

109TH CONGRESS
1ST SESSION

S. 2020

AN ACT

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

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

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

4 **TABLE OF CONTENTS.**

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

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; amendment of 1986 Code; table of contents.

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

Subtitle A—Gulf Opportunity Zone Benefits

- Sec. 101. Gulf Opportunity Zone benefits.
- Sec. 102. Expansion of Hope Scholarship and Lifetime Learning Credit for stu-
 dents in the Gulf Opportunity Zone.
- Sec. 103. Extension of special rules for mortgage revenue bonds.
- Sec. 104. Housing relief for individuals affected by Hurricane Katrina.

Subtitle B—Tax Benefits Related to Hurricanes Rita and Wilma

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

TITLE II—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Multi-Year Extensions

- Sec. 201. Extension of increased expensing for small business.
- Sec. 202. Credit for elective deferrals and IRA contributions.
- Sec. 203. Above-the-line deduction for higher education.
- Sec. 204. Extension and modification of new markets tax credit.

Subtitle B—One-Year Extensions

- Sec. 211. Election to deduct State and local general sales taxes.
- Sec. 212. Extension and increase in minimum tax relief to individuals.
- Sec. 213. Allowance of nonrefundable personal credits against regular and al-
 ternative minimum tax liability.
- Sec. 214. Extension and modification of research credit.
- Sec. 215. Work Opportunity Tax credit and Welfare-to-Work credit.
- Sec. 216. Qualified zone academy bonds.
- Sec. 217. Deduction for corporate donations of computer technology and equip-
 ment.
- Sec. 218. Above-the-line deduction for certain expenses of elementary and sec-
 ondary school teachers.

- Sec. 219. Expensing of Brownfields remediation costs.
- Sec. 220. Tax incentives for investment in the District of Columbia.
- Sec. 221. Indian employment tax credit.
- Sec. 222. Accelerated depreciation for business property on Indian reservation.
- Sec. 223. Fifteen-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant improvements.
- Sec. 224. Extension of full credit for qualified electric vehicles.

Subtitle C—Application of EGTRRA Sunset

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

TITLE III—PROVISIONS RELATING TO CHARITABLE DONATIONS

Subtitle A—Charitable Giving Incentives

- Sec. 301. Charitable deduction for nonitemizers.
- Sec. 302. Tax-free distributions from individual retirement plans for charitable purposes.
- Sec. 303. Modification of charitable deduction for contributions of food inventory.
- Sec. 304. Basis adjustment to stock of S corporation contributing property.
- Sec. 305. Modification of charitable deduction for contributions of book inventory.
- Sec. 306. Modification of tax treatment of certain payments to controlling exempt organizations and public disclosure of information relating to unrelated business income.
- Sec. 307. Encouragement of contributions of capital gain real property made for conservation purposes.
- Sec. 308. Enhanced deduction for charitable contribution of literary, musical, artistic, and scholarly compositions.
- Sec. 309. Mileage reimbursements to charitable volunteers excluded from gross income.
- Sec. 310. Alternative percentage limitation for corporate charitable contributions to the mathematics and science partnership program.

Subtitle B—Reforming Charitable Organizations

PART I—GENERAL REFORMS

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

- Sec. 321. Additional standards for credit counseling organizations.
- Sec. 322. Expansion of the base of tax on private foundation net investment income.
- Sec. 323. Definition of convention or association of churches.
- Sec. 324. Notification requirement for entities not currently required to file.
- Sec. 325. Disclosure to State officials of proposed actions related to exempt organizations.

PART II—IMPROVED ACCOUNTABILITY OF DONOR ADVISED FUNDS

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

PART III—IMPROVED ACCOUNTABILITY OF SUPPORTING ORGANIZATIONS

- Sec. 341. Requirements for supporting organizations.
- Sec. 342. Excise tax on supporting organizations for failure to meet distribution requirements.
- Sec. 343. Excess benefit transactions.
- Sec. 344. Excess business holdings of supporting organizations.
- Sec. 345. Treatment of amounts paid to supporting organizations by private foundations.
- Sec. 346. Returns of supporting organizations.

TITLE IV—MISCELLANEOUS PROVISIONS

- Sec. 401. Restructuring of New York Liberty Zone tax credits.
- Sec. 402. Modification to S corporation passive investment income rules.
- Sec. 403. Modification of effective date of disregard of certain capital expenditures for purposes of qualified small issue bonds.
- Sec. 404. Premiums for mortgage insurance.
- Sec. 405. Sense of the Senate on use of no-bid contracting by Federal Emergency Management Agency.
- Sec. 406. Disability preference program for tax collection contracts.
- Sec. 407. Sense of Congress regarding Doha Round.
- Sec. 408. Modification of bond rule.
- Sec. 409. Treatment of certain stock option plans under nonqualified deferred compensation rules.
- Sec. 410. Sense of the Senate regarding the dedication of excess funds.

TITLE V—REVENUE OFFSET PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

- Sec. 501. Understatement of taxpayer's liability by income tax return preparer.
- Sec. 502. Modification of effective date of exception from suspension rules for certain listed and reportable transactions.
- Sec. 503. Frivolous tax submissions.
- Sec. 504. Penalty for promoting abusive tax shelters.
- Sec. 505. Penalty for aiding and abetting the understatement of tax liability.

Subtitle B—Economic Substance Doctrine

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

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

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

Subtitle D—Penalties and Fines

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

Subtitle E—Provisions To Discourage Expatriation

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

Subtitle F—Miscellaneous Provisions

- Sec. 551. Treatment of contingent payment convertible debt instruments.
- Sec. 552. Grant of Treasury regulatory authority to address foreign tax credit transactions involving inappropriate separation of foreign taxes from related foreign income.
- Sec. 553. Repeal of special property exception to leasing provisions of the American Jobs Creation Act of 2004.
- Sec. 554. Application of earnings stripping rules to partners which are corporations.
- Sec. 555. Limitation of employer deduction for certain entertainment expenses.
- Sec. 556. Increase in age of minor children whose unearned income is taxed as if parent's income.
- Sec. 557. Loan and redemption requirements on pooled financing requirements.
- Sec. 558. Reporting of interest on tax-exempt bonds.
- Sec. 559. Modification of credit for producing fuel from a nonconventional source.
- Sec. 560. Modification of individual estimated tax safe harbor.
- Sec. 561. Revaluation of LIFO inventories of large integrated oil companies.
- Sec. 562. Elimination of amortization of geological and geophysical expenditures for major integrated oil companies.
- Sec. 563. Valuation of employee personal use of noncommercial aircraft.
- Sec. 564. Application of FIRPTA to regulated investment companies.
- Sec. 565. Treatment of distributions attributable to FIRPTA gains.
- Sec. 566. Prevention of avoidance of tax on investments of foreign persons in United States real property through wash sale transactions.
- Sec. 567. Modifications to rules relating to taxation of distributions of stock and securities of a controlled corporation.

Sec. 568. Amortization of expenses incurred in creating or acquiring music or music copyrights.

Sec. 569. Credit to holders of rural renaissance bonds.

Sec. 570. Modification of treatment of loans to qualified continuing care facilities.

Sec. 571. Modifications of foreign tax credit rules applicable to large integrated oil companies which are dual capacity taxpayers.

Sec. 572. Exclusion of gain from sale of a principal residence by certain employees of the intelligence community.

Sec. 573. Disability preference program for tax collection contracts.

TITLE VI—COMPLIANCE WITH CONGRESSIONAL BUDGET ACT

Sec. 601. Sunset of certain provisions and amendments.

1 **TITLE I—TAX BENEFITS FOR**
 2 **AREAS AFFECTED BY HURRI-**
 3 **CANES KATRINA, RITA, AND**
 4 **WILMA**

5 **Subtitle A—Gulf Opportunity Zone**
 6 **Benefits**

7 **SEC. 101. GULF OPPORTUNITY ZONE BENEFITS.**

8 (a) IN GENERAL.—Chapter 1 is amended by adding
 9 at the end the following new subchapter:

10 **“Subchapter Z—Hurricane Relief Benefits**

“Sec. 1400N. Definitions.

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

11 **“SEC. 1400N. DEFINITIONS.**

12 “For purposes of this subchapter—

13 “(1) GULF OPPORTUNITY ZONE.—The term
 14 ‘Gulf Opportunity Zone’ or ‘GO Zone’ means that
 15 portion of the Hurricane Katrina disaster area de-
 16 termined by the President to warrant individual or
 17 individual and public assistance from the Federal

1 Government under the Robert T. Stafford Disaster
2 Relief and Emergency Assistance Act by reason of
3 Hurricane Katrina.

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

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

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

22 “(5) WILMA GO ZONE.—The term ‘Wilma GO
23 Zone’ means that portion of the Hurricane Wilma
24 disaster area determined by the President to war-
25 rant individual or individual and public assistance

1 from the Federal Government under such Act by
2 reason of Hurricane Wilma.

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

9 **“SEC. 14000. TAX BENEFITS FOR GULF OPPORTUNITY**
10 **ZONE.**

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

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

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

20 “(B) the adjusted basis of the qualified
21 Gulf Opportunity Zone property shall be re-
22 duced by the amount of such deduction before
23 computing the amount otherwise allowable as a
24 depreciation deduction under this chapter for

1 such taxable year and any subsequent taxable
2 year.

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

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

8 “(i)(I) which is described in section
9 168(k)(2)(A)(i), or

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

12 “(ii) substantially all of the use of
13 which is in the Gulf Opportunity Zone and
14 is in the active conduct of a trade or busi-
15 ness by the taxpayer in such Zone,

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

19 “(iv) which is acquired by the tax-
20 payer by purchase (as defined in section
21 179(d)) after August 27, 2005, but only if
22 no written binding contract for the acquisi-
23 tion was in effect before August 28, 2005,
24 and

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

7 “(B) EXCEPTIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

13 “(i) \$100,000, or

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

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

22 “(i) \$600,000, or

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

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

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

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

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

20 “(c) TAX-EXEMPT BOND FINANCING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 “(e) LOW-INCOME HOUSING CREDIT.—

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

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

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

1 42(h)(3)(C)(ii) for each calendar year be-
2 ginning after 2005 and before 2010 shall
3 be increased by an amount equal to 3
4 times the dollar amount otherwise specified
5 for such calendar year under such sub-
6 clause multiplied by the State population
7 located in the Gulf Opportunity Zone (as
8 determined on the basis of the most recent
9 census estimate of resident population re-
10 leased by the Bureau of Census before Au-
11 gust 28, 2005), and

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

17 “(B) ELECTIVE CARRYFORWARD OF UN-
18 USED INCREASED CEILING.—

19 “(i) IN GENERAL.—If the amount de-
20 termined under section 42(h)(3)(C)(ii)(I),
21 as increased under subparagraph (A)(i),
22 for any calendar year for any State de-
23 scribed in subparagraph (A) exceeds the
24 aggregate housing credit dollar amount al-
25 located during such calendar year by such

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

4 “(I) the amount of such excess,

5 or

6 “(II) the amount by which the

7 amount determined under section

8 42(h)(3)(C)(ii)(I) for such calendar

9 year was increased under subpara-

10 graph (A)(i)).

11 “(ii) USE OF CARRYFORWARD.—If

12 any State elects a carryforward under

13 clause (i), any housing credit dollar

14 amount allocated by such State during the

15 calendar year following the calendar year

16 in which the carryforward arose shall not

17 be considered so allocated for purposes of

18 section 42(h)(3)(C) and section

19 42(h)(3)(D) to the extent such housing

20 credit dollar amount does not exceed the

21 amount of the carryforward elected.

22 “(2) DIFFICULT DEVELOPMENT AREA.—

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

24 tion 42—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 2005, and before January 1, 2008, and al-
2 lowable under this chapter to any taxpayer
3 in connection with the employment of any
4 individual—

5 “(I) whose principal place of
6 abode was located in the Gulf Oppor-
7 tunity Zone before August 28, 2005,

8 “(II) who was unable to remain
9 in such abode as the result of Hurri-
10 cane Katrina, and

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

15 For purposes of this clause, the term ‘mov-
16 ing expenses’ has the meaning given such
17 term by section 217(b), except that the
18 taxpayer’s former residence and new resi-
19 dence may be the same residence if the ini-
20 tial vacating of the residence was as the
21 result of Hurricane Katrina.

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

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

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

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

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

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

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

3 “(i) such loss is allowed as a deduc-
4 tion under section 165 for the taxable
5 year, and

6 “(ii) such loss is attributable to Hur-
7 ricane Katrina.

8 “(B) REDUCTION FOR GAINS FROM INVOL-
9 UNTARY CONVERSION.—The amount of quali-
10 fied Gulf Opportunity Zone casualty loss which
11 would (but for this subparagraph) be taken into
12 account under subparagraph (A) for any tax-
13 able year shall be reduced by the amount of any
14 gain recognized by the taxpayer for such year
15 from the involuntary conversion by reason of
16 Hurricane Katrina of property located in the
17 Gulf Opportunity Zone.

18 “(C) COORDINATION WITH GENERAL DIS-
19 ASTER LOSS RULES.—Subsection (j) and section
20 165(i) shall not apply to any qualified Gulf Op-
21 portunity Zone casualty loss to the extent such
22 loss is taken into account under this subsection.

23 “(4) SPECIAL RULES.—For purposes of para-
24 graph (1), rules similar to the rules of paragraphs

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 “(A) such property was held by the
21 taxpayer—

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

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

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

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

15 “(5) DEFINITIONS.—For purposes of this
16 subsection—

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

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

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

1 no part of which is located in the Gulf Op-
 2 portunity Zone, that portion of the taxable
 3 year which is on or after September 23,
 4 2005, and before January 1, 2007, and

5 “(iii) in the case of qualified timber
 6 property located in the Wilma GO Zone,
 7 that portion of the taxable year which is on
 8 or after October 23, 2005, and before Jan-
 9 uary 1, 2007.

10 “(B) QUALIFIED TIMBER PROPERTY.—The
 11 term ‘qualified timber property’ has the mean-
 12 ing given such term in section 194(c)(1).

13 “(1) EXPENSING FOR CERTAIN DEMOLITION AND
 14 CLEAN-UP COSTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

“SUBCHAPTER Z—HURRICANE RELIEF BENEFITS.”.

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

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

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

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

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

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

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

17 **SEC. 104. HOUSING RELIEF FOR INDIVIDUALS AFFECTED**
18 **BY HURRICANE KATRINA.**

19 (a) **EXCLUSION OF EMPLOYER PROVIDED HOUSING**
20 **FOR INDIVIDUAL AFFECTED BY HURRICANE KATRINA.—**

21 (1) **IN GENERAL.—**For purposes of the Internal
22 Revenue Code of 1986, gross income of a qualified
23 employee shall not include the value of any lodging
24 furnished to such employee, such employee’s spouse,
25 or any of such employee’s dependents by or on be-

1 half of a qualified employer for any month during
2 the taxable year.

3 (2) LIMITATION.—The amount which may be
4 excluded under subsection (a) for any month for
5 which lodging is furnished during the taxable year
6 shall not exceed \$600.

7 (3) TREATMENT OF EXCLUSION.—For purposes
8 of the Internal Revenue Code of 1986 (other than
9 sections 3121(a)(19) and 3306(b)(14), an exclusion
10 under subsection (a) shall be treated as an exclusion
11 under section 119 of such Code.

12 (b) EMPLOYER CREDIT FOR HOUSING EMPLOYEES
13 AFFECTED BY HURRICANE KATRINA.—

14 (1) IN GENERAL.—In the case of a qualified
15 employer, there shall be allowed as a credit against
16 the tax imposed by chapter 1 of the Internal Rev-
17 enue Code of 1986 for any month during the taxable
18 year an amount equal to 30 percent of any amount
19 which is excludable from the gross income of a quali-
20 fied employee of such employer under subsection (a).

21 (2) CERTAIN RULES TO APPLY.—For purposes
22 of this section, rules similar to the rules of section
23 280C(a) of such Code shall apply.

24 (3) CREDIT TO BE PART OF GENERAL BUSI-
25 NESS CREDIT.—The credit allowed under this sec-

1 tion shall be added to the current year business
2 credit under section 38(b) of such Code and shall be
3 treated as a credit allowed under subpart D of part
4 IV of subchapter A of such Code.

5 (c) QUALIFIED EMPLOYEE.—For purposes of this
6 section, the term “qualified employee” means, with respect
7 to any month, an individual—

8 (1) who had a principal residence (as defined in
9 section 121 of the Internal Revenue Code of 1986)
10 in the GO Zone (as defined in section 1400N(1) of
11 such Code) on August 28, 2005, and

12 (2) who performs not less than 80 percent of
13 the employment services for a qualified employer in
14 the Hurricane Katrina disaster area (as so defined).

15 (d) QUALIFIED EMPLOYER.—For purposes of this
16 section, the term “qualified employer” means any em-
17 ployer with a trade or business located in the Hurricane
18 Katrina disaster area (as so defined).

19 (e) APPLICATION OF SECTION.—This section shall
20 apply to lodging provided—

21 (1) after the date of the enactment of this Act,
22 (2) before the date which is 6 months after the
23 date of the enactment of this Act, and

24 (3) no credit with respect to such lodging shall
25 be claimed before October 1, 2006.

1 **Subtitle B—Tax Benefits Related to**
 2 **Hurricanes Rita and Wilma**

3 **SEC. 111. EXTENSION OF CERTAIN EMERGENCY TAX RE-**
 4 **LIEF FOR HURRICANE KATRINA TO HURRI-**
 5 **CANES RITA AND WILMA.**

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

9 **“SEC. 1400P. SPECIAL RULES FOR MORTGAGE REVENUE**
 10 **BONDS.**

11 “(a) IN GENERAL.—In the case of financing provided
 12 with respect to residences in the GO Zone, the Rita GO
 13 Zone, or the Wilma GO Zone, section 143 shall be
 14 applied—

15 “(1) by treating any residence in the GO Zone,
 16 the Rita GO Zone, or the Wilma GO Zone as a tar-
 17 geted area residence,

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

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

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

1 **“SEC. 1400Q. SPECIAL RULES FOR USE OF RETIREMENT**
2 **FUNDS.**

3 “(a) TAX-FAVORED WITHDRAWALS FROM RETIRE-
4 MENT PLANS.—

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

7 “(2) AGGREGATE DOLLAR LIMITATION.—

8 “(A) IN GENERAL.—For purposes of this
9 subsection, the aggregate amount of distribu-
10 tions received by an individual which may be
11 treated as qualified hurricane distributions for
12 any taxable year shall not exceed the excess (if
13 any) of—

14 “(i) \$100,000, over

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

19 “(B) TREATMENT OF PLAN DISTRIBUTIONS.—If a distribution to an individual would
20 (without regard to subparagraph (A)) be a
21 qualified hurricane distribution, a plan shall not
22 be treated as violating any requirement of this
23 title merely because the plan treats such dis-
24 tribution as a qualified hurricane distribution,
25 unless the aggregate amount of such distribu-
26

1 tions from all plans maintained by the employer
2 (and any member of any controlled group which
3 includes the employer) to such individual ex-
4 ceeds \$100,000.

