(c) EXCEPTION FOR CERTAIN PROPERTY.—Sub-
9 section (a) shall not apply to—

10 “(1) any deferred compensation item (as de-
11 fined in subsection (d)(4)),

12 “(2) any specified tax deferred account (as de-
13 fined in subsection (e)(2)), and

14 “(3) any interest in a nongrantor trust (as de-
15 fined in subsection (f)(3)).

16 “(d) TREATMENT OF DEFERRED COMPENSATION
17 ITEMS.—

18 “(1) WITHHOLDING ON ELIGIBLE DEFERRED
19 COMPENSATION ITEMS.—

20 “(A) IN GENERAL.—In the case of any eli-
21 gible deferred compensation item, the payor
22 shall deduct and withhold from any taxable
23 payment to a covered expatriate with respect to
24 such item a tax equal to 30 percent thereof.

1 “(B) TAXABLE PAYMENT.—For purposes
 2 of subparagraph (A), the term ‘taxable pay-
 3 ment’ means with respect to a covered expa-
 4 triate any payment to the extent it would be in-
 5 cludible in the gross income of the covered ex-
 6 patriate if such expatriate continued to be sub-
 7 ject to tax as a citizen or resident of the United
 8 States. A deferred compensation item shall be
 9 taken into account as a payment under the pre-
 10 ceding sentence when such item would be so in-
 11 cludible.

12 “(2) OTHER DEFERRED COMPENSATION
 13 ITEMS.—In the case of any deferred compensation
 14 item which is not an eligible deferred compensation
 15 item—

16 “(A)(i) with respect to any deferred com-
 17 pensation item to which clause (ii) does not
 18 apply, an amount equal to the present value of
 19 the covered expatriate’s accrued benefit shall be
 20 treated as having been received by such indi-
 21 vidual on the day before the expatriation date
 22 as a distribution under the plan, and

23 “(ii) with respect to any deferred com-
 24 pensation item referred to in paragraph (4)(D),
 25 the rights of the covered expatriate to such item

1 shall be treated as becoming transferable and
2 not subject to a substantial risk of forfeiture on
3 the day before the expatriation date,

4 “(B) no early distribution tax shall apply
5 by reason of such treatment, and

6 “(C) appropriate adjustments shall be
7 made to subsequent distributions from the plan
8 to reflect such treatment.

9 “(3) ELIGIBLE DEFERRED COMPENSATION
10 ITEMS.—For purposes of this subsection, the term
11 ‘eligible deferred compensation item’ means any de-
12 ferred compensation item with respect to which—

13 “(A) the payor of such item is—

14 “(i) a United States person, or

15 “(ii) a person who is not a United
16 States person but who elects to be treated
17 as a United States person for purposes of
18 paragraph (1) and meets such require-
19 ments as the Secretary may provide to en-
20 sure that the payor will meet the require-
21 ments of paragraph (1), and

22 “(B) the covered expatriate—

23 “(i) notifies the payor of his status as
24 a covered expatriate, and

1 “(ii) makes an irrevocable waiver of
2 any right to claim any reduction under any
3 treaty with the United States in with-
4 holding on such item.

5 “(4) DEFERRED COMPENSATION ITEM.—For
6 purposes of this subsection, the term ‘deferred com-
7 pensation item’ means—

8 “(A) any interest in a plan or arrangement
9 described in section 219(g)(5),

10 “(B) any interest in a foreign pension plan
11 or similar retirement arrangement or program,

12 “(C) any item of deferred compensation,
13 and

14 “(D) any property, or right to property,
15 which the individual is entitled to receive in
16 connection with the performance of services to
17 the extent not previously taken into account
18 under section 83 or in accordance with section
19 83.

20 “(5) EXCEPTION.—Paragraphs (1) and (2)
21 shall not apply to any deferred compensation item
22 which is attributable to services performed outside
23 the United States while the covered expatriate was
24 not a citizen or resident of the United States.

25 “(6) SPECIAL RULES.—

1 “(A) APPLICATION OF WITHHOLDING
2 RULES.—Rules similar to the rules of sub-
3 chapter B of chapter 3 shall apply for purposes
4 of this subsection.