5 “(C) CONTROLLED GROUP.—For purposes
6 of subparagraph (B), the term ‘controlled
7 group’ means any group treated as a single em-
8 ployer under subsection (b), (c), (m), or (o) of
9 section 414.

10 “(3) AMOUNT DISTRIBUTED MAY BE REPAID.—

11 “(A) IN GENERAL.—Any individual who
12 receives a qualified hurricane distribution may,
13 at any time during the 3-year period beginning
14 on the day after the date on which such dis-
15 tribution was received, make one or more con-
16 tributions in an aggregate amount not to exceed
17 the amount of such distribution to an eligible
18 retirement plan of which such individual is a
19 beneficiary and to which a rollover contribution
20 of such distribution could be made under sec-
21 tion 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or
22 457(e)(16), as the case may be.

23 “(B) TREATMENT OF REPAYMENTS OF
24 DISTRIBUTIONS FROM ELIGIBLE RETIREMENT
25 PLANS OTHER THAN IRAS.—For purposes of

1 this title, if a contribution is made pursuant to
2 subparagraph (A) with respect to a qualified
3 hurricane distribution from an eligible retire-
4 ment plan other than an individual retirement
5 plan, then the taxpayer shall, to the extent of
6 the amount of the contribution, be treated as
7 having received the qualified hurricane distribu-
8 tion in an eligible rollover distribution (as de-
9 fined in section 402(c)(4)) and as having trans-
10 ferred the amount to the eligible retirement
11 plan in a direct trustee to trustee transfer with-
12 in 60 days of the distribution.

13 “(C) TREATMENT OF REPAYMENTS FOR
14 DISTRIBUTIONS FROM IRAS.—For purposes of
15 this title, if a contribution is made pursuant to
16 subparagraph (A) with respect to a qualified
17 hurricane distribution from an individual retire-
18 ment plan (as defined by section 7701(a)(37)),
19 then, to the extent of the amount of the con-
20 tribution, the qualified hurricane distribution
21 shall be treated as a distribution described in
22 section 408(d)(3) and as having been trans-
23 ferred to the eligible retirement plan in a direct
24 trustee to trustee transfer within 60 days of the
25 distribution.

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

3 “(A) QUALIFIED HURRICANE DISTRIBUTION.—Except as provided in paragraph (2),
4 the term ‘qualified hurricane distribution’
5 means—
6

7 “(i) any distribution from an eligible
8 retirement plan made on or after August
9 25, 2005, and before January 1, 2007, to
10 an individual whose principal place of
11 abode on August 28, 2005, is located in
12 the Hurricane Katrina disaster area and
13 who has sustained an economic loss by rea-
14 son of Hurricane Katrina,

15 “(ii) any distribution (which is not de-
16 scribed in clause (i)) from an eligible re-
17 tirement plan made on or after September
18 23, 2005, and before January 1, 2007, to
19 an individual whose principal place of
20 abode on September 23, 2005, is located in
21 the Hurricane Rita disaster area and who
22 has sustained an economic loss by reason
23 of Hurricane Rita, and

24 “(iii) any distribution (which is not
25 described in clause (i) or (ii)) from an eli-

1 eligible retirement plan made on or after Oc-
2 tober 23, 2005, and before January 1,
3 2007, to an individual whose principal
4 place of abode on October 23, 2005, is lo-
5 cated in the Hurricane Wilma disaster
6 area and who has sustained an economic
7 loss by reason of Hurricane Wilma.

8 “(B) ELIGIBLE RETIREMENT PLAN.—The
9 term ‘eligible retirement plan’ shall have the
10 meaning given such term by section
11 402(c)(8)(B).

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

14 “(A) IN GENERAL.—In the case of any
15 qualified hurricane distribution, unless the tax-
16 payer elects not to have this paragraph apply
17 for any taxable year, any amount required to be
18 included in gross income for such taxable year
19 shall be so included ratably over the 3-taxable
20 year period beginning with such taxable year.

21 “(B) SPECIAL RULE.—For purposes of
22 subparagraph (A), rules similar to the rules of
23 subparagraph (E) of section 408A(d)(3) shall
24 apply.

25 “(6) SPECIAL RULES.—

1 “(A) EXEMPTION OF DISTRIBUTIONS FROM
2 TRUSTEE TO TRUSTEE TRANSFER AND WITH-
3 HOLDING RULES.—For purposes of sections
4 401(a)(31), 402(f), and 3405, qualified hurri-
5 cane distributions shall not be treated as eligi-
6 ble rollover distributions.

7 “(B) QUALIFIED HURRICANE DISTRIBUTI-
8 ONS TREATED AS MEETING PLAN DISTRIBUTI-
9 ON REQUIREMENTS.—For purposes this title,
10 a qualified hurricane distribution shall be treat-
11 ed as meeting the requirements of sections
12 401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11),
13 and 457(d)(1)(A).

14 “(b) RECONTRIBUTIONS OF WITHDRAWALS FOR
15 HOME PURCHASES.—

16 “(1) RECONTRIBUTIONS.—

17 “(A) IN GENERAL.—Any individual who
18 received a qualified distribution may, during the
19 applicable period, make one or more contribu-
20 tions in an aggregate amount not to exceed the
21 amount of such qualified distribution to an eli-
22 gible retirement plan (as defined in section
23 402(c)(8)(B)) of which such individual is a ben-
24 efiary and to which a rollover contribution of
25 such distribution could be made under section

1 402(c), 403(a)(4), 403(b)(8), or 408(d)(3), as
2 the case may be.

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

7 “(2) QUALIFIED DISTRIBUTION.—For purposes
8 of this subsection—

9 “(A) IN GENERAL.—The term ‘qualified
10 distribution’ means any qualified Katrina dis-
11 tribution, any qualified Rita distribution, and
12 any qualified Wilma distribution.

13 “(B) QUALIFIED KATRINA DISTRIBUTION.—The term ‘qualified Katrina distribu-
14 tion’ means any distribution—

16 “(i) described in section
17 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but
18 only to the extent such distribution relates
19 to financial hardship), 403(b)(11)(B), or
20 72(t)(2)(F),

21 “(ii) received after February 28,
22 2005, and before August 29, 2005, and

23 “(iii) which was to be used to pur-
24 chase or construct a principal residence in
25 the Hurricane Katrina disaster area, but

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

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

7 “(i) described in section
8 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but
9 only to the extent such distribution relates
10 to financial hardship), 403(b)(11)(B), or
11 72(t)(2)(F),

12 “(ii) received after February 28,
13 2005, and before September 24, 2005, and

14 “(iii) which was to be used to pur-
15 chase or construct a principal residence in
16 the Hurricane Rita disaster area, but
17 which was not so purchased or constructed
18 on account of Hurricane Rita.

19 “(D) QUALIFIED WILMA DISTRIBUTION.—
20 The term ‘qualified Wilma distribution’ means
21 any distribution (other than a qualified Katrina
22 distribution or a qualified Rita distribution)—

23 “(i) described in section
24 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but
25 only to the extent such distribution relates

1 to financial hardship), 403(b)(11)(B), or
2 72(t)(2)(F),

3 “(ii) received after February 28,
4 2005, and before October 24, 2005, and

5 “(iii) which was to be used to pur-
6 chase or construct a principal residence in
7 the Hurricane Wilma disaster area, but
8 which was not so purchased or constructed
9 on account of Hurricane Wilma.

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

12 “(A) with respect to any qualified Katrina
13 distribution, the period beginning on August
14 25, 2005, and ending on February 28, 2006,

15 “(B) with respect to any qualified Rita dis-
16 tribution, the period beginning on September
17 23, 2005, and ending on February 28, 2006,
18 and

19 “(C) with respect to any qualified Wilma
20 distribution, the period beginning on October
21 23, 2005, and ending on February 28, 2006.

22 “(c) LOANS FROM QUALIFIED PLANS.—

23 “(1) INCREASE IN LIMIT ON LOANS NOT TREAT-
24 ED AS DISTRIBUTIONS.—In the case of any loan
25 from a qualified employer plan (as defined under

1 section 72(p)(4)) to a qualified individual made dur-
2 ing the applicable period—

3 “(A) clause (i) of section 72(p)(2)(A) shall
4 be applied by substituting ‘\$100,000’ for
5 ‘\$50,000’, and

6 “(B) clause (ii) of such section shall be ap-
7 plied by substituting ‘the present value of the
8 nonforfeitable accrued benefit of the employee
9 under the plan’ for ‘one-half of the present
10 value of the nonforfeitable accrued benefit of
11 the employee under the plan’.

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

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

22 “(B) any subsequent repayments with re-
23 spect to any such loan shall be appropriately
24 adjusted to reflect the delay in the due date

1 under paragraph (1) and any interest accruing
2 during such delay, and

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

7 “(3) QUALIFIED INDIVIDUAL.—For purposes of
8 this subsection—

9 “(A) IN GENERAL.—The term ‘qualified
10 individual’ means any qualified Hurricane
11 Katrina individual, any qualified Hurricane
12 Rita individual, and any qualified Hurricane
13 Wilma individual.

14 “(B) QUALIFIED HURRICANE KATRINA IN-
15 DIVIDUAL.—The term ‘qualified Hurricane
16 Katrina individual’ means an individual whose
17 principal place of abode on August 28, 2005, is
18 located in the Hurricane Katrina disaster area
19 and who has sustained an economic loss by rea-
20 son of Hurricane Katrina.

21 “(C) QUALIFIED HURRICANE RITA INDI-
22 VIDUAL.—The term ‘qualified Hurricane Rita
23 individual’ means an individual (other than a
24 qualified Hurricane Katrina individual) whose
25 principal place of abode on September 23,

1 2005, is located in the Hurricane Rita disaster
2 area and who has sustained an economic loss by
3 reason of Hurricane Rita.

4 “(D) QUALIFIED HURRICANE WILMA INDI-
5 VIDUAL.—The term ‘qualified Hurricane Wilma
6 individual’ means an individual (other than a
7 qualified Hurricane Katrina individual or a
8 qualified Hurricane Rita individual) whose prin-
9 cipal place of abode on October 23, 2005, is lo-
10 cated in the Hurricane Wilma disaster area and
11 who has sustained an economic loss by reason
12 of Hurricane Wilma.

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

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

17 “(i) the applicable period is the period
18 beginning on September 24, 2005, and
19 ending on December 31, 2006, and

20 “(ii) the qualified beginning date is
21 August 25, 2005.

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

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

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

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

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

7 “(i) the applicable period is the period
8 beginning on the date of the enactment of
9 this subsection and ending on December
10 31, 2006, and

11 “(ii) the qualified beginning date is
12 October 23, 2005.

13 **“SEC. 1400R. EMPLOYMENT RELIEF.**

14 “(a) **EMPLOYEE RETENTION CREDIT FOR EMPLOY-**
15 **ERS AFFECTED BY HURRICANE KATRINA.—**

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

1 “(2) DEFINITIONS.—For purposes of this
2 subsection—

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

5 “(i) which conducted an active trade
6 or business on August 28, 2005, in the
7 Gulf Opportunity Zone, and

8 “(ii) with respect to whom the trade
9 or business described in clause (i) is inop-
10 erable on any day after August 28, 2005,
11 and before January 1, 2006, as a result of
12 damage sustained by reason of Hurricane
13 Katrina.

14 “(B) ELIGIBLE EMPLOYEE.—The term ‘el-
15 igible employee’ means with respect to an eligi-
16 ble employer an employee whose principal place
17 of employment on August 28, 2005, with such
18 eligible employer was in the Gulf Opportunity
19 Zone.

20 “(C) QUALIFIED WAGES.—The term
21 ‘qualified wages’ means wages (as defined in
22 section 51(c)(1), but without regard to section
23 3306(b)(2)(B)) paid or incurred by an eligible
24 employer with respect to an eligible employee on

1 any day after August 28, 2005, and before Jan-
2 uary 1, 2006, which occurs during the period—

3 “(i) beginning on the date on which
4 the trade or business described in subpara-
5 graph (A) first became inoperable at the
6 principal place of employment of the em-
7 ployee immediately before Hurricane
8 Katrina, and

9 “(ii) ending on the date on which such
10 trade or business has resumed significant
11 operations at such principal place of em-
12 ployment.

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

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

23 “(4) EMPLOYEE NOT TAKEN INTO ACCOUNT
24 MORE THAN ONCE.—An employee shall not be treat-
25 ed as an eligible employee for purposes of this sub-

1 section for any period with respect to any employer
2 if such employer is allowed a credit under section 51
3 with respect to such employee for such period.

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

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

15 “(2) DEFINITIONS.—For purposes of this
16 subsection—

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

19 “(i) which conducted an active trade
20 or business on September 23, 2005, in the
21 Rita GO Zone, and

22 “(ii) with respect to whom the trade
23 or business described in clause (i) is inop-
24 erable on any day after September 23,
25 2005, and before January 1, 2006, as a re-

1 sult of damage sustained by reason of
2 Hurricane Rita.

3 “(B) ELIGIBLE EMPLOYEE.—The term ‘el-
4 igible employee’ means with respect to an eligi-
5 ble employer an employee whose principal place
6 of employment on September 23, 2005, with
7 such eligible employer was in the Rita GO
8 Zone.

9 “(C) QUALIFIED WAGES.—The term
10 ‘qualified wages’ means wages (as defined in
11 section 51(c)(1), but without regard to section
12 3306(b)(2)(B)) paid or incurred by an eligible
13 employer with respect to an eligible employee on
14 any day after September 23, 2005, and before
15 January 1, 2006, which occurs during the
16 period—

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

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

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

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

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

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

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

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

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

6 “(2) DEFINITIONS.—For purposes of this
7 subsection—

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

10 “(i) which conducted an active trade
11 or business on October 23, 2005, in the
12 Wilma GO Zone, and

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

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

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

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

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

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

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

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

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

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

12 “(a) TEMPORARY SUSPENSION OF LIMITATIONS ON
13 CHARITABLE CONTRIBUTIONS.—

14 “(1) IN GENERAL.—Except as otherwise pro-
15 vided in paragraph (2), section 170(b) shall not
16 apply to qualified contributions and such contribu-
17 tions shall not be taken into account for purposes of
18 applying subsections (b) and (d) of section 170 to
19 other contributions.

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

22 “(A) INDIVIDUALS.—In the case of an
23 individual—

24 “(i) LIMITATION.—Any qualified con-
25 tribution shall be allowed only to the ex-

1 tent that the aggregate of such contribu-
2 tions does not exceed the excess of the tax-
3 payer's contribution base (as defined in
4 subparagraph (F) of section 170(b)(1))
5 over the amount of all other charitable
6 contributions allowed under section
7 170(b)(1).

8 “(ii) CARRYOVER.—If the aggregate
9 amount of qualified contributions made in
10 the contribution year (within the meaning
11 of section 170(d)(1)) exceeds the limitation
12 of clause (i), such excess shall be added to
13 the excess described in the portion of sub-
14 paragraph (A) of such section which pre-
15 cedes clause (i) thereof for purposes of ap-
16 plying such section.

17 “(B) CORPORATIONS.—In the case of a
18 corporation—

19 “(i) LIMITATION.—Any qualified con-
20 tribution shall be allowed only to the ex-
21 tent that the aggregate of such contribu-
22 tions does not exceed the excess of the tax-
23 payer's taxable income (as determined
24 under paragraph (2) of section 170(b))
25 over the amount of all other charitable

1 contributions allowed under such para-
2 graph.

3 “(ii) CARRYOVER.—Rules similar to
4 the rules of subparagraph (A)(ii) shall
5 apply for purposes of this subparagraph.

6 “(3) EXCEPTION TO OVERALL LIMITATION ON
7 ITEMIZED DEDUCTIONS.—So much of any deduction
8 allowed under section 170 as does not exceed the
9 qualified contributions paid during the taxable year
10 shall not be treated as an itemized deduction for
11 purposes of section 68.

12 “(4) QUALIFIED CONTRIBUTIONS.—

13 “(A) IN GENERAL.—For purposes of this
14 subsection, the term ‘qualified contribution’
15 means any charitable contribution (as defined
16 in section 170(c)) if—

17 “(i) such contribution is paid during
18 the period beginning on August 28, 2005,
19 and ending on December 31, 2005, in cash
20 to an organization described in section
21 170(b)(1)(A) (other than an organization
22 described in section 509(a)(3)),

23 “(ii) in the case of a contribution paid
24 by a corporation, such contribution is for

1 relief efforts related to Hurricane Katrina,
2 Hurricane Rita, or Hurricane Wilma, and
3 “(iii) the taxpayer has elected the ap-
4 plication of this subsection with respect to
5 such contribution.

6 “(B) EXCEPTION.—Such term shall not in-
7 clude a contribution if the contribution is for
8 establishment of a new, or maintenance in an
9 existing, segregated fund or account with re-
10 spect to which the donor (or any person ap-
11 pointed or designated by such donor) has, or
12 reasonably expects to have, advisory privileges
13 with respect to distributions or investments by
14 reason of the donor’s status as a donor.

15 “(C) APPLICATION OF ELECTION TO PART-
16 NERSHIPS AND S CORPORATIONS.—In the case
17 of a partnership or S corporation, the election
18 under subparagraph (A)(iii) shall be made sepa-
19 rately by each partner or shareholder.

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

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

4 “(2) which arise in the Hurricane Rita disaster
5 area on or after September 23, 2005, and which are
6 attributable to Hurricane Rita, or

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

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

13 (b) CONFORMING AMENDMENTS.—

14 (1) Subsection (b) of section 38 is amended by
15 striking “and” at the end of paragraph (25), by
16 striking the period at the end of paragraph (26) and
17 inserting a comma, and by adding at the end the fol-
18 lowing new paragraphs:

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

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

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

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

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

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

“Sec. 1400R. Employment relief.

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

4 (3) The following provisions of the Katrina
5 Emergency Tax Relief Act of 2005 are hereby re-
6 pealed:

7 (A) Title I.

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

9 **TITLE II—EXTENSION OF**
10 **EXPIRING PROVISIONS**
11 **Subtitle A—Multi-Year Extensions**

12 **SEC. 201. EXTENSION OF INCREASED EXPENSING FOR**
13 **SMALL BUSINESS.**

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

16 **SEC. 202. CREDIT FOR ELECTIVE DEFERRALS AND IRA**
17 **CONTRIBUTIONS.**

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

20 **SEC. 203. ABOVE-THE-LINE DEDUCTION FOR HIGHER EDU-**
21 **CATION.**

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

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

3 (1) by striking “a taxable year beginning in
4 2004 or 2005” and inserting “any taxable year be-
5 ginning after 2003”, and

6 (2) by striking “2004 AND 2005” and inserting
7 “AFTER 2003”.

8 **SEC. 204. EXTENSION AND MODIFICATION OF NEW MAR-**
9 **KETS TAX CREDIT.**

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

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

17 “(6) which ensure that non-metropolitan coun-
18 ties receive a proportional allocation of qualified eq-
19 uity investments.”.

20 **Subtitle B—One-Year Extensions**

21 **SEC. 211. ELECTION TO DEDUCT STATE AND LOCAL GEN-**
22 **ERAL SALES TAXES.**

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

1 **SEC. 212. EXTENSION AND INCREASE IN MINIMUM TAX RE-**
2 **LIEF TO INDIVIDUALS.**

3 (a) IN GENERAL.—Section 55(d)(1) is amended—

4 (1) by striking “\$58,000” and all that follows
5 through “2005” in subparagraph (A) and inserting
6 “\$62,550 in the case of taxable years beginning in
7 2006”, and

8 (2) by striking “\$40,250” and all that follows
9 through “2005” in subparagraph (B) and inserting
10 “\$42,500 in the case of taxable years beginning in
11 2006”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2005.

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

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

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

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

24 (b) CONFORMING PROVISIONS.—

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

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

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

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

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

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

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

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

23 (3) Section 904(h) is amended by striking “or
24 2005” and inserting “2005, or 2006”.

1 (4) The amendments made by sections 201(b),
 2 202(f), and 618(b) of the Economic Growth and Tax
 3 Relief Reconciliation Act of 2001 shall not apply to
 4 taxable years beginning during 2006.

5 **SEC. 214. EXTENSION AND MODIFICATION OF RESEARCH**
 6 **CREDIT.**

7 (a) EXTENSION.—

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

10 (2) CONFORMING AMENDMENT.—Section
 11 45C(b)(1)(D) is amended by striking “2005” and
 12 inserting “2006”.

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

17 (1) by striking “2.65 percent” and inserting “3
 18 percent”,

19 (2) by striking “3.2 percent” and inserting “4
 20 percent”, and

21 (3) by striking “3.75 percent” and inserting “5
 22 percent”.

23 (c) ALTERNATIVE SIMPLIFIED CREDIT FOR QUALI-
 24 FIED RESEARCH EXPENSES.—

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

6 “(5) ELECTION OF ALTERNATIVE SIMPLIFIED
7 CREDIT.—

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

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

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

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

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

12 (2) COORDINATION WITH ELECTION OF ALTER-
13 NATIVE INCREMENTAL CREDIT.—

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

20 (B) TRANSITION RULE.—In the case of an
21 election under section 41(c)(4) of the Internal
22 Revenue Code of 1986 which applies to the tax-
23 able year which includes the date of the enact-
24 ment of this Act, such election shall be treated
25 as revoked with the consent of the Secretary of

1 the Treasury if the taxpayer makes an election
2 under section 41(c)(5) of such Code (as added
3 by subsection (a)) for such year.

4 (d) EXPANSION OF CREDIT TO EXPENSES OF GEN-
5 ERAL COLLABORATIVE RESEARCH CONSORTIA.—Section
6 41 is amended—

7 (1) by striking “an energy research consor-
8 tium” in subsections (a)(3) and (b)(3)(C)(i) and in-
9 serting “a research consortium”,

10 (2) by striking “energy” each place it appears
11 in subsection (f)(6)(A),

12 (3) by inserting “or 501(c)(6)” after “section
13 501(c)(3)” in subsection (f)(6)(A)(i)(I), and

14 (4) by striking “ENERGY RESEARCH” in the
15 heading for subsection (f)(6)(A) and inserting “RE-
16 SEARCH”.

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

20 **SEC. 215. WORK OPPORTUNITY TAX CREDIT AND WELFARE-**
21 **TO-WORK CREDIT.**

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

24 (b) ELIGIBILITY OF EX-FELONS DETERMINED
25 WITHOUT REGARD TO FAMILY INCOME.—Paragraph (4)

1 of section 51(d) is amended by adding “and” at the end
 2 of subparagraph (A), by striking “, and” at the end of
 3 subparagraph (B) and inserting a period, and by striking
 4 all that follows subparagraph (B).

5 (c) INCREASE IN MAXIMUM AGE FOR ELIGIBILITY OF
 6 FOOD STAMP RECIPIENTS.—Clause (i) of section
 7 51(d)(8)(A) is amended by striking “25” and inserting
 8 “40”.

9 (d) INCREASE IN MAXIMUM AGE FOR DESIGNATED
 10 COMMUNITY RESIDENTS.—

11 (1) IN GENERAL.—Paragraph (5) of section
 12 51(d) is amended to read as follows:

13 “(5) DESIGNATED COMMUNITY RESIDENTS.—

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

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

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

22 “(B) INDIVIDUAL MUST CONTINUE TO RE-
 23 SIDE IN ZONE OR COMMUNITY.—In the case of
 24 a designated community resident, the term
 25 ‘qualified wages’ shall not include wages paid or

1 incurred for services performed while the indi-
 2 vidual’s principal place of abode is outside an
 3 empowerment zone, enterprise community, or
 4 renewal community.”

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

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

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

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

16 “(I) a long-term family assistance recipi-
 17 ent.”

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

24 “(10) LONG-TERM FAMILY ASSISTANCE RECIPI-
 25 ENT.—The term ‘long-term family assistance recipi-

1 ent' means any individual who is certified by the
2 designated local agency—

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

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

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

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

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

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

1 “(e) CREDIT FOR SECOND-YEAR WAGES FOR EM-
2 PLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPI-
3 ENTS.—

4 “(1) IN GENERAL.—With respect to the em-
5 ployment of a long-term family assistance
6 recipient—

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

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

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

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

22 “(B) which are attributable to service ren-
23 dered during the 1-year period beginning on the
24 day after the last day of the 1-year period with

1 respect to such recipient determined under sub-
2 section (b)(2).

3 “(3) SPECIAL RULES FOR AGRICULTURAL AND
4 RAILWAY LABOR.—If such recipient is an employee
5 to whom subparagraph (A) or (B) of subsection
6 (h)(1) applies, rules similar to the rules of such sub-
7 paragraphs shall apply except that—

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

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

12 (4) REPEAL OF SEPARATE WELFARE-TO-WORK
13 CREDIT.—

14 (A) IN GENERAL.—Section 51A is hereby
15 repealed.

16 (B) CLERICAL AMENDMENT.—The table of
17 sections for subpart F of part IV of subchapter
18 A of chapter 1 is amended by striking the item
19 relating to section 51A.

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

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

2 (a) IN GENERAL.—Paragraph (1) of section
3 1397E(e) is amended by striking “and 2005” and insert-
4 ing “2005, and 2006”.

5 (b) FORM OF PRIVATE BUSINESS CONTRIBUTIONS.—
6 Section 1397E(d)(2)(B) is amended by striking “any con-
7 tribution” and all that follows and inserting “any cash or
8 cash equivalent contribution”.

9 (c) SPECIAL RULES RELATING TO AMORTIZATION,
10 EXPENDITURES, ARBITRAGE, AND REPORTING.—

11 (1) IN GENERAL.—Section 1397E is
12 amended—

13 (A) in subsection (d)(1), by striking “and”
14 at the end of subparagraph (C)(iii), by striking
15 the period at the end of subparagraph (D) and
16 inserting “, and”, and by adding at the end the
17 following new subparagraph:

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

20 (B) by redesignating subsections (f), (g),
21 (h), and (i) as subsection (j), (k), (l), and (m),
22 respectively, and by inserting after subsection
23 (e) the following new subsections:

24 “(f) RATABLE PRINCIPAL AMORTIZATION RE-
25 QUIRED.—An issue shall be treated as meeting the re-
26 quirements of this subsection if such issue provides for

1 an equal amount of principal to be paid by the issuer dur-
2 ing each calendar year that the issue is outstanding.

3 “(g) SPECIAL RULES RELATING TO EXPENDI-
4 TURES.—

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

8 “(A) at least 95 percent of the proceeds
9 from the sale of the issue are to be spent for
10 1 or more qualified purposes with respect to
11 qualified zone academies within the 5-year pe-
12 riod beginning on the date of issuance of the
13 qualified zone academy bond,

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

20 “(C) such purposes will be completed with
21 due diligence and the proceeds from the sale of
22 the issue will be spent with due diligence.

23 “(2) EXTENSION OF PERIOD.—Upon submis-
24 sion of a request prior to the expiration of the period
25 described in paragraph (1)(A), the Secretary may

1 extend such period if the issuer establishes that the
2 failure to satisfy the 5-year requirement is due to
3 reasonable cause and the related purposes will con-
4 tinue to proceed with due diligence.

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

17 “(h) SPECIAL RULES RELATING TO ARBITRAGE.—
18 An issue shall be treated as meeting the requirements of
19 this subsection if the issuer satisfies the arbitrage require-
20 ments of section 148 with respect to proceeds of the issue.

21 “(i) REPORTING.—Issuers of qualified academy zone
22 bonds shall submit reports similar to the reports required
23 under section 149(e).”.

24 (2) CONFORMING AMENDMENTS.—

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

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

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

11 **SEC. 217. DEDUCTION FOR CORPORATE DONATIONS OF**
12 **COMPUTER TECHNOLOGY AND EQUIPMENT.**

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

15 **SEC. 218. ABOVE-THE-LINE DEDUCTION FOR CERTAIN EX-**
16 **PENSES OF ELEMENTARY AND SECONDARY**
17 **SCHOOL TEACHERS.**

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

20 **SEC. 219. EXPENSING OF BROWNFIELDS REMEDIATION**
21 **COSTS.**

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

24 (b) EXPANSION.—

1 (1) IN GENERAL.—Section 198(d)(1) (defining
2 hazardous substance) is amended by striking “and”
3 at the end of subparagraph (A), by striking the pe-
4 riod at the end of subparagraph (B) and inserting
5 “, and”, and by adding at the end the following new
6 subparagraph:

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

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

12 **SEC. 220. TAX INCENTIVES FOR INVESTMENT IN THE DIS-**
13 **TRICT OF COLUMBIA.**

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

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

20 (c) ZERO PERCENT CAPITAL GAINS RATE.—

21 (1) IN GENERAL.—Subsection (b) of section
22 1400B is amended by striking “2006” each place it
23 appears and inserting “2007”.

24 (2) CONFORMING AMENDMENTS.—

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

1 (i) by striking “2010” and inserting
2 “2011”, and

3 (ii) by striking “2010” in the heading
4 and inserting “2011”.

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

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

9 (d) **FIRST-TIME HOMEBUYER CREDIT.**—Subsection
10 (i) of section 1400C is amended by striking “2006” and
11 inserting “2007”.

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

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

15 **SEC. 222. ACCELERATED DEPRECIATION FOR BUSINESS**
16 **PROPERTY ON INDIAN RESERVATION.**

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

19 **SEC. 223. FIFTEEN-YEAR STRAIGHT-LINE COST RECOVERY**
20 **FOR QUALIFIED LEASEHOLD IMPROVEMENTS**
21 **AND QUALIFIED RESTAURANT IMPROVE-**
22 **MENTS.**

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

1 **SEC. 224. EXTENSION OF FULL CREDIT FOR QUALIFIED**
 2 **ELECTRIC VEHICLES.**

3 (a) IN GENERAL.—Section 30(b) (relating to limita-
 4 tions) is amended by striking paragraph (2) and by redes-
 5 ignating paragraph (3) as paragraph (2).

6 (b) EFFECTIVE DATE.—The amendments made by
 7 subsection (a) shall apply to taxable years beginning after
 8 December 31, 2005.

9 **Subtitle C—Application of**
 10 **EGTRRA Sunset**

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

12 Each amendment made by this title shall be subject
 13 to title IX of the Economic Growth and Tax Relief Rec-
 14 onciliation Act of 2001 to the same extent and in the same
 15 manner as the provision of such Act to which such amend-
 16 ment relates.

17 **TITLE III—PROVISIONS RELAT-**
 18 **ING TO CHARITABLE DONA-**
 19 **TIONS**

20 **Subtitle A—Charitable Giving**
 21 **Incentives**

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

23 (a) IN GENERAL.—Section 170 (relating to chari-
 24 table, etc., contributions and gifts) is amended by redesign-
 25 ating subsection (o) as subsection (p) and by inserting
 26 after subsection (n) the following new subsection:

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

9 (b) DIRECT CHARITABLE DEDUCTION.—

10 (1) IN GENERAL.—Subsection (b) of section 63
11 (defining taxable income) is amended by striking
12 “and” at the end of paragraph (1), by striking the
13 period at the end of paragraph (2) and inserting “,
14 and”, and by adding at the end the following new
15 paragraph:

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

17 (2) DEFINITION.—Section 63 is amended by re-
18 designating subsection (g) as subsection (h) and by
19 inserting after subsection (f) the following new sub-
20 section:

21 “(g) DIRECT CHARITABLE DEDUCTION.—For pur-
22 poses of this section, the term ‘direct charitable deduction’
23 means that portion of the amount allowable under section
24 170(a) which is taken as a direct charitable deduction for
25 the taxable year under section 170(o).”.

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

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

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

10 “(4) DOLLAR FLOOR ON CHARITABLE CON-
11 TRIBUTIONS BY INDIVIDUALS.—In the case of an in-
12 dividual, the charitable contributions of the taxpayer
13 for any taxable year shall be taken into account for
14 purposes of determining the deduction under para-
15 graph (1) only to the extent that the aggregate of
16 such contributions exceeds \$210 (\$420 in the case
17 of a joint return).”.

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

1 **SEC. 302. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**
 2 **TIREMENT PLANS FOR CHARITABLE PUR-**
 3 **POSES.**

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

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

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

12 “(B) QUALIFIED CHARITABLE DISTRIBUTI-
 13 ON.—For purposes of this paragraph, the
 14 term ‘qualified charitable distribution’ means
 15 any distribution from an individual retirement
 16 plan (other than a plan described in subsection
 17 (k) or (p) of section 408)—

18 “(i) which is made on or after the
 19 date that the individual for whose benefit
 20 the plan is maintained has attained age
 21 70½, and

22 “(ii) which is made directly by the
 23 trustee—

24 “(I) to an organization described
 25 in section 170(c), or

26 “(II) to a split-interest entity.

1 A distribution shall be treated as a qualified
2 charitable distribution only to the extent that
3 the distribution would be includible in gross in-
4 come without regard to subparagraph (A) and,
5 in the case of a distribution to a split-interest
6 entity, only if no person holds an income inter-
7 est in the amounts in the split-interest entity
8 attributable to such distribution other than one
9 or more of the following: the individual for
10 whose benefit such plan is maintained, the
11 spouse of such individual, or any organization
12 described in section 170(c).

13 “(C) CONTRIBUTIONS MUST BE OTHER-
14 WISE DEDUCTIBLE.—For purposes of this
15 paragraph—

16 “(i) DIRECT CONTRIBUTIONS.—A dis-
17 tribution to an organization described in
18 section 170(c) shall be treated as a quali-
19 fied charitable distribution only if a deduc-
20 tion for the entire distribution would be al-
21 lowable under section 170 (determined
22 without regard to subsections (a)(4) and
23 (b) thereof and this paragraph).

24 “(ii) SPLIT-INTEREST GIFTS.—A dis-
25 tribution to a split-interest entity shall be

1 treated as a qualified charitable distribu-
2 tion only if a deduction for the entire value
3 of the interest in the distribution for the
4 use of an organization described in section
5 170(e) would be allowable under section
6 170 (determined without regard to sub-
7 sections (a)(4) and (b) thereof and this
8 paragraph).

9 “(D) APPLICATION OF SECTION 72.—Not-
10 withstanding section 72, in determining the ex-
11 tent to which a distribution is a qualified chari-
12 table distribution, the entire amount of the dis-
13 tribution shall be treated as includible in gross
14 income without regard to subparagraph (A) to
15 the extent that such amount does not exceed
16 the aggregate amount which would have been so
17 includible if all amounts distributed from all in-
18 dividual retirement plans were treated as 1 con-
19 tract under paragraph (2)(A) for purposes of
20 determining the inclusion of such distribution
21 under section 72. Proper adjustments shall be
22 made in applying section 72 to other distribu-
23 tions in such taxable year and subsequent tax-
24 able years.

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

3 “(i) CHARITABLE REMAINDER
4 TRUSTS.—Notwithstanding section 664(b),
5 distributions made from a trust described
6 in subparagraph (G)(i) shall be treated as
7 ordinary income in the hands of the bene-
8 ficiary to whom is paid the annuity de-
9 scribed in section 664(d)(1)(A) or the pay-
10 ment described in section 664(d)(2)(A).

11 “(ii) POOLED INCOME FUNDS.—No
12 amount shall be includible in the gross in-
13 come of a pooled income fund (as defined
14 in subparagraph (G)(ii)) by reason of a
15 qualified charitable distribution to such
16 fund, and all distributions from the fund
17 which are attributable to qualified chari-
18 table distributions shall be treated as ordi-
19 nary income to the beneficiary.

20 “(iii) CHARITABLE GIFT ANNU-
21 ITIES.—Qualified charitable distributions
22 made for a charitable gift annuity shall not
23 be treated as an investment in the con-
24 tract.

1 “(F) DENIAL OF DEDUCTION.—Qualified
2 charitable distributions shall not be taken into
3 account in determining the deduction under sec-
4 tion 170.

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

8 “(i) a charitable remainder annuity
9 trust or a charitable remainder unitrust
10 (as such terms are defined in section
11 664(d)) which must be funded exclusively
12 by qualified charitable distributions,

13 “(ii) a pooled income fund (as defined
14 in section 642(c)(5)), but only if the fund
15 accounts separately for amounts attrib-
16 utable to qualified charitable distributions,
17 and

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

20 (b) MODIFICATIONS RELATING TO INFORMATION RE-
21 TURNS BY CERTAIN TRUSTS.—

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

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

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

6 “(b) TRUSTS CLAIMING CERTAIN CHARITABLE DE-
7 Ductions.—

8 “(1) IN GENERAL.—Every trust not required to
9 file a return under subsection (a) but claiming a de-
10 duction under section 642(c) for the taxable year
11 shall furnish such information with respect to such
12 taxable year as the Secretary may by forms or regu-
13 lations prescribe, including—

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

16 “(B) the amount paid out within such year
17 which represents amounts for which deductions
18 under section 642(c) have been taken in prior
19 years,

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

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

1 “(E) the total income of the trust within
2 such year and the expenses attributable thereto,
3 and

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

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

9 “(A) all the net income for such year, de-
10 termined under the applicable principles of the
11 law of trusts, is required to be distributed cur-
12 rently to the beneficiaries, or

13 “(B) the trust is described in section
14 4947(a)(1).”.