5 “(B) APPLICATION OF TAX.—Any item
6 subject to the withholding tax imposed under
7 paragraph (1) shall be subject to tax under sec-
8 tion 871.

9 “(C) COORDINATION WITH OTHER WITH-
10 HOLDING REQUIREMENTS.—Any item subject to
11 withholding under paragraph (1) shall not be
12 subject to withholding under section 1441 or
13 chapter 24.

14 “(e) TREATMENT OF SPECIFIED TAX DEFERRED AC-
15 COUNTS.—

16 “(1) ACCOUNT TREATED AS DISTRIBUTED.—In
17 the case of any interest in a specified tax deferred
18 account held by a covered expatriate on the day be-
19 fore the expatriation date—

20 “(A) the covered expatriate shall be treat-
21 ed as receiving a distribution of his entire inter-
22 est in such account on the day before the expa-
23 triation date,

24 “(B) no early distribution tax shall apply
25 by reason of such treatment, and

1 “(C) appropriate adjustments shall be
2 made to subsequent distributions from the ac-
3 count to reflect such treatment.

4 “(2) SPECIFIED TAX DEFERRED ACCOUNT.—
5 For purposes of paragraph (1), the term ‘specified
6 tax deferred account’ means an individual retirement
7 plan (as defined in section 7701(a)(37)) other than
8 any arrangement described in subsection (k) or (p)
9 of section 408, a qualified tuition program (as de-
10 fined in section 529), a Coverdell education savings
11 account (as defined in section 530), a health savings
12 account (as defined in section 223), and an Archer
13 MSA (as defined in section 220).

14 “(f) SPECIAL RULES FOR NONGRANTOR TRUSTS.—
15 “(1) IN GENERAL.—In the case of a distribu-
16 tion (directly or indirectly) of any property from a
17 nongrantor trust to a covered expatriate—

18 “(A) the trustee shall deduct and withhold
19 from such distribution an amount equal to 30
20 percent of the taxable portion of the distribu-
21 tion, and

22 “(B) if the fair market value of such prop-
23 erty exceeds its adjusted basis in the hands of
24 the trust, gain shall be recognized to the trust

1 as if such property were sold to the expatriate
2 at its fair market value.

3 “(2) TAXABLE PORTION.—For purposes of this
4 subsection, the term ‘taxable portion’ means, with
5 respect to any distribution, that portion of the dis-
6 tribution which would be includible in the gross in-
7 come of the covered expatriate if such expatriate
8 continued to be subject to tax as a citizen or resi-
9 dent of the United States.

10 “(3) NONGRANTOR TRUST.—For purposes of
11 this subsection, the term ‘nongrantor trust’ means
12 the portion of any trust that the individual is not
13 considered the owner of under subpart E of part I
14 of subchapter J. The determination under the pre-
15 ceding sentence shall be made immediately before
16 the expatriation date.

17 “(4) SPECIAL RULES RELATING TO WITH-
18 HOLDING.—For purposes of this subsection—

19 “(A) rules similar to the rules of sub-
20 section (d)(6) shall apply, and

21 “(B) the covered expatriate shall be treat-
22 ed as having waived any right to claim any re-
23 duction under any treaty with the United
24 States in withholding on any distribution to
25 which paragraph (1)(A) applies.

1 “(g) DEFINITIONS AND SPECIAL RULES RELATING
2 TO EXPATRIATION.—For purposes of this section—

3 “(1) COVERED EXPATRIATE.—

4 “(A) IN GENERAL.—The term ‘covered ex-
5 patriate’ means an expatriate who meets the re-
6 quirements of subparagraph (A), (B), or (C) of
7 section 877(a)(2).