15 (2) INCREASE IN PENALTY RELATING TO FIL-
16 ING OF INFORMATION RETURN BY SPLIT-INTEREST
17 TRUSTS.—Paragraph (2) of section 6652(c) (relating
18 to returns by exempt organizations and by certain
19 trusts) is amended by adding at the end the fol-
20 lowing new subparagraph:

21 “(C) SPLIT-INTEREST TRUSTS.—In the
22 case of a trust which is required to file a return
23 under section 6034(a), subparagraphs (A) and
24 (B) of this paragraph shall not apply and para-
25 graph (1) shall apply in the same manner as if

1 such return were required under section 6033,
2 except that—

3 “(i) the 5 percent limitation in the
4 second sentence of paragraph (1)(A) shall
5 not apply,

6 “(ii) in the case of any trust with
7 gross income in excess of \$250,000, the
8 first sentence of paragraph (1)(A) shall be
9 applied by substituting ‘\$100’ for ‘\$20’,
10 and the second sentence thereof shall be
11 applied by substituting ‘\$50,000’ for
12 ‘\$10,000’, and

13 “(iii) the third sentence of paragraph
14 (1)(A) shall be disregarded.

15 In addition to any penalty imposed on the trust
16 pursuant to this subparagraph, if the person re-
17 quired to file such return knowingly fails to file
18 the return, such penalty shall also be imposed
19 on such person who shall be personally liable
20 for such penalty.”.

21 (3) CONFIDENTIALITY OF NONCHARITABLE
22 BENEFICIARIES.—Subsection (b) of section 6104
23 (relating to inspection of annual information re-
24 turns) is amended by adding at the end the fol-
25 lowing new sentence: “In the case of a trust which

1 is required to file a return under section 6034(a),
2 this subsection shall not apply to information re-
3 garding beneficiaries which are not organizations de-
4 scribed in section 170(c).”.

5 (c) EFFECTIVE DATES.—

6 (1) SUBSECTION (a).—The amendment made
7 by subsection (a) shall apply to distributions made
8 in taxable years beginning after December 31, 2005,
9 and before January 1, 2008.

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

13 **SEC. 303. MODIFICATION OF CHARITABLE DEDUCTION FOR**
14 **CONTRIBUTIONS OF FOOD INVENTORY.**

15 (a) IN GENERAL.—Subparagraph (C) of section
16 170(e)(3) (relating to special rule for certain contributions
17 of inventory and other property), as added by section 305
18 of the Katrina Emergency Tax Relief Act of 2005, is
19 amended to read as follows:

20 “(C) SPECIAL RULE FOR CONTRIBUTIONS
21 OF FOOD INVENTORY.—

22 “(i) GENERAL RULE.—In the case of
23 a charitable contribution of food from any
24 trade or business of the taxpayer, this
25 paragraph shall be applied—

1 “(I) without regard to whether
2 the contribution is made by a C cor-
3 poration, and

4 “(II) only to food that is appar-
5 ently wholesome food.

6 “(ii) LIMITATION.—In the case of a
7 taxpayer other than a C corporation, the
8 aggregate amount of such contributions for
9 any taxable year which may be taken into
10 account under this section shall not exceed
11 10 percent of the taxpayer’s aggregate net
12 income for such taxable year from all
13 trades or businesses from which such con-
14 tributions were made for such year, com-
15 puted without regard to this section.

16 “(iii) LIMITATION ON REDUCTION.—
17 In the case of any such contribution, not-
18 withstanding subparagraph (B), the
19 amount of the reduction determined under
20 paragraph (1)(A) shall not exceed the
21 amount by which the fair market value of
22 the apparently wholesome food exceeds
23 twice the basis of such food.

24 “(iv) DETERMINATION OF BASIS.—If
25 a taxpayer—

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

3 “(II) is not required to capitalize
4 indirect costs under section 263A,
5 the taxpayer may elect, solely for purposes
6 of subparagraph (B), to treat the basis of
7 any apparently wholesome food as being
8 equal to 25 percent of the fair market
9 value of such food.

10 “(v) DETERMINATION OF FAIR MAR-
11 KET VALUE.—In the case of any such con-
12 tribution of apparently wholesome food
13 which, solely by reason of internal stand-
14 ards of the taxpayer or lack of market,
15 cannot or will not be sold, the fair market
16 value of such contribution shall be
17 determined—

18 “(I) without regard to such inter-
19 nal standards or such lack of market
20 and

21 “(II) by taking into account the
22 price at which the same or substan-
23 tially the same food items (as to both
24 type and quality) are sold by the tax-
25 payer at the time of the contribution

1 (or, if not so sold at such time, in the
2 recent past).

3 “(vi) APPARENTLY WHOLESOME
4 FOOD.—For purposes of this subpara-
5 graph, the term ‘apparently wholesome
6 food’ has the meaning given to such term
7 by section 22(b)(2) of the Bill Emerson
8 Good Samaritan Food Donation Act (42
9 U.S.C. 1791(b)(2)), as in effect on the
10 date of the enactment of this subpara-
11 graph.”.

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

16 **SEC. 304. BASIS ADJUSTMENT TO STOCK OF S CORPORA-**
17 **TION CONTRIBUTING PROPERTY.**

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

22 “The decrease under subparagraph (B) by reason of
23 a charitable contribution (as defined in section
24 170(c)) of property shall be the amount equal to the

1 shareholder's pro rata share of the adjusted basis of
2 such property.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply to contributions made in taxable
5 years beginning after December 31, 2005, and before Jan-
6 uary 1, 2008.

7 **SEC. 305. MODIFICATION OF CHARITABLE DEDUCTION FOR**
8 **CONTRIBUTIONS OF BOOK INVENTORY.**

9 (a) **IN GENERAL.**—Subparagraph (D) of section
10 170(e)(3) (relating to special rule for certain contributions
11 of inventory and other property), as added by section 305
12 of the Katrina Emergency Tax Relief Act of 2005, is
13 amended to read as follows:

14 “(D) **SPECIAL RULE FOR CONTRIBUTIONS**
15 **OF BOOK INVENTORY FOR EDUCATIONAL PUR-**
16 **POSES.**—

17 “(i) **CONTRIBUTIONS OF BOOK INVEN-**
18 **TORY.**—In determining whether a qualified
19 book contribution is a qualified contribu-
20 tion, subparagraph (A) shall be applied
21 without regard to whether—

22 “(I) the donee is an organization
23 described in the matter preceding
24 clause (i) of subparagraph (A), and

1 “(II) the property is to be used
2 by the donee solely for the care of the
3 ill, the needy, or infants.

4 “(ii) AMOUNT OF REDUCTION.—Not-
5 withstanding subparagraph (B), the
6 amount of the reduction determined under
7 paragraph (1)(A) shall not exceed the
8 amount by which the fair market value of
9 the contributed property (as determined by
10 the taxpayer using a bona fide published
11 market price for such book) exceeds twice
12 the basis of such property.

13 “(iii) QUALIFIED BOOK CONTRIBU-
14 TION.—For purposes of this paragraph,
15 the term ‘qualified book contribution’
16 means a charitable contribution of books,
17 but only if the requirements of clauses (iv)
18 and (v) are met.

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

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

24 “(II) described in section
25 501(c)(3) and exempt from tax under

1 section 501(a) (other than a private
2 foundation, as defined in section
3 509(a), which is not an operating
4 foundation, as defined in section
5 4942(j)(3)), which is organized pri-
6 marily to make books available to the
7 general public at no cost or to operate
8 a literacy program.

9 “(v) CERTIFICATION BY DONEE.—The
10 requirement of this clause is met if, in ad-
11 dition to the certifications required by sub-
12 paragraph (A) (as modified by this sub-
13 paragraph), the donee certifies in writing
14 that—

15 “(I) the books are suitable, in
16 terms of currency, content, and quan-
17 tity, for use in the donee’s educational
18 programs, and

19 “(II) the donee will use the books
20 in its educational programs.

21 “(vi) BONA FIDE PUBLISHED MARKET
22 PRICE.—For purposes of this subpara-
23 graph, the term ‘bona fide published mar-
24 ket price’ means, with respect to any book,
25 a price—

1 “(I) determined using the same
2 printing and edition,

3 “(II) determined in the usual
4 market in which such a book has been
5 customarily sold by the taxpayer, and

6 “(III) for which the taxpayer can
7 demonstrate to the satisfaction of the
8 Secretary that the taxpayer custom-
9 arily sold such books in arm’s length
10 transactions within 7 years preceding
11 the contribution of such a book.”.

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

16 **SEC. 306. MODIFICATION OF TAX TREATMENT OF CERTAIN**
17 **PAYMENTS TO CONTROLLING EXEMPT ORGA-**
18 **NIZATIONS AND PUBLIC DISCLOSURE OF IN-**
19 **FORMATION RELATING TO UNRELATED BUSI-**
20 **NESS INCOME.**

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

22 (1) IN GENERAL.—Paragraph (13) of section
23 512(b) (relating to special rules for certain amounts
24 received from controlled entities) is amended by re-
25 designating subparagraph (E) as subparagraph (F)

1 and by inserting after subparagraph (D) the fol-
2 lowing new subparagraph:

3 “(E) PARAGRAPH TO APPLY ONLY TO EX-
4 CESS PAYMENTS.—

5 “(i) IN GENERAL.—Subparagraph (A)
6 shall apply only to the portion of a speci-
7 fied payment received or accrued by the
8 controlling organization that exceeds the
9 amount which would have been paid or ac-
10 crued if such payment met the require-
11 ments prescribed under section 482.

12 “(ii) ADDITION TO TAX FOR VALU-
13 ATION MISSTATEMENTS.—The tax imposed
14 by this chapter on the controlling organiza-
15 tion shall be increased by an amount equal
16 to 20 percent of the larger of—

17 “(I) such excess determined with-
18 out regard to any amendment or sup-
19 plement to a return of tax, or

20 “(II) such excess determined
21 with regard to all such amendments
22 and supplements.”.

23 (2) EFFECTIVE DATE.—

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

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

15 (b) PUBLIC AVAILABILITY OF UNRELATED BUSINESS
16 INCOME TAX RETURNS.—

17 (1) IN GENERAL.—Subparagraph (A) of section
18 6104(d)(1) is amended by redesignating clauses (ii)
19 and (iii) as clauses (iii) and (iv), respectively, and by
20 inserting after clause (i) the following new clause:

21 “(ii) any annual return filed under
22 section 6011 which relates to any tax im-
23 posed by section 511 (relating to imposi-
24 tion of tax on unrelated business income of

1 charitable, etc., organizations) by such or-
 2 ganization,”.

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

6 (c) CERTIFICATION OF UNRELATED BUSINESS TAX-
 7 ABLE INCOME FOR CERTAIN ORGANIZATIONS.—

8 (1) IN GENERAL.—Section 6011, as amended
 9 by section 311 of this Act, is amended by redesi-
 10 gnating subsection (h) as subsection (i) and by insert-
 11 ing after subsection (g) the following new subsection:

12 “(h) RETURNS OF CERTAIN ORGANIZATIONS RELAT-
 13 ING TO UNRELATED BUSINESS TAXABLE INCOME.—

14 “(1) IN GENERAL.—Every applicable exempt
 15 organization shall include with the return under sub-
 16 section (a) for the taxable year a statement by an
 17 independent auditor or an independent counsel
 18 which meets the requirements of paragraph (2).

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

21 “(A) contains a certification that—

22 “(i) the information contained in the
 23 return—

24 “(I) has been reviewed by the
 25 auditor or counsel, and

1 “(II) to the best of the auditor’s
2 or counsel’s knowledge, is accurate,
3 and

4 “(ii) to the best of the auditor’s or
5 counsel’s knowledge, the allocation of ex-
6 penses between the unrelated trades and
7 business of the organization and the activi-
8 ties related to the purpose or function con-
9 stituting the basis of the organization’s ex-
10 emption under section 501 complies with
11 the requirements set forth by the Secretary
12 under section 512, and

13 “(B) indicates—

14 “(i) whether the auditor or counsel
15 has provided a tax opinion to the organiza-
16 tion regarding—

17 “(I) the classification of any
18 trade or business of the organization
19 as an unrelated trade or business, or

20 “(II) the treatment of any in-
21 come as unrelated business taxable in-
22 come, and

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

1 “(3) APPLICABLE EXEMPT ORGANIZATION.—

2 For purposes of this subsection, the term ‘applicable
3 exempt organization’ means any organization
4 which—

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

6 “(B) has—

7 “(i) gross income and receipts of not
8 less than \$10,000,000 for the taxable year,
9 or

10 “(ii) gross assets of not less than
11 \$10,000,000 on the last day of the taxable
12 year, and

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

15 (2) PENALTY.—

16 (A) IN GENERAL.—Part I of subchapter B
17 of chapter 68 (relating to assessable penalties),
18 as amended by section 316 of this Act, is
19 amended by adding at the end the following
20 new section:

21 **“SEC. 6720C. UNRELATED BUSINESS INCOME REQUIRE-**
22 **MENTS.**

23 “(a) IN GENERAL.—Any applicable exempt organiza-
24 tion (as defined in section 6011(h)(3)) which fails to file
25 a statement required under section 6011(h) shall pay a

1 penalty in an amount equal to $\frac{1}{2}$ percent of the gross rev-
 2 enue amount of such organization for the taxable year to
 3 which such statement relates.

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

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

12 (B) CONFORMING AMENDMENT.—The
 13 table of sections of part I of subchapter B of
 14 chapter 68, as amended by section 316 of this
 15 Act, is amended by adding after the item relat-
 16 ing to section 6720B the following new item:

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

17 (3) EFFECTIVE DATE.—The amendments made
 18 by this subsection shall apply to returns for taxable
 19 years beginning after the date of the enactment of
 20 this Act.

21 **SEC. 307. ENCOURAGEMENT OF CONTRIBUTIONS OF CAP-**
 22 **ITAL GAIN REAL PROPERTY MADE FOR CON-**
 23 **SERVATION PURPOSES.**

24 (a) IN GENERAL.—

1 (1) INDIVIDUALS.—Paragraph (1) of subsection
2 170(b) (relating to percentage limitations) is amend-
3 ed by redesignating subparagraphs (E) and (F) as
4 subparagraphs (F) and (G), respectively, and by in-
5 serting after subparagraph (D) the following new
6 subparagraph:

7 “(E) CONTRIBUTIONS OF QUALIFIED CON-
8 SERVATION CONTRIBUTIONS.—

9 “(i) IN GENERAL.—Any qualified con-
10 servation contribution (as defined in sub-
11 section (h)(1)) to an organization described
12 in subparagraph (A) shall be allowed to
13 the extent the aggregate of such contribu-
14 tions does not exceed the excess of 50 per-
15 cent of the taxpayer’s contribution base
16 over the amount of all other charitable
17 contributions allowable under this para-
18 graph.

19 “(ii) CARRYOVER.—If the aggregate
20 amount of contributions described in clause
21 (i) exceeds the limitation of clause (i), such
22 excess shall be treated (in a manner con-
23 sistent with the rules of subsection (d)(1))
24 as a charitable contribution to which clause

1 (i) applies in each of the 15 succeeding
2 years in order of time.

3 “(iii) COORDINATION WITH OTHER
4 SUBPARAGRAPHS.—For purposes of apply-
5 ing this subsection and subsection (d)(1),
6 contributions described in clause (i) shall
7 not be treated as described in subpara-
8 graph (A), (B), (C), or (D).

9 “(iv) QUALIFIED FARMER OR RANCH-
10 ER.—

11 “(I) IN GENERAL.—If the indi-
12 vidual is a qualified farmer or rancher
13 for the taxable year in which the con-
14 tribution is made, clause (i) shall be
15 applied by substituting ‘100 percent’
16 for ‘50 percent’.

17 “(II) DEFINITION.—For pur-
18 poses of subclause (I), the term ‘quali-
19 fied farmer or rancher’ means a tax-
20 payer whose gross income from the
21 trade or business of farming (within
22 the meaning of section 2032A(e)(5))
23 is greater than 50 percent of the tax-
24 payer’s gross income for the taxable
25 year.”.

1 (2) CORPORATIONS.—Paragraph (2) of section
2 170(b) is amended to read as follows:

3 “(2) CORPORATIONS.—In the case of a
4 corporation—

5 “(A) IN GENERAL.—The total deductions
6 under subsection (a) for any taxable year (other
7 than for contributions to which subparagraph
8 (B) applies) shall not exceed 10 percent of the
9 taxpayer’s taxable income.

10 “(B) QUALIFIED CONSERVATION CON-
11 TRIBUTIONS BY CERTAIN CORPORATE FARMERS
12 AND RANCHERS.—

13 “(i) IN GENERAL.—Any qualified con-
14 servation contribution (as defined in sub-
15 section (h)(1)) made—

16 “(I) by a corporation which, for
17 the taxable year during which the con-
18 tribution is made, is a qualified farm-
19 er or rancher (as defined in paragraph
20 (1)(E)(iv)(II)) and the stock of which
21 is not readily tradable on an estab-
22 lished securities market at any time
23 during such year, and

24 “(II) to an organization de-
25 scribed in paragraph (1)(A),

1 shall be allowed to the extent the aggregate
2 of such contributions does not exceed the
3 excess of the taxpayer's taxable income
4 over the amount of charitable contributions
5 allowable under subparagraph (A).

6 “(ii) CARRYOVER.—If the aggregate
7 amount of contributions described in clause
8 (i) exceeds the limitation of clause (i), such
9 excess shall be treated (in a manner con-
10 sistent with the rules of subsection (d)(2))
11 as a charitable contribution to which clause
12 (i) applies in each of the 15 succeeding
13 years in order of time.

14 “(C) TAXABLE INCOME.—For purposes of
15 this paragraph, taxable income shall be com-
16 puted without regard to—

17 “(i) this section,

18 “(ii) part VIII (except section 248),

19 “(iii) any net operating loss
20 carryback to the taxable year under sec-
21 tion 172,

22 “(iv) section 199, and

23 “(v) any capital loss carryback to the
24 taxable year under section 1212(a)(1).”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) The second sentence of clause (i) of section
2 170(b)(1)(C) is amended by striking “subparagraph
3 (D)” and inserting “subparagraph (D) or (E)”.

4 (2) Clause (i) of section 170(b)(1)(D) is amend-
5 ed by striking “subparagraph (A)” and inserting
6 “subparagraphs (A) or (E)”.

7 (3) Paragraph (2) of section 170(d) is amended
8 by striking “subsection (b)(2)” each place it appears
9 and inserting “subsection (b)(2)(A)”.

10 (4) Section 545(b)(2) is amended by striking
11 “and (D)” and inserting “(D), and (E)”.

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

16 **SEC. 308. ENHANCED DEDUCTION FOR CHARITABLE CON-**
17 **TRIBUTION OF LITERARY, MUSICAL, ARTIS-**
18 **TIC, AND SCHOLARLY COMPOSITIONS.**

19 (a) IN GENERAL.—Subsection (e) of section 170 (re-
20 lating to certain contributions of ordinary income and cap-
21 ital gain property), as amended by this section 33 of this
22 Act, is amended by adding at the end the following new
23 paragraph:

1 “(18) SPECIAL RULE FOR CERTAIN CONTRIBU-
2 TIONS OF LITERARY, MUSICAL, ARTISTIC, OR SCHOL-
3 ARLY COMPOSITIONS.—

4 “(A) IN GENERAL.—In the case of a quali-
5 fied artistic charitable contribution—

6 “(i) the amount of such contribution
7 taken into account under this section shall
8 be the fair market value of the property
9 contributed (determined at the time of
10 such contribution), and

11 “(ii) no reduction in the amount of
12 such contribution shall be made under
13 paragraph (1).

14 “(B) QUALIFIED ARTISTIC CHARITABLE
15 CONTRIBUTION.—For purposes of this para-
16 graph, the term ‘qualified artistic charitable
17 contribution’ means a charitable contribution of
18 any literary, musical, artistic, or scholarly com-
19 position, or similar property, or the copyright
20 thereon (or both), but only if—

21 “(i) such property was created by the
22 personal efforts of the taxpayer making
23 such contribution no less than 18 months
24 prior to such contribution,

25 “(ii) the taxpayer—

1 “(I) has received a qualified ap-
2 praisal of the fair market value of
3 such property in accordance with the
4 regulations under this section, and

5 “(II) attaches to the taxpayer’s
6 income tax return for the taxable year
7 in which such contribution was made
8 a copy of such appraisal,

9 “(iii) the donee is an organization de-
10 scribed in subsection (b)(1)(A),

11 “(iv) the use of such property by the
12 donee is related to the purpose or function
13 constituting the basis for the donee’s ex-
14 emption under section 501 (or, in the case
15 of a governmental unit, to any purpose or
16 function described under section 501(c)),

17 “(v) the taxpayer receives from the
18 donee a written statement representing
19 that the donee’s use of the property will be
20 in accordance with the provisions of clause
21 (iv), and

22 “(vi) the written appraisal referred to
23 in clause (ii) includes evidence of the ex-
24 tent (if any) to which property created by
25 the personal efforts of the taxpayer and of

1 the same type as the donated property is
2 or has been—

3 “(I) owned, maintained, and dis-
4 played by organizations described in
5 subsection (b)(1)(A), and

6 “(II) sold to or exchanged by
7 persons other than the taxpayer,
8 donee, or any related person (as de-
9 fined in section 465(b)(3)(C)).

10 “(C) MAXIMUM DOLLAR LIMITATION; NO
11 CARRYOVER OF INCREASED DEDUCTION.—The
12 increase in the deduction under this section by
13 reason of this paragraph for any taxable year—

14 “(i) shall not exceed the artistic ad-
15 justed gross income of the taxpayer for
16 such taxable year, and

17 “(ii) shall not be taken into account in
18 determining the amount which may be car-
19 ried from such taxable year under sub-
20 section (d).

21 “(D) ARTISTIC ADJUSTED GROSS IN-
22 COME.—For purposes of this paragraph, the
23 term ‘artistic adjusted gross income’ means
24 that portion of the adjusted gross income of the
25 taxpayer for the taxable year attributable to—

1 “(i) income from the sale or use of
2 property created by the personal efforts of
3 the taxpayer which is of the same type as
4 the donated property, and

5 “(ii) income from teaching, lecturing,
6 performing, or similar activity with respect
7 to property described in clause (i).

8 “(E) PARAGRAPH NOT TO APPLY TO CER-
9 TAIN CONTRIBUTIONS.—Subparagraph (A) shall
10 not apply to any charitable contribution of any
11 letter, memorandum, or similar property which
12 was written, prepared, or produced by or for an
13 individual while the individual is an officer or
14 employee of any person (including any govern-
15 ment agency or instrumentality) unless such
16 letter, memorandum, or similar property is en-
17 tirely personal.

18 “(F) COPYRIGHT TREATED AS SEPARATE
19 PROPERTY FOR PARTIAL INTEREST RULE.—In
20 the case of a qualified artistic charitable con-
21 tribution, the tangible literary, musical, artistic,
22 or scholarly composition, or similar property
23 and the copyright on such work shall be treated
24 as separate properties for purposes of this para-
25 graph and subsection (f)(3).

1 “(G) TERMINATION.—This paragraph
2 shall not apply to contributions made after De-
3 cember 31, 2007.”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to contributions made after De-
6 cember 31, 2005.

7 **SEC. 309. MILEAGE REIMBURSEMENTS TO CHARITABLE**
8 **VOLUNTEERS EXCLUDED FROM GROSS IN-**
9 **COME.**

10 (a) IN GENERAL.—Part III of subchapter B of chap-
11 ter 1 is amended by inserting after section 139A the fol-
12 lowing new section:

13 **“SEC. 139B. MILEAGE REIMBURSEMENTS TO CHARITABLE**
14 **VOLUNTEERS.**

15 “(a) IN GENERAL.—Gross income of an individual
16 does not include amounts received, from an organization
17 described in section 170(c), as reimbursement of operating
18 expenses with respect to use of a passenger automobile
19 for the benefit of such organization. The preceding sen-
20 tence shall apply only to the extent that the expenses
21 which are reimbursed would be deductible under this chap-
22 ter if section 274(d) were applied—

23 “(1) by using the standard business mileage
24 rate established under such section, and

1 “(2) as if the individual were an employee of an
2 organization not described in section 170(c).

3 “(b) APPLICATION TO VOLUNTEER SERVICES
4 ONLY.—Subsection (a) shall not apply with respect to any
5 expenses relating to the performance of services for com-
6 pensation.

7 “(c) NO DOUBLE BENEFIT.—A taxpayer may not
8 claim a deduction or credit under any other provision of
9 this title with respect to the expenses under subsection (a).

10 “(d) EXEMPTION FROM REPORTING REQUIRE-
11 MENTS.—Section 6041 shall not apply with respect to re-
12 imbursements excluded from income under subsection (a).

13 “(e) TERMINATION.—This section shall not apply to
14 taxable years beginning after December 31, 2007.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 for part III of subchapter B of chapter 1 is amended by
17 inserting after the item relating to section 139 the fol-
18 lowing new item:

“Sec. 139A. Mileage reimbursements to charitable volunteers”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 2005.

1 **SEC. 310. ALTERNATIVE PERCENTAGE LIMITATION FOR**
2 **CORPORATE CHARITABLE CONTRIBUTIONS**
3 **TO THE MATHEMATICS AND SCIENCE PART-**
4 **nership PROGRAM.**

5 (a) IN GENERAL.—Section 170(b) (related to per-
6 centage limitations) is amended by adding at the end the
7 following new paragraph:

8 “(3) SPECIAL RULE FOR CORPORATE CON-
9 TRIBUTIONS TO THE MATHEMATICS AND SCIENCE
10 PARTNERSHIP PROGRAM.—

11 “(A) IN GENERAL.—In the case of a cor-
12 poration which makes an eligible mathematics
13 and science contribution—

14 “(i) the limitation under paragraph
15 (2) shall apply separately with respect to
16 all such contributions and all other chari-
17 table contributions, and

18 “(ii) paragraph (2) shall be applied
19 with respect to all eligible mathematics and
20 science contributions by substituting ‘15
21 percent’ for ‘10 percent’.

22 “(B) ELIGIBLE MATHEMATICS AND
23 SCIENCE CONTRIBUTION.—

24 “(i) IN GENERAL.—For purposes of
25 this paragraph, the term ‘eligible mathe-
26 matics and science contribution’ means a

1 charitable contribution (other than a con-
2 tribution of used equipment) to a qualified
3 partnership for the purpose of an activity
4 described in section 2202(c) of the Ele-
5 mentary and Secondary Education Act of
6 1965.

7 “(ii) QUALIFIED PARTNERSHIP.—The
8 term ‘qualified partnership’ means an eligi-
9 ble partnership (within the meaning of sec-
10 tion 2201(b)(1) of the Elementary and
11 Secondary Education Act of 1965), but
12 only to the extent that such partnership
13 does not include a person other than a per-
14 son described in paragraph (1)(A).

15 “(C) TERMINATION.—This paragraph shall
16 not apply to any contributions made in taxable
17 years beginning after December 31, 2006.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to contributions made in taxable
20 years beginning after December 31, 2005.

1 **Subtitle B—Reforming Charitable**
 2 **Organizations**

3 **PART I—GENERAL REFORMS**

4 **SEC. 311. TAX INVOLVEMENT BY EXEMPT ORGANIZATIONS**
 5 **IN TAX SHELTER TRANSACTIONS.**

6 (a) IMPOSITION OF EXCISE TAX.—

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

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

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

12 **“SEC. 4965. EXCISE TAX ON CERTAIN TAX-EXEMPT ENTITIES**
 13 **ENTERING INTO PROHIBITED TAX SHELTER**
 14 **TRANSACTIONS.**

15 **“(a) PARTICIPATION IN AND APPROVAL OF PROHIB-**
 16 **ITED TRANSACTIONS.—**

17 **“(1) TAX-EXEMPT ENTITY.—**

18 **“(A) IN GENERAL.—**If any tax-exempt en-
 19 tity (other than a tax-exempt entity described
 20 in paragraph (4), (5), (6), or (7) of subsection
 21 (c)) is a party to a prohibited tax shelter trans-
 22 action at any time during the taxable year and
 23 knows or has reason to know such transaction
 24 is a prohibited tax shelter transaction, such en-

1 tity shall pay a tax for such taxable year in the
2 amount determined under subsection (b)(1)(A).

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

11 “(2) ENTITY MANAGER.—If any entity manager
12 of a tax-exempt entity approves such entity as (or
13 otherwise causes such entity to be) a party to a pro-
14 hibited tax shelter transaction at any time during
15 the taxable year and knows or has reason to know
16 that the transaction is a prohibited tax shelter trans-
17 action, such manager shall pay a tax for such tax-
18 able year in the amount determined under sub-
19 section (b)(2).

20 “(3) REASONABLE CAUSE EXCEPTION.—No tax
21 shall be imposed under paragraph (1)(A) or (2) if it
22 is shown that the participation of the tax-exempt en-
23 tity in the transaction was not willful and was due
24 to reasonable cause.

25 “(b) AMOUNT OF TAX.—

1 “(1) ENTITY.—In the case of a tax-exempt
2 entity—

3 “(A) IN GENERAL.—The amount of the
4 tax imposed under subsection (a)(1)(A) on the
5 entity with respect to a taxable year shall be
6 the greater of—

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

13 “(ii) 75 percent of the proceeds re-
14 ceived by the entity which are attributable
15 to the prohibited tax shelter transaction.

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

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

23 “(ii) the greater of—

24 “(I) the entity’s net income
25 (after taking into account any tax im-

1 posed by this subtitle with respect to
2 the subsequently listed transaction)
3 for such taxable year which is attrib-
4 utable to the subsequently listed
5 transaction and which is properly allo-
6 cable to the period beginning on the
7 later of the date such transaction is
8 identified by guidance as a listed
9 transaction by the Secretary or the
10 first day of the taxable year, or

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

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

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

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

5 “(2) described in section 170(c) (other than an
6 agency or instrumentality of the United States) to
7 which paragraph (1) of this subsection does not
8 apply,

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

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

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

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

17 “(7) an arrangement described in section
18 4973(a).

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

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

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

1 “(B) in the case of a private foundation, a
2 foundation manager (as defined in section
3 4946(b)), and

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

7 “(e) PROHIBITED TAX SHELTER TRANSACTION;
8 SUBSEQUENTLY LISTED TRANSACTION.—For purposes of
9 this section—

10 “(1) PROHIBITED TAX SHELTER TRANS-
11 ACTION.—

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

14 “(i) any listed transaction, or

15 “(ii) any prohibited reportable trans-
16 action if the tax-exempt entity knows or
17 has reason to know that such transaction
18 is a reportable transaction.

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

22 “(C) PROHIBITED REPORTABLE TRANS-
23 ACTION.—The term ‘prohibited reportable
24 transaction’ means any confidential transaction
25 or any transaction with contractual protection

1 (as defined under regulations prescribed by the
 2 Secretary) which is a reportable transaction (as
 3 defined in section 6707A(c)(1)).

4 “(2) SUBSEQUENTLY LISTED TRANSACTION.—
 5 The term ‘subsequently listed transaction’ means
 6 any transaction to which a tax-exempt entity is a
 7 party and which is determined by the Secretary to
 8 be a listed transaction at any time after the entity
 9 has entered into the transaction.

10 “(f) REGULATORY AUTHORITY.—The Secretary is
 11 authorized to promulgate regulations which provide guid-
 12 ance regarding the determination of the allocation of net
 13 income of a tax-exempt entity attributable to a transaction
 14 to various periods, including before and after the listing
 15 of the transaction or the date which is 90 days after the
 16 date of the enactment of this section.

17 “(g) COORDINATION WITH OTHER TAXES AND PEN-
 18 ALTIES.—The tax imposed by this section is in addition
 19 to any other tax, addition to tax, or penalty imposed under
 20 this title.”.

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

“SUBCHAPTER F. TAX SHELTER TRANSACTIONS.”.

24 (b) DISCLOSURE REQUIREMENTS.—

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

3 (A) IN GENERAL.—Section 6033(a) (relat-
4 ing to organizations required to file) is amended
5 by redesignating paragraph (2) as paragraph
6 (3), and by inserting after paragraph (1) the
7 following new paragraph:

8 “(2) PARTICIPATION IN CERTAIN REPORTABLE
9 TRANSACTIONS.—Every tax-exempt entity described
10 in section 4965(c) shall file (in such form and man-
11 ner and at such time as determined by the Sec-
12 retary) a disclosure of—

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

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

19 (B) CONFORMING AMENDMENT.—Section
20 6033(a)(1) is amended by striking “paragraph
21 (2)” and inserting “paragraph (3)”.

22 (2) DISCLOSURE BY OTHER TAXPAYERS TO THE
23 TAX-EXEMPT ENTITY.—Section 6011 (relating to
24 general requirement of return, statement, or list) is
25 amended by redesignating subsection (g) as sub-

1 section (h) and by inserting after subsection (f) the
2 following new subsection:

3 “(g) DISCLOSURE OF REPORTABLE TRANSACTION TO
4 TAX-EXEMPT ENTITY.—Any taxable party to a prohibited
5 tax shelter transaction (as defined in section 4965(e)(1))
6 shall by statement disclose to any tax-exempt entity (as
7 defined in section 4965(c)) which is a party to such trans-
8 action that such transaction is such a prohibited tax shel-
9 ter transaction.”.

10 (c) PENALTY FOR NONDISCLOSURE.—

11 (1) IN GENERAL.—Section 6652(c) (relating to
12 returns by exempt organizations and by certain
13 trusts), as amended by section 302, is amended by
14 redesignating paragraphs (2), (3), and (4) as para-
15 graphs (3), (4), and (5), respectively, and by insert-
16 ing after paragraph (1) the following new para-
17 graph:

18 “(2) DISCLOSURE UNDER SECTION 6033.—

19 “(A) PENALTY ON ORGANIZATIONS.—In
20 the case of a failure to file a disclosure required
21 under section 6033(a)(2), there shall be paid by
22 the tax-exempt entity (the entity manager in
23 the case of a tax-exempt entity described in
24 paragraph (4), (5), (6), or (7) of section
25 4965(c)) \$100 for each day during which such

1 failure continues. The maximum penalty under
2 this subparagraph on failures with respect to
3 any 1 disclosure shall not exceed \$50,000.

4 “(B) PERSONS.—

5 “(i) IN GENERAL.—The Secretary
6 may make a written demand on any tax-
7 exempt entity subject to penalty under
8 subparagraph (A) specifying therein a rea-
9 sonable future date by which the disclosure
10 shall be filed for purposes of this subpara-
11 graph.

12 “(ii) FAILURE TO COMPLY WITH DE-
13 MAND.—If any person fails to comply with
14 any demand under clause (i) on or before
15 the date specified in such demand, there
16 shall be paid by such person failing to so
17 comply \$100 for each day after the expira-
18 tion of the time specified in such demand
19 during which such failure continues. The
20 maximum penalty imposed under this sub-
21 paragraph on all tax-exempt entities for
22 failures with respect to any 1 disclosure
23 shall not exceed \$10,000.

24 “(C) DEFINITIONS.—Any term used in
25 this section which is also used in section 4965

1 shall have the meaning given such term under
2 section 4965.”.

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

7 (d) EFFECTIVE DATES.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), the amendments made by this section
10 shall apply to transactions after the date of the en-
11 actment of this Act, except that no tax under section
12 4965(a) of the Internal Revenue Code of 1986 (as
13 added by this section) shall apply with respect to in-
14 come that is properly allocable to any period on or
15 before the date which is 90 days after such date of
16 enactment.

17 (2) DISCLOSURE.—The amendments made by
18 subsections (b) and (c) shall apply to disclosures the
19 due date for which are after the date of the enact-
20 ment of this Act.

21 **SEC. 312. EXCISE TAX ON CERTAIN ACQUISITIONS OF IN-**
22 **TERESTS IN INSURANCE CONTRACTS IN**
23 **WHICH CERTAIN EXEMPT ORGANIZATIONS**
24 **HOLD AN INTEREST.**

25 (a) IMPOSITION OF TAX.—

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

5 **“SEC. 4966. EXCISE TAX ON ACQUISITION OF INTERESTS IN**
 6 **INSURANCE CONTRACTS IN WHICH CERTAIN**
 7 **EXEMPT ORGANIZATIONS HOLD AN INTER-**
 8 **EST.**

9 “(a) IMPOSITION OF TAX.—If there is a taxable ac-
 10 quisition of any interest in an applicable insurance con-
 11 tract, there is hereby imposed on the person acquiring the
 12 interest a tax equal to 100 percent of the acquisition costs
 13 of the interest.