8 “(B) EXCEPTIONS.—An individual shall
9 not be treated as meeting the requirements of
10 subparagraph (A) or (B) of section 877(a)(2)
11 if—

12 “(i) the individual—

13 “(I) became at birth a citizen of
14 the United States and a citizen of an-
15 other country and, as of the expatria-
16 tion date, continues to be a citizen of,
17 and is taxed as a resident of, such
18 other country, and

19 “(II) has been a resident of the
20 United States (as defined in section
21 7701(b)(1)(A)(ii)) for not more than
22 10 taxable years during the 15-tax-
23 able year period ending with the tax-
24 able year during which the expatria-
25 tion date occurs, or

1 “(ii)(I) the individual’s relinquishment
2 of United States citizenship occurs before
3 such individual attains age 18½, and

4 “(II) the individual has been a resi-
5 dent of the United States (as so defined)
6 for not more than 10 taxable years before
7 the date of relinquishment.

8 “(C) COVERED EXPATRIATES ALSO SUB-
9 JECT TO TAX AS CITIZENS OR RESIDENTS.—In
10 the case of any covered expatriate who is sub-
11 ject to tax as a citizen or resident of the United
12 States for any period beginning after the expa-
13 triation date, such individual shall not be treat-
14 ed as a covered expatriate during such period
15 for purposes of subsections (d)(1) and (f) and
16 section 2801.

17 “(2) EXPATRIATE.—The term ‘expatriate’
18 means—

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

21 “(B) any long-term resident of the United
22 States who ceases to be a lawful permanent
23 resident of the United States (within the mean-
24 ing of section 7701(b)(6)).

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

3 “(A) the date an individual relinquishes
4 United States citizenship, or

5 “(B) in the case of a long-term resident of
6 the United States, the date on which the indi-
7 vidual ceases to be a lawful permanent resident
8 of the United States (within the meaning of
9 section 7701(b)(6)).

10 “(4) RELINQUISHMENT OF CITIZENSHIP.—A
11 citizen shall be treated as relinquishing his United
12 States citizenship on the earliest of—

13 “(A) the date the individual renounces his
14 United States nationality before a diplomatic or
15 consular officer of the United States pursuant
16 to paragraph (5) of section 349(a) of the Immi-
17 gration and Nationality Act (8 U.S.C.
18 1481(a)(5)),

19 “(B) the date the individual furnishes to
20 the United States Department of State a signed
21 statement of voluntary relinquishment of
22 United States nationality confirming the per-
23 formance of an act of expatriation specified in
24 paragraph (1), (2), (3), or (4) of section 349(a)

1 of the Immigration and Nationality Act (8
2 U.S.C. 1481(a)(1)–(4)),

3 “(C) the date the United States Depart-
4 ment of State issues to the individual a certifi-
5 cate of loss of nationality, or

6 “(D) the date a court of the United States
7 cancels a naturalized citizen’s certificate of nat-
8 uralization.

9 Subparagraph (A) or (B) shall not apply to any indi-
10 vidual unless the renunciation or voluntary relin-
11 quishment is subsequently approved by the issuance
12 to the individual of a certificate of loss of nationality
13 by the United States Department of State.

14 “(5) LONG-TERM RESIDENT.—The term ‘long-
15 term resident’ has the meaning given to such term
16 by section 877(e)(2).

17 “(6) EARLY DISTRIBUTION TAX.—The term
18 ‘early distribution tax’ means any increase in tax im-
19 posed under section 72(t), 220(e)(4), 223(f)(4),
20 409A(a)(1)(B), 529(c)(6), or 530(d)(4).

21 “(h) OTHER RULES.—

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

1 “(A) any time period for acquiring prop-
2 erty which would result in the reduction in the
3 amount of gain recognized with respect to prop-
4 erty disposed of by the taxpayer shall terminate
5 on the day before the expatriation date, and

6 “(B) any extension of time for payment of
7 tax shall cease to apply on the day before the
8 expatriation date and the unpaid portion of
9 such tax shall be due and payable at the time
10 and in the manner prescribed by the Secretary.

11 “(2) STEP-UP IN BASIS.—Solely for purposes of
12 determining any tax imposed by reason of subsection
13 (a), property which was held by an individual on the
14 date the individual first became a resident of the
15 United States (within the meaning of section
16 7701(b)) shall be treated as having a basis on such
17 date of not less than the fair market value of such
18 property on such date. The preceding sentence shall
19 not apply if the individual elects not to have such
20 sentence apply. Such an election, once made, shall
21 be irrevocable.