14 “(b) TAXABLE ACQUISITION.—For purposes of this
 15 section—

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

19 “(A) an applicable exempt organization, or

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

24 “(2) APPLICABLE INSURANCE CONTRACT.—

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

9 “(B) EXCEPTIONS.—Such term shall not
10 include a life insurance, annuity, or endowment
11 contract if—

12 “(i) all persons directly or indirectly
13 holding any interest in the contract (other
14 than applicable exempt organizations) have
15 an insurable interest in the insured under
16 the contract independent of any interest of
17 an applicable exempt organization in the
18 contract,

19 “(ii) the sole interest in the contract
20 of each person other than an applicable ex-
21 empt organization is as a named bene-
22 ficiary,

23 “(iii) the sole interest in the contract
24 of each person other than an applicable ex-
25 empt organization is—

1 “(I) as a beneficiary of a trust
2 holding an interest in the contract,
3 but only if the person’s designation as
4 such beneficiary was made without
5 consideration and solely on a purely
6 gratuitous basis, or

7 “(II) as a trustee who holds an
8 interest in the contract in a fiduciary
9 capacity solely for the benefit of appli-
10 cable exempt organizations or persons
11 otherwise described in clauses (i), (ii),
12 and (iv) or subclause (I) of this
13 clause, or

14 “(iv) except as provided in subpara-
15 graph (C), the sole interest in the contract
16 of each person other than an applicable ex-
17 empt organization is as a lender with re-
18 spect to the contract and the contract cov-
19 ers only 1 individual and such individual is
20 an officer, director, or employee of the ap-
21 plicable exempt organization with an inter-
22 est in the contract.

23 “(C) RESTRICTIONS ON EXCEPTION FOR
24 LENDERS.—

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

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

11 “(II) 5.

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

18 “(D) SECRETARIAL AUTHORITY.—The
19 Secretary may exempt a contract from treat-
20 ment as an applicable insurance contract based
21 on specific factors, including factors such as
22 whether the transaction is at arms length,
23 whether economic benefits to the applicable ex-
24 empt organization substantially exceed the eco-
25 nomic benefits to all other persons with an in-

1 interest in the contract (determined without re-
2 gard to whether, or the extent to which, such
3 organization has paid or contributed with re-
4 spect to the contract), and the likelihood of
5 abuse.

6 “(3) DEFINITION AND RULE RELATING TO AC-
7 QUISSION COSTS.—

8 “(A) ACQUISITION COSTS DEFINED.—The
9 term ‘acquisition costs’ means the direct or in-
10 direct costs of acquiring an interest in an appli-
11 cable insurance contract. Such term shall in-
12 clude any fees, commissions, charges, or other
13 amounts paid in connection with the acquisi-
14 tion, whether or not paid to the issuer of the
15 contract.

16 “(B) TIMING OF PAYMENTS.—Except as
17 provided in regulations, if acquisition costs of
18 any acquisition are paid or incurred in more
19 than 1 calendar year, the tax imposed by sub-
20 section (a) with respect to the acquisition shall
21 be imposed each time the costs are so paid or
22 incurred.

23 “(4) RULES RELATING TO INTERESTS.—

24 “(A) IN GENERAL.—An interest in the
25 contract includes any right with respect to the

1 contract, whether as an owner, beneficiary, or
2 otherwise.

3 “(B) INDIRECT INTERESTS.—

4 “(i) IN GENERAL.—Except as pro-
5 vided in clause (ii), an indirect interest in
6 a contract includes an interest in an entity
7 which directly or indirectly holds an inter-
8 est in the contract.

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

19 “(C) EXCHANGED CONTRACTS.—In the
20 case of an exchange of an applicable insurance
21 contract on which no gain or loss is recognized
22 under section 1035, any interest in any of the
23 contracts involved in the exchange shall be
24 treated as an interest in all such contracts.

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

5 “(6) PRIOR ACQUISITIONS.—Except as provided
6 in regulations, if a person acquires an interest in a
7 contract before the contract is treated as an applica-
8 ble insurance contract, the acquisition shall be treat-
9 ed as a taxable acquisition of an interest in an appli-
10 cable insurance contract as of the date the contract
11 becomes an applicable insurance contract.

12 “(c) APPLICABLE EXEMPT ORGANIZATION.—For
13 purposes of this section, the term ‘applicable exempt orga-
14 nization’ means—

15 “(1) an organization described in section
16 170(c),

17 “(2) an organization described in section
18 168(h)(2)(A)(iv), or

19 “(3) an organization not described in paragraph
20 (1) or (2) which is described in section 2055(a) or
21 section 2522(a).

22 “(d) TAX NOT TREATED AS INVESTMENT IN THE
23 CONTRACT.—For purposes of section 72, the tax imposed
24 by this section shall not be included in investment in the
25 contract.

1 “(e) REGULATIONS.—The Secretary shall prescribe
 2 such regulations as may be necessary to carry out the pro-
 3 visions of this section. Such regulations may include regu-
 4 lations which—

5 “(1) provide, for purposes of subsection (b)(6),
 6 appropriate rules for the application of this section
 7 in any case where an interest is acquired before a
 8 contract becomes an applicable insurance contract,

9 “(2) prevent, in cases the Secretary determines
 10 appropriate, the imposition of more than one tax
 11 under this section if the same interest is acquired
 12 more than once, and

13 “(3) are designed to prevent avoidance of the
 14 purposes of this section, including through the use
 15 of intermediaries.”.

16 (2) CONFORMING AMENDMENT.—The table of
 17 sections for subchapter F of chapter 42, as added by
 18 this Act, is amended by adding at the end the fol-
 19 lowing new item:

“Sec. 4966. Excise tax on acquisition of interests in insurance contracts
 in which certain exempt organizations hold an interest.”.

20 (b) REPORTING REQUIREMENTS.—

21 (1) IN GENERAL.—Subpart B of part III of
 22 subchapter A of chapter 61 (relating to information
 23 concerning transactions with other persons), as

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

3 **“SEC. 6050V. RETURNS RELATING TO APPLICABLE INSUR-**
4 **ANCE CONTRACTS IN WHICH CERTAIN EX-**
5 **EMPT ORGANIZATIONS HOLD INTERESTS.**

6 “(a) REQUIREMENTS OF REPORTING.—

7 “(1) EXEMPT ORGANIZATIONS.—Each—

8 “(A) applicable exempt organization which
9 acquires (within the meaning of section 4966)
10 an interest in any applicable insurance contract,
11 and

12 “(B) other person which makes an acquisi-
13 tion of such an interest if such acquisition is
14 taxable under section 4966,

15 shall make the return described in subsection (c).

16 “(2) TRANSFERS.—If a person (including an
17 applicable exempt organization) acquires an interest
18 in an applicable insurance contract in an acquisition
19 which is taxable under section 4966 and then trans-
20 fers such interest to 1 or more other persons, each
21 person acquiring all or a portion of such interest
22 shall make the return described in subsection (c).

23 “(b) TIME FOR MAKING RETURN.—Any organization
24 or person required to make a return under subsection (a)

1 shall file such return at such time as may be established
2 by the Secretary with respect to—

3 “(1) in the case of a person described in sub-
4 section (a)(1), the calendar year in which the acqui-
5 sition occurs, any calendar year in which acquisition
6 costs are paid or incurred, and any other calendar
7 years specified by the Secretary, and

8 “(2) in the case of a person described in sub-
9 section (a)(2), the calendar year in which the trans-
10 fer occurs.

11 “(c) FORM AND MANNER OF RETURNS.—A return
12 is described in this subsection if such return—

13 “(1) is in such form as the Secretary pre-
14 scribes,

15 “(2) in the case of—

16 “(A) a return required under subsection
17 (a)(1)(A), contains the name, address, and tax-
18 payer identification number of the applicable
19 exempt organization, the issuer of the applica-
20 ble insurance contract, and any person acquir-
21 ing an interest in the contract if the acquisition
22 is taxable under section 4966,

23 “(B) a return required under subsection
24 (a)(1)(B), contains the name, address, and tax-
25 payer identification number of the person ac-

1 quiring an interest in the applicable insurance
2 contract if the acquisition is taxable under sec-
3 tion 4966, any applicable exempt organization
4 holding an interest in the contract, and the
5 issuer of the contract, and

6 “(C) a return required under subsection
7 (a)(2), contains the name, address, and tax-
8 payer identification number of the transferor
9 and transferee, and

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

12 “(d) STATEMENTS TO BE FURNISHED TO PERSONS
13 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—
14 Every person required to make a return under subsection
15 (a) shall furnish to each person whose taxpayer identifica-
16 tion information is required to be included in such return
17 under subsection (c) a written statement showing—

18 “(1) the name and address of the person re-
19 quired to make such return and the telephone num-
20 ber of the information contact for such person, and

21 “(2) the taxpayer identity and other informa-
22 tion required to be shown on the return with respect
23 to such person.

1 The written statement required under the preceding sen-
2 tence shall be furnished on or before the date specified
3 by the Secretary.

4 “(e) DEFINITIONS.—For purposes of this section,
5 any term used in this section which is also used in section
6 4966 shall have the meaning given such term by section
7 4966.”.

8 (2) PENALTIES.—

9 (A) IN GENERAL.—Section 6724(d) is
10 amended—

11 (i) in paragraph (1)(B), by redesignig-
12 nating clauses (xiii) through (xviii) as
13 clauses (xiv) through (xix) and by inserting
14 after clause (xii) the following new clause:

15 “(xiii) section 6050V (relating to re-
16 turns relating to applicable insurance con-
17 tracts in which certain exempt organiza-
18 tions hold interests),”, and

19 (ii) in paragraph (3), by striking
20 “and” at the end of subparagraph (C), by
21 striking the period at the end of subpara-
22 graph (D) and inserting “, and”, and by
23 adding at the end the following new sub-
24 paragraph:

1 “(E) the statement required by subsection
2 (d) of section 6050V (relating to returns relat-
3 ing to applicable insurance contracts in which
4 certain exempt organizations hold interests).”.

5 (B) INTENTIONAL DISREGARD.—Section
6 6721(e)(2) is amended by striking “or” at the
7 end of subparagraph (B), by striking “and” at
8 the end of subparagraph (C) and inserting
9 “or”, and by adding at the end the following
10 new subparagraph:

11 “(D) in the case of a return required to be
12 filed under section 6050V, the amount of tax
13 imposed under section 4966 which has not been
14 paid with respect to items required to be in-
15 cluded on the return, and”.

16 (3) CONFORMING AMENDMENT.—The table of
17 sections for subpart B of part III of subchapter A
18 of chapter 61, as amended by this Act, is amended
19 by adding at the end the following new item:

“Sec. 6050V. Returns relating to applicable insurance contracts in which
certain exempt organizations hold interests.”.

20 (c) EFFECTIVE DATE.—

21 (1) IN GENERAL.—The amendments made by
22 this section shall apply to contracts issued after May
23 3, 2005.

1 (2) REPORTING OF EXISTING CONTRACTS.—In
2 the case of any life insurance, annuity, or endow-
3 ment contract—

4 (A) which was issued on or before May 3,
5 2005,

6 (B) with respect to which an applicable ex-
7 empt organization (as defined in section 4966
8 of the Internal Revenue Code of 1986, as added
9 by this section) holds an interest on May 3,
10 2005, and

11 (C) which would be treated as an applica-
12 ble insurance contract (as so defined) if issued
13 after May 3, 2005,

14 such organization shall, not later than the date
15 which is 1 year after the date of the enactment of
16 this Act, report to the Secretary of the Treasury
17 with respect to such contract. Such report shall be
18 in such form and manner, and contain such informa-
19 tion, as the Secretary may prescribe. The Secretary
20 shall submit such reports, along with any rec-
21 ommendations for legislation as the Secretary con-
22 siders appropriate, to the Committee on Ways and
23 Means of the House of Representatives and to the
24 Committee on Finance of the Senate within 6

1 months of the date such reports are required to be
2 filed.

3 **SEC. 313. INCREASE IN PENALTY EXCISE TAXES ON PUBLIC**
4 **CHARITIES, SOCIAL WELFARE ORGANIZA-**
5 **TIONS, AND PRIVATE FOUNDATIONS.**

6 (a) TAXES ON SELF-DEALING AND EXCESS BENEFIT
7 TRANSACTIONS.—

8 (1) IN GENERAL.—Section 4941(a) (relating to
9 initial taxes) is amended—

10 (A) in paragraph (1), by striking “5 per-
11 cent” and inserting “10 percent”, and

12 (B) in paragraph (2), by striking “2½
13 percent” and inserting “5 percent”.

14 (2) INCREASE IN TAX IF SELF-DEALING IN-
15 CLUDES COMPENSATION TO DISQUALIFIED PER-
16 SON.—Section 4941(a)(1) is amended by adding at
17 the end the following new sentence: “If the act of
18 self-dealing includes acts described in subsection
19 (d)(1)(D), ‘25 percent’ shall be substituted for ‘10
20 percent’, except that the Secretary may abate under
21 section 4962 (determined without regard to the ex-
22 ception under subsection (b) thereof) not more than
23 15 percentage points of such tax.”.

24 (3) INCREASED LIMITATION FOR MANAGERS ON
25 SELF-DEALING.—Section 4941(c)(2) is amended by

1 striking “\$10,000” each place it appears in the text
2 and in the heading and inserting “\$20,000”.

3 (4) INCREASED LIMITATION FOR MANAGERS ON
4 EXCESS BENEFIT TRANSACTIONS.—Section
5 4958(d)(2) is amended by striking “\$10,000” and
6 inserting “\$20,000”.

7 (b) TAXES ON FAILURE TO DISTRIBUTE INCOME.—
8 Section 4942(a) (relating to initial tax) is amended by
9 striking “15 percent” and inserting “30 percent”.

10 (c) TAXES ON EXCESS BUSINESS HOLDINGS.—Sec-
11 tion 4943(a)(1) (relating to imposition) is amended by
12 striking “5 percent” and inserting “10 percent”.

13 (d) TAXES ON INVESTMENTS WHICH JEOPARDIZE
14 CHARITABLE PURPOSE.—

15 (1) IN GENERAL.—Section 4944(a) (relating to
16 initial taxes) is amended by striking “5 percent”
17 both places it appears and inserting “10 percent”.

18 (2) INCREASED LIMITATION FOR MANAGERS.—
19 Section 4944(d)(2) is amended—

20 (A) by striking “\$5,000,” and inserting
21 “\$10,000,” and

22 (B) by striking “\$10,000.” and inserting
23 “\$20,000.”.

24 (e) TAXES ON TAXABLE EXPENDITURES.—

1 (1) IN GENERAL.—Section 4945(a) (relating to
2 initial taxes) is amended—

3 (A) in paragraph (1), by striking “10 per-
4 cent” and inserting “20 percent”, and

5 (B) in paragraph (2), by striking “2½
6 percent” and inserting “5 percent”.

7 (2) INCREASED LIMITATION FOR MANAGERS.—
8 Section 4945(c)(2) is amended—

9 (A) by striking “\$5,000,” and inserting
10 “\$10,000,”, and

11 (B) by striking “\$10,000.” and inserting
12 “\$20,000.”.

13 (f) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 the date of the enactment of this Act.

16 **SEC. 314. REFORM OF CHARITABLE CONTRIBUTIONS OF**
17 **CERTAIN EASEMENTS ON BUILDINGS IN REG-**
18 **ISTERED HISTORIC DISTRICTS.**

19 (a) SPECIAL RULES WITH RESPECT TO BUILDINGS
20 IN REGISTERED HISTORIC DISTRICTS.—

21 (1) IN GENERAL.—Paragraph (4) of section
22 170(h) (relating to definition of conservation pur-
23 pose) is amended by redesignating subparagraph (B)
24 as subparagraph (C) and by inserting after subpara-
25 graph (A) the following new subparagraph:

1 “(B) SPECIAL RULES WITH RESPECT TO
2 BUILDINGS IN REGISTERED HISTORIC DIS-
3 TRICTS.—In the case of any contribution of a
4 qualified real property interest which is a re-
5 striction with respect to the exterior of a build-
6 ing described in subparagraph (C)(ii), such con-
7 tribution shall not be considered to be exclu-
8 sively for conservation purposes unless—

9 “(i) such interest—

10 “(I) includes a restriction which
11 preserves the entire exterior of the
12 building (including the front, sides,
13 rear, and height of the building), and

14 “(II) prohibits any change in the
15 exterior of the building which is incon-
16 sistent with the historical character of
17 such exterior,

18 “(ii) the donor and donee enter into a
19 written agreement certifying, under pen-
20 alty of perjury, that the donee—

21 “(I) is a qualified organization
22 (as defined in paragraph (3)) with a
23 purpose of environmental protection,
24 land conservation, open space preser-
25 vation, or historic preservation, and

1 “(II) has the resources to man-
2 age and enforce the restriction and a
3 commitment to do so, and

4 “(iii) in the case of any contribution
5 made in a taxable year beginning after the
6 date of the enactment of this subpara-
7 graph, the taxpayer includes with the tax-
8 payer’s return for the taxable year of the
9 contribution—

10 “(I) a qualified appraisal (within
11 the meaning of subsection (f)(11)(E))
12 of the qualified property interest,

13 “(II) photographs of the entire
14 exterior of the building, and

15 “(III) a description of all restric-
16 tions on the development of the build-
17 ing.”.

18 (b) DISALLOWANCE OF DEDUCTION FOR STRUC-
19 TURES AND LAND IN REGISTERED HISTORIC DIS-
20 TRICTS.—Subparagraph (C) of section 170(h)(4), as re-
21 designated by subsection (a), is amended—

22 (1) by striking “any building, structure, or land
23 area which”,

24 (2) by inserting “any building, structure, or
25 land area which” before “is listed” in clause (i), and

1 (3) by inserting “any building which” before “is
2 located” in clause (ii).

3 (c) FILING FEE FOR CERTAIN CONTRIBUTIONS.—
4 Subsection (f) of section 170 (relating to disallowance of
5 deduction in certain cases and special rules) is amended
6 by inserting at the end the following new paragraph:

7 “(13) CONTRIBUTIONS OF CERTAIN INTERESTS
8 IN BUILDINGS LOCATED IN REGISTERED HISTORIC
9 DISTRICTS.—

10 “(A) IN GENERAL.—No deduction shall be
11 allowed with respect to any contribution de-
12 scribed in subparagraph (B) unless the tax-
13 payer includes with the return for the taxable
14 year of the contribution a \$500 filing fee.

15 “(B) CONTRIBUTION DESCRIBED.—A con-
16 tribution is described in this subparagraph if
17 such contribution is a qualified conservation
18 contribution (as defined in subsection (h))
19 which is a restriction with respect to the exte-
20 rior of a building described in subsection
21 (h)(4)(C)(ii) and for which a deduction is
22 claimed in excess of the greater of—

23 “(i) 3 percent of the fair market value
24 of the building (determined immediately
25 before such contribution), or

1 “(ii) \$10,000.

2 “(C) DEDICATION OF FEE.—Any fee col-
3 lected under this paragraph shall be used for
4 the enforcement of the provisions of subsection
5 (h).”.