22 “(3) COORDINATION WITH SECTION 684.—If the
23 expatriation of any individual would result in the
24 recognition of gain under section 684, this section
25 shall be applied after the application of section 684.

1 “(i) REGULATIONS.—The Secretary shall prescribe
2 such regulations as may be necessary or appropriate to
3 carry out the purposes of this section.”.

4 (b) TAX ON GIFTS AND BEQUESTS RECEIVED BY
5 UNITED STATES CITIZENS AND RESIDENTS FROM EXPA-
6 TRIATES.—

7 (1) IN GENERAL.—Subtitle B (relating to estate
8 and gift taxes) is amended by inserting after chapter
9 14 the following new chapter:

10 **“CHAPTER 15—GIFTS AND BEQUESTS**
11 **FROM EXPATRIATES**

“Sec. 2801. Imposition of tax.

12 **“SEC. 2801. IMPOSITION OF TAX.**

13 “(a) IN GENERAL.—If, during any calendar year, any
14 United States citizen or resident receives any covered gift
15 or bequest, there is hereby imposed a tax equal to the
16 product of—

17 “(1) the highest rate of tax specified in the
18 table contained in section 2001(c) as in effect on the
19 date of such receipt (or, if greater, the highest rate
20 of tax specified in the table applicable under section
21 2502(a) as in effect on the date), and

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

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

4 “(c) EXCEPTION FOR CERTAIN GIFTS.—Subsection
 5 (a) shall apply only to the extent that the value of covered
 6 gifts and bequests received by any person during the cal-
 7 endar year exceeds \$10,000.

8 “(d) TAX REDUCED BY FOREIGN GIFT OR ESTATE
 9 TAX.—The tax imposed by subsection (a) on any covered
 10 gift or bequest shall be reduced by the amount of any gift
 11 or estate tax paid to a foreign country with respect to such
 12 covered gift or bequest.

13 “(e) COVERED GIFT OR BEQUEST.—

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

16 “(A) any property acquired by gift directly
 17 or indirectly from an individual who, at the
 18 time of such acquisition, is a covered expatriate,
 19 and

20 “(B) any property acquired directly or in-
 21 directly by reason of the death of an individual
 22 who, immediately before such death, was a cov-
 23 ered expatriate.

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

4 “(A) any property shown on a timely filed
 5 return of tax imposed by chapter 12 which is a
 6 taxable gift by the covered expatriate, and

7 “(B) any property included in the gross es-
 8 tate of the covered expatriate for purposes of
 9 chapter 11 and shown on a timely filed return
 10 of tax imposed by chapter 11 of the estate of
 11 the covered expatriate.

12 “(3) TRANSFERS IN TRUST.—

13 “(A) DOMESTIC TRUSTS.—In the case of a
 14 covered gift or bequest made to a domestic
 15 trust—

16 “(i) subsection (a) shall apply in the
 17 same manner as if such trust were a
 18 United States citizen, and

19 “(ii) the tax imposed by subsection (a)
 20 on such gift or bequest shall be paid by
 21 such trust.

22 “(B) FOREIGN TRUSTS.—

23 “(i) IN GENERAL.—In the case of a
 24 covered gift or bequest made to a foreign
 25 trust, subsection (a) shall apply to any dis-

1 tribution attributable to such gift or be-
2 quest from such trust (whether from in-
3 come or corpus) to a United States citizen
4 or resident in the same manner as if such
5 distribution were a covered gift or bequest.

6 “(ii) DEDUCTION FOR TAX PAID BY
7 RECIPIENT.—There shall be allowed as a
8 deduction under section 164 the amount of
9 tax imposed by this section which is paid
10 or accrued by a United States citizen or
11 resident by reason of a distribution from a
12 foreign trust, but only to the extent such
13 tax is imposed on the portion of such dis-
14 tribution which is included in the gross in-
15 come of such citizen or resident.