6 (d) EFFECTIVE DATE.—

7 (1) SPECIAL RULES FOR BUILDINGS IN REG-
8 ISTERED HISTORIC DISTRICTS.—The amendments
9 made by subsection (a) shall apply to contributions
10 made after November 15, 2005.

11 (2) DISALLOWANCE OF DEDUCTION FOR STRUC-
12 TURES AND LAND.—The amendments made by sub-
13 section (b) shall apply to contributions made after
14 the date of the enactment of this Act.

15 (3) FILING FEE.—The amendment made by
16 subsection (c) shall apply to contributions made 180
17 days after the date of the enactment of this Act.

18 **SEC. 315. CHARITABLE CONTRIBUTIONS OF TAXIDERMY**
19 **PROPERTY.**

20 (a) IN GENERAL.—Subsection (f) of section 170, as
21 amended by section 314 of this Act, is amended by adding
22 at the end the following new paragraph:

23 “(14) CONTRIBUTIONS OF TAXIDERMY PROP-
24 erty.—

1 “(A) CONTRIBUTIONS OF MORE THAN
2 \$500.—In the case of any contribution of taxidermy property for which a deduction of more
3 than \$500 is claimed, no deduction shall be allowed under subsection (a) unless the donor includes with the return for the taxable year in
4 which the contribution is made a photograph of the taxidermy property and data with respect to
5 the sales prices of similar taxidermy property.
6

7 “(B) CONTRIBUTIONS OF MORE THAN
8 \$5,000.—In the case of any contribution of taxidermy property for which a deduction of more
9 than \$5,000 is claimed, no deduction shall be allowed under subsection (a) unless the donor—
10

11 “(i) notifies the Internal Revenue
12 Service of such deduction, and
13

14 “(ii) includes with the return for the
15 taxable year in which the contribution is
16 made—
17

18 “(I) a statement of value from
19 the Internal Revenue Service, or
20

21 “(II) a request for a statement of
22 value from the Internal Revenue Service and a \$500 fee.
23
24

1 “(C) TAXIDERMY PROPERTY.—For pur-
 2 poses of this section, the term ‘taxidermy prop-
 3 erty’ means a mounted work of art which con-
 4 tains any part of a dead animal.”.

5 (b) EFFECTIVE DATE.—The amendment made by
 6 this section shall apply to contributions made after No-
 7 vember 15, 2005.

8 **SEC. 316. RECAPTURE OF TAX BENEFIT FOR CHARITABLE**
 9 **CONTRIBUTIONS OF EXEMPT USE PROPERTY**
 10 **NOT USED FOR AN EXEMPT USE.**

11 (a) RECAPTURE OF DEDUCTION ON CERTAIN SALES
 12 OF EXEMPT USE PROPERTY.—

13 (1) IN GENERAL.—Clause (i) of section
 14 170(e)(1)(B) (related to certain contributions of or-
 15 dinary income and capital gain property) is amended
 16 to read as follows:

17 “(i) of tangible personal property—
 18 “(I) if the use by the donee is
 19 unrelated to the purpose or function
 20 constituting the basis for its exemp-
 21 tion under section 501 (or, in the case
 22 of a governmental unit, to any pur-
 23 pose or function described in sub-
 24 section (c)), or

1 “(II) which is applicable property
2 (as defined in paragraph (7)(C))
3 which is sold, exchanged, or otherwise
4 disposed of by the donee before the
5 last day of the taxable year in which
6 the contribution was made and with
7 respect to which the donee has not
8 made a certification in accordance
9 with paragraph (7)(D),”.

10 (2) DISPOSITIONS AFTER CLOSE OF TAXABLE
11 YEAR.—Section 170(e) is amended by adding at the
12 end the following new paragraph:

13 “(7) RECAPTURE OF DEDUCTION ON CERTAIN
14 DISPOSITIONS OF EXEMPT USE PROPERTY.—

15 “(A) IN GENERAL.—In the case of an ap-
16 plicable disposition of applicable property, there
17 shall be included in the income of the donor of
18 such property for the taxable year of such
19 donor in which the applicable disposition occurs
20 an amount equal to the excess (if any) of—

21 “(i) the amount of the deduction al-
22 lowed to the donor under this section with
23 respect to such property, over

1 “(ii) the donor’s basis in such prop-
2 erty at the time such property was contrib-
3 uted.

4 “(B) APPLICABLE DISPOSITION.—For pur-
5 poses of this paragraph, the term ‘applicable
6 disposition’ means any sale, exchange, or other
7 disposition by the donee of applicable
8 property—

9 “(i) after the last day of the taxable
10 year of the donor in which such property
11 was contributed, and

12 “(ii) before the last day of the 3-year
13 period beginning on the date of the con-
14 tribution of such property,

15 unless the donee makes a certification in ac-
16 cordance with subparagraph (D).

17 “(C) APPLICABLE PROPERTY.—For pur-
18 poses of this paragraph, the term ‘applicable
19 property’ means charitable deduction property
20 (as defined in section 6050L(a)(2)(A))—

21 “(i) which is tangible personal prop-
22 erty the use of which is identified by the
23 donee as related to the purpose or function
24 constituting the basis of the donee’s ex-
25 emption under section 501, and

1 “(ii) for which a deduction in excess
2 of the donor’s basis is allowed.

3 “(D) CERTIFICATION.—A certification
4 meets the requirements of this subparagraph if
5 it is a written statement which is signed under
6 penalty of perjury by an officer of the donee or-
7 ganization and—

8 “(i) which—

9 “(I) certifies that the use of the
10 property by the donee was related to
11 the purpose or function constituting
12 the basis for the donee’s exemption
13 under section 501, and

14 “(II) describes how the property
15 was used and how such use furthered
16 such purpose or function, or

17 “(ii) which—

18 “(I) states the intended use of
19 the property by the donee at the time
20 of the contribution, and

21 “(II) certifies that such intended
22 use has become impossible or infeas-
23 ible to implement.”.

1 (b) REPORTING REQUIREMENTS.—Paragraph (1) of
2 section 6050L(a) (relating to returns relating to certain
3 dispositions of donated property) is amended—

4 (1) by striking “2 years” and inserting “3
5 years”, and

6 (2) by striking “and” at the end of subpara-
7 graph (D), by striking the period at the end of sub-
8 paragraph (E) and inserting a comma, and by in-
9 serting at the end the following:

10 “(F) a description of the donee’s use of the
11 property, and

12 “(G) a statement indicating whether the
13 use of the property was related to the purpose
14 or function constituting the basis for the
15 donee’s exemption under section 501.

16 In any case in which the donee indicates that the
17 use of applicable property (as defined in section
18 170(e)(1)(C)) was related to the purpose or function
19 constituting the basis for the exemption of the donee
20 under section 501 under subparagraph (G), the
21 donee shall include with the return the certification
22 described in section 170(e)(7)(D) if such certifi-
23 cation is required under section 170(e)(7).”.

24 (c) PENALTY.—

1 (3) PENALTY.—The amendments made by sub-
 2 section (c) shall apply to identifications made after
 3 the date of the enactment of this Act.

4 **SEC. 317. LIMITATION OF DEDUCTION FOR CHARITABLE**
 5 **CONTRIBUTIONS OF CLOTHING AND HOUSE-**
 6 **HOLD ITEMS.**

7 (a) IN GENERAL.—Subsection (f) of section 170, as
 8 amended by section 315 of this Act, is amended by adding
 9 at the end the following new paragraph:

10 “(15) CONTRIBUTIONS OF CLOTHING AND
 11 HOUSEHOLD ITEMS.—

12 “(A) IN GENERAL.—In the case of an indi-
 13 vidual, partnership, or S corporation, the de-
 14 duction allowed under subsection (a) for any
 15 contribution of clothing or household items with
 16 respect to which the donor has obtained a quali-
 17 fied appraisal shall be—

18 “(i) in the case of an item which is in
 19 good used condition or better, no more
 20 than the amount assigned to such item
 21 under subparagraph (B) for such year,

22 “(ii) except as provided by clause (iii),
 23 in the case of an item which is not in good
 24 used condition or better, no more than 20
 25 percent of the amount assigned to such

1 item under subparagraph (B) for such
2 year, and

3 “(iii) in the case of an item which is
4 not functional with respect to the use for
5 which it was designed, zero.

6 “(B) ASSIGNED VALUES.—Each year the
7 Secretary shall publish an itemized list of cloth-
8 ing and household items and shall assign an
9 amount with respect to each item on the list
10 which represents the fair market value of such
11 item in good used condition.

12 “(C) EXCEPTION FOR ITEMS SOLD BY THE
13 DONEE.—Subparagraph (A) shall not apply to
14 any contribution of clothing or household items
15 for which a deduction of more than \$500 is
16 claimed if—

17 “(i) the donee sells the clothing or
18 household items before the earlier of—

19 “(I) the due date (including ex-
20 tensions) for filing the return of tax
21 for the taxable year of the donor in
22 which the contribution was made, or

23 “(II) the date on which such re-
24 turn was filed,

1 “(ii) the donee reports the sales price
2 of the clothing or household items to the
3 donor, and

4 “(iii) the amount claimed as a deduc-
5 tion with respect to such clothing or house-
6 hold items does not exceed the amount of
7 the sales price reported to the donor.

8 “(D) HOUSEHOLD ITEMS.—For purposes
9 of this paragraph—

10 “(i) IN GENERAL.—The term ‘house-
11 hold items’ includes furniture, furnishings,
12 electronics, appliances, linens, and other
13 similar items.

14 “(ii) EXCLUDED ITEMS.—Such term
15 does not include—

16 “(I) food,

17 “(II) paintings, antiques, and
18 other objects of art,

19 “(III) jewelry and gems, and

20 “(IV) collections.

21 “(E) SPECIAL RULE FOR PASS-THRU ENTI-
22 TIES.—In the case of a partnership or S cor-
23 poration, this paragraph shall be applied at the
24 entity level, except that the deduction shall be
25 denied at the partner or shareholder level.”.

1 (b) SUBSTANTIATION.—

2 (1) ITEMS OF \$250 OR MORE.—Subparagraph
3 (B) of section 170(f)(8) is amended by inserting
4 after clause (iii) the following new clause:

5 “(iv) In the case of a contribution
6 consisting of clothing or household items,
7 the number of items contributed, an indi-
8 cation of the condition of each item, a de-
9 scription of the type of item contributed,
10 and a copy of the list published under
11 paragraph (15)(B) or an instruction on
12 how to obtain such list.”.

13 (2) ITEMS OF \$500 OR MORE.—Subparagraph
14 (B) of section 170(f)(11) is amended by inserting “,
15 the information contained in the acknowledgment re-
16 quired under paragraph (8) in the case of any con-
17 tribution of clothing or household items,” after “a
18 description of such property”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to contributions made after De-
21 cember 31, 2006.

1 **SEC. 318. MODIFICATION OF RECORDKEEPING REQUIRE-**
2 **MENTS FOR CERTAIN CHARITABLE CON-**
3 **TRIBUTIONS.**

4 (a) **RECORDKEEPING REQUIREMENT.**—Subsection
5 (f) of section 170, as amended by section 317 of this Act,
6 is amended by adding at the end the following new para-
7 graph:

8 “(16) **RECORDKEEPING.**—No deduction shall be
9 allowed under subsection (a) for any contribution of
10 a cash, check, or other monetary gift unless the
11 donor maintains as a record of such contribution—

12 “(A) a cancelled check, or

13 “(B) a receipt or a letter or other written
14 communication from the donee showing the
15 name of the donee organization, the date of the
16 contribution, and the amount of the contribu-
17 tion.”.

18 (b) **EFFECTIVE DATE.**—The amendment made by
19 this section shall apply to contributions made in taxable
20 years beginning after the date of the enactment of this
21 Act.

22 **SEC. 319. CONTRIBUTIONS OF FRACTIONAL INTERESTS IN**
23 **TANGIBLE PERSONAL PROPERTY.**

24 (a) **INCOME TAX.**—Section 170 (relating to chari-
25 table, etc., contributions and gifts), as amended by section
26 301 of this Act, is amended by redesignating subsection

1 (p) as subsection (q) and by inserting after subsection (o)
 2 the following new subsection:

3 “(q) SPECIAL RULES FOR FRACTIONAL GIFTS.—

4 “(1) VALUATION OF SUBSEQUENT GIFTS.—

5 “(A) IN GENERAL.—In the case of any ad-
 6 ditional contribution, the fair market value of
 7 such contribution shall be determined by using
 8 the lesser of—

9 “(i) the fair market value of the prop-
 10 erty at the time of the initial fractional
 11 contribution, or

12 “(ii) the fair market value of the
 13 property at the time of the additional con-
 14 tribution.

15 “(B) DEFINITIONS.—For purposes of this
 16 paragraph—

17 “(i) ADDITIONAL CONTRIBUTION.—
 18 The term ‘additional contribution’ means
 19 any charitable contribution by the taxpayer
 20 of any interest in property with respect to
 21 which the taxpayer has previously made an
 22 initial fractional contribution.

23 “(ii) INITIAL FRACTIONAL CONTRIBU-
 24 TION.—The term ‘initial fractional con-
 25 tribution’ means, with respect to any tax-

1 payer, the first charitable contribution of
2 an undivided portion of the taxpayer's en-
3 tire interest in any tangible personal prop-
4 erty.

5 “(2) RECAPTURE OF DEDUCTION IN CERTAIN
6 CASES.—

7 “(A) IN GENERAL.—The Secretary shall
8 provide for the recapture of an amount equal to
9 the amount of any deduction allowed under this
10 section (plus interest) with respect to any con-
11 tribution of an undivided interest of a tax-
12 payer's entire interest in property in any case
13 where such property is not in the physical pos-
14 session of the donee during any applicable pe-
15 riod for a period of time which bears substan-
16 tially the same ratio to 1 year as—

17 “(i) the percentage of the undivided
18 interest of the donee in the property (de-
19 termined on the day after such contribu-
20 tion was made), bears to

21 “(ii) 100 percent.

22 “(B) APPLICABLE PERIOD.—For purposes
23 of subparagraph (A), the term ‘applicable pe-
24 riod’ means any 1-year period which begins
25 on—

1 “(i) in the year of the contribution,
2 the date of the contribution, and

3 “(ii) in any subsequent calendar year,
4 the date which corresponds to the date de-
5 scribed in clause (i).

6 “(C) ANTI-ABUSE RULES.—The Secretary
7 shall prescribe such regulations as necessary to
8 prevent the avoidance of the purposes of this
9 paragraph through the transfer of any such un-
10 divided interest to a third party controlled by
11 the taxpayer.”.

12 (b) ESTATE TAX.—Section 2055 (relating to trans-
13 fers for public, charitable, and religious uses) is amended
14 by redesignating subsection (g) as subsection (h) and by
15 inserting after subsection (f) the following new subsection:

16 “(g) VALUATION OF SUBSEQUENT GIFTS.—

17 “(1) IN GENERAL.—In the case of any addi-
18 tional contribution, the fair market value of such
19 contribution shall be determined by using the lesser
20 of—

21 “(A) the fair market value of the property
22 at the time of the initial fractional contribution,
23 or

24 “(B) the fair market value of the property
25 at the time of the additional contribution.

1 “(2) DEFINITIONS.—For purposes of this
2 paragraph—

3 “(A) ADDITIONAL CONTRIBUTION.—The
4 term ‘additional contribution’ means a bequest,
5 legacy, devise, or transfer described in sub-
6 section (a) of any interest in a property with re-
7 spect to which the decedent had previously
8 made an initial fractional contribution.

9 “(B) INITIAL FRACTIONAL CONTRIBU-
10 TION.—The term ‘initial fractional contribution’
11 means, with respect to any decedent, any chari-
12 table contribution of an undivided portion of
13 the decedent’s entire interest in any tangible
14 personal property for which a deduction was al-
15 lowed under section 170.”.

16 (c) GIFT TAX.—Section 2522 (relating to charitable
17 and similar gifts) is amended by redesignating subsection
18 (e) as subsection (f) and by inserting after subsection (d)
19 the following new subsection:

20 “(e) SPECIAL RULES FOR FRACTIONAL GIFTS.—

21 “(1) VALUATION OF SUBSEQUENT GIFTS.—

22 “(A) IN GENERAL.—In the case of any ad-
23 ditional contribution, the fair market value of
24 such contribution shall be determined by using
25 the lesser of—

1 “(i) the fair market value of the prop-
2 erty at the time of the initial fractional
3 contribution, or

4 “(ii) the fair market value of the
5 property at the time of the additional con-
6 tribution.

7 “(B) DEFINITIONS.—For purposes of this
8 paragraph—

9 “(i) ADDITIONAL CONTRIBUTION.—
10 The term ‘additional contribution’ means
11 any gift for which a deduction is allowed
12 under subsection (a) or (b) of any interest
13 in a property with respect to which the
14 donor has previously made an initial frac-
15 tional contribution.

16 “(ii) INITIAL FRACTIONAL CONTRIBU-
17 TION.—The term ‘initial fractional con-
18 tribution’ means, with respect to any
19 donor, the first gift of an undivided portion
20 of the donor’s entire interest in any tan-
21 gible personal property for which a deduc-
22 tion is allowed under subsection (a) or (b).

23 “(2) RECAPTURE OF DEDUCTION IN CERTAIN
24 CASES.—

1 “(A) IN GENERAL.—The Secretary shall
2 provide for the recapture of an amount equal to
3 the amount of any deduction allowed under this
4 section (plus interest) with respect to any con-
5 tribution of an undivided interest of a donor’s
6 entire interest in property in any case where
7 such property is not in the physical possession
8 of the donee during any applicable period for a
9 period of time which bears substantially the
10 same ratio to 1 year as—

11 “(i) the percentage of the undivided
12 interest of the donee in the property (de-
13 termined on the day after such contribu-
14 tion was made), bears to

15 “(ii) 100 percent.

16 “(B) APPLICABLE PERIOD.—For purposes
17 of subparagraph (A), the term ‘applicable pe-
18 riod’ means any 1-year period which begins
19 on—

20 “(i) in the year of the contribution,
21 the date of the contribution, and

22 “(ii) in any subsequent calendar year,
23 the date which corresponds to the date de-
24 scribed in clause (i).

1 “(C) ANTI-ABUSE RULES.—The Secretary
 2 shall prescribe such regulations as necessary to
 3 prevent the avoidance of the purposes of this
 4 paragraph though the transfer of any such un-
 5 divided interest to a third party controlled by
 6 the donor.”.

7 (d) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to contributions, bequests, and
 9 gifts made after the date of the enactment of this Act.