16 “(iii) ELECTION TO BE TREATED AS
17 DOMESTIC TRUST.—Solely for purposes of
18 this section, a foreign trust may elect to be
19 treated as a domestic trust. Such an elec-
20 tion may be revoked with the consent of
21 the Secretary.

22 “(f) COVERED EXPATRIATE.—For purposes of this
23 section, the term ‘covered expatriate’ has the meaning
24 given to such term by section 877A(g)(1).”.

1 (2) CLERICAL AMENDMENT.—The table of
 2 chapters for subtitle B is amended by inserting after
 3 the item relating to chapter 14 the following new
 4 item:

“CHAPTER 15. GIFTS AND BEQUESTS FROM EXPATRIATES.”.

5 (c) DEFINITION OF TERMINATION OF UNITED
 6 STATES CITIZENSHIP.—

7 (1) IN GENERAL.—Section 7701(a) is amended
 8 by adding at the end the following new paragraph:

9 “(50) TERMINATION OF UNITED STATES CITI-
 10 ZENSHIP.—

11 “(A) IN GENERAL.—An individual shall
 12 not cease to be treated as a United States cit-
 13 izen before the date on which the individual’s
 14 citizenship is treated as relinquished under sec-
 15 tion 877A(g)(4).

16 “(B) DUAL CITIZENS.—Under regulations
 17 prescribed by the Secretary, subparagraph (A)
 18 shall not apply to an individual who became at
 19 birth a citizen of the United States and a cit-
 20 izen of another country.”.

21 (2) CONFORMING AMENDMENTS.—

22 (A) Paragraph (1) of section 877(e) is
 23 amended to read as follows:

24 “(1) IN GENERAL.—Any long-term resident of
 25 the United States who ceases to be a lawful perma-

1 nent resident of the United States (within the mean-
2 ing of section 7701(b)(6)) shall be treated for pur-
3 poses of this section and sections 2107, 2501, and
4 6039G in the same manner as if such resident were
5 a citizen of the United States who lost United States
6 citizenship on the date of such cessation or com-
7 mencement.”.

8 (B) Paragraph (6) of section 7701(b) is
9 amended by adding at the end the following
10 flush sentence:

11 “An individual shall cease to be treated as a lawful
12 permanent resident of the United States if such in-
13 dividual commences to be treated as a resident of a
14 foreign country under the provisions of a tax treaty
15 between the United States and the foreign country,
16 does not waive the benefits of such treaty applicable
17 to residents of the foreign country, and notifies the
18 Secretary of the commencement of such treatment.”.

19 (C) Section 7701 is amended by striking
20 subsection (n) and by redesignating subsections
21 (o) and (p) as subsections (n) and (o), respec-
22 tively.

23 (d) INFORMATION RETURNS.—Section 6039G is
24 amended—

1 (1) by inserting “or 877A” after “section
2 877(b)” in subsection (a), and

3 (2) by inserting “or 877A” after “section
4 877(a)” in subsection (d).

5 (e) CLERICAL AMENDMENT.—The table of sections
6 for subpart A of part II of subchapter N of chapter 1
7 is amended by inserting after the item relating to section
8 877 the following new item:

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

9 (f) EFFECTIVE DATE.—

10 (1) IN GENERAL.—Except as provided in this
11 subsection, the amendments made by this section
12 shall apply to expatriates (as defined in section
13 877A(g) of the Internal Revenue Code of 1986, as
14 added by this section) whose expatriation date (as so
15 defined) is on or after the date of the enactment of
16 this Act.

17 (2) GIFTS AND BEQUESTS.—Chapter 15 of the
18 Internal Revenue Code of 1986 (as added by sub-
19 section (b)) shall apply to covered gifts and bequests
20 (as defined in section 2801 of such Code, as so
21 added) received on or after the date of the enact-
22 ment of this Act, regardless of when the transferor
23 expatriated.

Calendar No. 482

110TH CONGRESS
1ST Session

S. 2345

[Report No. 110-228]

A BILL

To amend the Internal Revenue Code of 1986 and to extend the financing for the Airport and Airway Trust Fund, and for other purposes.

NOVEMBER 13, 2007

Read twice and placed on the calendar