10 **SEC. 320. PROVISIONS RELATING TO SUBSTANTIAL AND**
 11 **GROSS OVERSTATEMENTS OF VALUATIONS**
 12 **OF CHARITABLE DEDUCTION PROPERTY.**

13 (a) SUBSTANTIAL AND GROSS OVERSTATEMENTS OF
 14 VALUATIONS OF CHARITABLE DEDUCTION PROPERTY.—

15 (1) IN GENERAL.—Section 6662 (relating to
 16 imposition of accuracy-related penalties) is amended
 17 by adding at the end the following new subsection:

18 “(i) SPECIAL RULES FOR CHARITABLE DEDUCTION
 19 PROPERTY.—In the case of charitable deduction property
 20 (as defined in section 6664(c)(3)(A))—

21 “(1) the determination under subsection
 22 (e)(1)(A) as to whether there is a substantial valu-
 23 ation misstatement under chapter 1 with respect to
 24 the value of the property shall be made by sub-
 25 stituting ‘150 percent’ for ‘200 percent’, and

1 “(2) the determination under subsection
2 (h)(2)(A)(i) as to whether there is a gross valuation
3 misstatement with respect to the value of the prop-
4 erty shall be made by substituting ‘200 percent’ for
5 ‘400 percent’ and by substituting ‘150 percent’ for
6 ‘200 percent’ in applying subsection (e)(1)(A) for
7 purposes of such determination.”.

8 (2) ELIMINATION OF REASONABLE CAUSE EX-
9 CEPTION FOR GROSS MISSTATEMENTS.—Section
10 6664(e)(2) (relating to reasonable cause exception
11 for underpayments) is amended by striking “para-
12 graph (1) shall not apply unless” and inserting
13 “paragraph (1) shall not apply. The preceding sen-
14 tence shall not apply to a substantial valuation over-
15 statement under chapter 1 if”.

16 (b) PENALTY ON APPRAISERS WHOSE APPRAISALS
17 RESULT IN SUBSTANTIAL OR GROSS VALUATION
18 MISSTATEMENTS.—

19 (1) IN GENERAL.—Part I of subchapter B of
20 chapter 68 (relating to assessable penalties) is
21 amended by inserting after section 6695 the fol-
22 lowing new section:

1 **“SEC. 6695A. SUBSTANTIAL AND GROSS VALUATION**
2 **MISSTATEMENTS ATTRIBUTABLE TO INCOR-**
3 **RECT APPRAISALS.**

4 “(a) IMPOSITION OF PENALTY.—If—

5 “(1) a person prepares an appraisal of the
6 value of property and such person knows, or reason-
7 ably should have known, that the appraisal would be
8 used in connection with a return or a claim for re-
9 fund, and

10 “(2) the claimed value of the property on a re-
11 turn or claim for refund which is based on such ap-
12 praisal results in a substantial valuation
13 misstatement under chapter 1 (within the meaning
14 of section 6662(e)), or a gross valuation
15 misstatement (within the meaning of section
16 6662(h)), with respect to such property,
17 then such person shall pay a penalty in the amount deter-
18 mined under subsection (b).

19 “(b) AMOUNT OF PENALTY.—The amount of the
20 penalty imposed under subsection (a) on any person with
21 respect to an appraisal shall be equal to the lesser of—

22 “(1) the greater of—

23 “(A) 10 percent of the amount of the un-
24 derpayment (as defined in section 6664(a)) at-
25 tributable to the misstatement described in sub-
26 section (a)(2), or

1 “(B) \$1,000, or
 2 “(2) 125 percent of the gross income received
 3 by the person described in subsection (a)(1) from
 4 the preparation of the appraisal.

5 “(c) EXCEPTION.—No penalty shall be imposed
 6 under subsection (a) if the person establishes to the satis-
 7 faction of the Secretary that the value established in the
 8 appraisal was more likely than not the proper value.”.

9 (2) RULES APPLICABLE TO PENALTY.—Section
 10 6696 (relating to rules applicable with respect to
 11 sections 6694 and 6695) is amended—

12 (A) by striking “6694 and 6695” each
 13 place it appears in the text and heading and in-
 14 serting “6694, 6695, and 6695A”, and

15 (B) by striking “6694 or 6695” each place
 16 it appears in the text and inserting “6694,
 17 6695, or 6695A”.

18 (3) CONFORMING AMENDMENT.—The table of
 19 sections for part I of subchapter B of chapter 68 is
 20 amended by striking the item relating to section
 21 6696 and inserting the following new items:

“Sec. 6695A. Substantial and gross valuation misstatements attributable
 to incorrect appraisals.

“Sec. 6696. Rules applicable with respect to sections 6694, 6695, and
 6695A.”.

22 (c) QUALIFIED APPRAISERS AND APPRAISALS.—

1 (1) IN GENERAL.—Subparagraph (E) of section
2 170(f)(11) is amended to read as follows:

3 “(E) QUALIFIED APPRAISAL AND AP-
4 PRAISER.—For purposes of this paragraph—

5 “(i) QUALIFIED APPRAISAL.—The
6 term ‘qualified appraisal’ means, with re-
7 spect to any property, an appraisal of such
8 property which—

9 “(I) is treated for purposes of
10 this paragraph as a qualified ap-
11 praisal under regulations or other
12 guidance prescribed by the Secretary,
13 and

14 “(II) is conducted by a qualified
15 appraiser in accordance with generally
16 accepted appraisal standards and any
17 regulations or other guidance pre-
18 scribed under subclause (I).

19 “(ii) QUALIFIED APPRAISER.—Except
20 as provided in clause (iii), the term ‘quali-
21 fied appraiser’ means an individual who—

22 “(I) has earned an appraisal des-
23 ignation from a recognized profes-
24 sional appraiser organization or has
25 otherwise met minimum education

1 and experience requirements set forth
2 in regulations prescribed by the Sec-
3 retary,

4 “(II) regularly performs apprais-
5 als for which the individual receives
6 compensation, and

7 “(III) meets such other require-
8 ments as may be prescribed by the
9 Secretary in regulations or other guid-
10 ance.

11 “(iii) SPECIFIC APPRAISALS.—An in-
12 dividual shall not be treated as a qualified
13 appraiser with respect to any specific ap-
14 praisal unless—

15 “(I) the individual demonstrates
16 verifiable education and experience in
17 valuing the type of property subject to
18 the appraisal, and

19 “(II) the individual has not been
20 prohibited from practicing before the
21 Internal Revenue Service by the Sec-
22 retary under section 330(c) of title
23 31, United States Code, at any time
24 during the 3-year period ending on
25 the date of the appraisal.”.

1 (2) REASONABLE CAUSE EXCEPTION.—Sub-
2 paragraphs (B) and (C) of section 6664(c)(3) are
3 amended to read as follows:

4 “(B) QUALIFIED APPRAISAL.—The term
5 ‘qualified appraisal’ has the meaning given such
6 term by section 170(f)(11)(E)(i).

7 “(C) QUALIFIED APPRAISER.—The term
8 ‘qualified appraiser’ has the meaning given such
9 term by section 170(f)(11)(E)(ii).”.

10 (d) DISCIPLINARY ACTIONS AGAINST APPRAISERS.—
11 Section 330(c) of title 31, United States Code, is amended
12 by striking “with respect to whom a penalty has been as-
13 sessed under section 6701(a) of the Internal Revenue
14 Code of 1986”.

15 (e) EFFECTIVE DATES.—

16 (1) MISSTATEMENT PENALTIES.—Except as
17 provided in paragraph (3), the amendments made by
18 subsection (a) shall apply to returns filed after the
19 date of the enactment of this Act.

20 (2) APPRAISER PROVISIONS.—Except as pro-
21 vided in paragraph (3), the amendments made by
22 subsections (b), (c), and (d) shall apply to appraisals
23 prepared with respect to returns or submissions filed
24 after the date of the enactment of this Act.

1 (3) SPECIAL RULE FOR CERTAIN EASE-
 2 MENTS.—In the case of a contribution of a qualified
 3 real property interest which is a restriction with re-
 4 spect to the exterior of a building described in sec-
 5 tion 170(h)(4)(C)(ii) of the Internal Revenue Code
 6 of 1986, and an appraisal with respect to the con-
 7 tribution, the amendments made by subsections (a)
 8 and (b) shall apply to returns filed after December
 9 16, 2004.

10 **SEC. 321. ADDITIONAL STANDARDS FOR CREDIT COUN-**
 11 **SELING ORGANIZATIONS.**

12 (a) IN GENERAL.—Section 501 (relating to exemp-
 13 tion from tax on corporations, certain trusts, etc.) is
 14 amended by redesignating subsection (q) as subsection (r)
 15 and by inserting after subsection (p) the following new
 16 subsection:

17 “(q) SPECIAL RULES FOR CREDIT COUNSELING OR-
 18 GANIZATIONS.—

19 “(1) IN GENERAL.—An organization with re-
 20 spect to which the provision of credit counseling
 21 services is a substantial purpose shall not be exempt
 22 from tax under subsection (a) unless such organiza-
 23 tion is described in paragraph (3) or (4) of sub-
 24 section (c) and such organization is organized and

1 operated in accordance with the following require-
2 ments:

3 “(A) The organization—

4 “(i) provides credit counseling services
5 tailored to the specific needs and cir-
6 cumstances of consumers,

7 “(ii) makes no loans to debtors and
8 does not negotiate the making of loans on
9 behalf of debtors, and

10 “(iii) does not promote, or charge any
11 separate fee for, any service for the pur-
12 pose of improving any consumer’s credit
13 record, credit history, or credit rating.

14 “(B) The organization does not refuse to
15 provide credit counseling services to a consumer
16 due to the inability of the consumer to pay, the
17 ineligibility of the consumer for debt manage-
18 ment plan enrollment, or the unwillingness of
19 the consumer to enroll in a debt management
20 plan.

21 “(C) The organization establishes and im-
22 plements a fee policy which—

23 “(i) requires that any fees charged to
24 a consumer for services are reasonable,
25 and

1 “(ii) prohibits charging any fee based
2 in whole or in part on a percentage of the
3 consumer’s debt, the consumer’s payments
4 to be made pursuant to a debt manage-
5 ment plan, or the projected or actual sav-
6 ings to the consumer resulting from enroll-
7 ing in a debt management plan.

8 “(D) At all times the organization has a
9 board of directors or other governing body—

10 “(i) which is controlled by persons
11 who represent the broad interests of the
12 public, such as public officials acting in
13 their capacities as such, persons having
14 special knowledge or expertise in credit or
15 financial education, and community lead-
16 ers,

17 “(ii) not more than 20 percent of the
18 voting power of which is vested in persons
19 who are employed by the organization or
20 who will benefit financially, directly or in-
21 directly, from the organization’s activities
22 (other than through the receipt of reason-
23 able directors’ fees or the repayment of
24 consumer debt to creditors other than the

1 credit counseling organization or its affili-
2 ates), and

3 “(iii) not more than 49 percent of the
4 voting power of which is vested in persons
5 who are employed by the organization or
6 who will benefit financially, directly or in-
7 directly, from the organization’s activities
8 (other than through the receipt of reason-
9 able directors’ fees).

10 “(E) The organization does not own more
11 than 35 percent of—

12 “(i) the total combined voting power
13 of a corporation which is in the business of
14 lending money, repairing credit, or pro-
15 viding debt management plan services,
16 payment processing, or similar services,

17 “(ii) the profits interest of a partner-
18 ship which is in the business of lending
19 money, repairing credit, or providing debt
20 management plan services, payment pro-
21 cessing, or similar services, and

22 “(iii) the beneficial interest of a trust
23 or estate which is in the business of lend-
24 ing money, repairing credit, or providing

1 debt management plan services, payment
2 processing, or similar services.

3 “(F) The organization receives no amount
4 for providing referrals to others for financial
5 services (including debt management services)
6 or credit counseling services to be provided to
7 consumers, and pays no amount to others for
8 obtaining referrals of consumers.

9 “(2) REQUIREMENTS UNDER SUBSECTION
10 (c)(3).—In addition to the requirements under para-
11 graph (1), an organization with respect to which the
12 provision of credit counseling services is a substan-
13 tial purpose and which is described in paragraph (3)
14 of subsection (c) shall not be exempt from tax under
15 subsection (a) unless such organization is organized
16 and operated in accordance with the following re-
17 quirements:

18 “(A) The organization—

19 “(i) charges no fees (other than nomi-
20 nal fees) for debt management plan serv-
21 ices or credit counseling services and
22 waives any fees if the consumer is unable
23 to pay such fees, and

24 “(ii) does not solicit contributions
25 from consumers during the initial coun-

1 selling process or while the consumer is re-
2 ceiving services from the organization.

3 “(B) The activities of the organization re-
4 lated to debt management plan services (in the
5 aggregate) do not exceed 25 percent of the total
6 activities of the organization activities measured
7 by any of the following:

8 “(i) The time spent on activities.

9 “(ii) The resources dedicated to activi-
10 ties.

11 “(iii) The effort expended by the orga-
12 nization with respect to activities.

13 “(iv) The sources of revenue of the or-
14 ganization.

15 “(v) Any other measures prescribed
16 by the Secretary.

17 “(3) REQUIREMENTS UNDER SUBSECTION
18 (c)(4).—In addition to the requirements under para-
19 graph (1), an organization with respect to which the
20 provision of credit counseling services is a substan-
21 tial purpose and which is described in paragraph (4)
22 of subsection (c) shall not be exempt from tax under
23 subsection (a) unless such organization—

24 “(A) is organized and operated such that
25 it charges no fees (other than nominal fees) for

1 credit counseling services and waives any fees if
2 the consumer is unable to pay such fees, and

3 “(B) notifies the Secretary, in such man-
4 ner as the Secretary may by regulations pre-
5 scribe, that it is applying for recognition as a
6 credit counseling organization.

7 “(4) SECRETARIAL AUTHORITY.—The Secretary
8 may require any organization described in paragraph
9 (1) to submit such information as the Secretary re-
10 quires to verify that such organization meets the re-
11 quirements of this section.

12 “(5) CREDIT COUNSELING SERVICES; DEBT
13 MANAGEMENT PLAN SERVICES.—For purposes of
14 this subsection—

15 “(A) CREDIT COUNSELING SERVICES.—
16 The term ‘credit counseling services’ means—

17 “(i) the providing of educational infor-
18 mation to the general public on budgeting,
19 personal finance, financial literacy, saving
20 and spending practices, and the sound use
21 of consumer credit,

22 “(ii) the assisting of individuals and
23 families with financial problems by pro-
24 viding them with counseling, or

1 “(iii) a combination of the activities
2 described in clauses (i) and (ii).

3 “(B) DEBT MANAGEMENT PLAN SERV-
4 ICES.—The term ‘debt management plan serv-
5 ices’ means services related to the repayment,
6 consolidation, or restructuring of a consumer’s
7 debt, and includes the negotiation with creditors
8 of lower interest rates, the waiver or reduction
9 of fees, and the marketing and processing of
10 debt management plans.”.

11 (b) DEBT MANAGEMENT PLAN SERVICES TREATED
12 AS AN UNRELATED BUSINESS.—Section 513 (relating to
13 unrelated trade or business) is amended by adding at the
14 end the following:

15 “(j) DEBT MANAGEMENT PLAN SERVICES.—The
16 term ‘unrelated trade or business’ includes—

17 “(1) the provision of debt management plan
18 services (as defined in section 501(q)(4)(B)) by an
19 organization described in section 501(q) to the ex-
20 tent such services are not substantially related to the
21 provision of credit counseling services (as defined in
22 section 501(q)(4)(A)) to a consumer, and

23 “(2) the provision of debt management plan
24 services (as so defined) by any organization other

1 than an organization which meets the requirements
2 of section 501(q).”.

3 (c) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), the amendments made by this section
6 shall apply to taxable years beginning after the date
7 of the enactment of this Act.

8 (2) TRANSITION RULE FOR EXISTING ORGANI-
9 ZATIONS.—In the case of any organization described
10 in paragraph (3) or (4) section 501(c) of the Inter-
11 nal Revenue Code of 1986 and with respect to which
12 the provision of credit counseling services is a sub-
13 stantial purpose on the date of the enactment of this
14 Act, the amendments made by this section shall
15 apply to taxable years beginning after the date
16 which is 1 year after the date of the enactment of
17 this Act.

18 **SEC. 322. EXPANSION OF THE BASE OF TAX ON PRIVATE**
19 **FOUNDATION NET INVESTMENT INCOME.**

20 (a) GROSS INVESTMENT INCOME.—

21 (1) IN GENERAL.—Paragraph (2) of section
22 4940(e) (relating to gross investment income) is
23 amended by adding at the end the following new
24 sentence: “Such term shall also include income from
25 sources similar to those in the preceding sentence.”.

1 (2) CONFORMING AMENDMENT.—Subsection (e)
2 of section 509 (relating to gross investment income)
3 is amended by adding at the end the following new
4 sentence: “Such term shall also include income from
5 sources similar to those in the preceding sentence.”.

6 (b) CAPITAL GAIN NET INCOME.—Paragraph (4) of
7 section 4940(c) (relating to capital gains and losses) is
8 amended—

9 (1) in subparagraph (A), by striking “used for
10 the production of interest, dividends, rents, and roy-
11 alties” and inserting “used for the production of
12 gross investment income (as defined in paragraph
13 (2))”, and

14 (2) in subparagraph (C), by inserting “or
15 carrybacks” after “carryovers”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years beginning after
18 the date of the enactment of this Act.

19 **SEC. 323. DEFINITION OF CONVENTION OR ASSOCIATION**
20 **OF CHURCHES.**

21 Section 7701 (relating to definitions) is amended by
22 redesignating subsection(o) as subsection (p) and by in-
23 serting after subsection (n) the following new subsection:

24 “(o) CONVENTION OR ASSOCIATION OF CHURCH-
25 ES.—For purposes of this title, any organization which is

1 otherwise a convention or association of churches shall not
 2 fail to so qualify merely because the membership of such
 3 organization includes individuals as well as churches or be-
 4 cause individuals have voting rights in such organiza-
 5 tion.”.

6 **SEC. 324. NOTIFICATION REQUIREMENT FOR ENTITIES NOT**
 7 **CURRENTLY REQUIRED TO FILE.**

8 (a) IN GENERAL.—Section 6033 (relating to returns
 9 by exempt organizations), as amended by section 346 of
 10 this Act, is amended by redesignating subsection (j) as
 11 subsection (k) and by inserting after subsection (i) the fol-
 12 lowing new subsection:

13 “(j) ADDITIONAL NOTIFICATION REQUIREMENTS.—
 14 Any organization the gross receipts of which in any tax-
 15 able year result in such organization being referred to in
 16 subsection (a)(3)(A)(ii) or (a)(3)(B)—

17 “(1) shall furnish annually, at such time and in
 18 such manner as the Secretary may by forms or regu-
 19 lations prescribe, information setting forth—

20 “(A) the legal name of the organization,

21 “(B) any name under which such organiza-
 22 tion operates or does business,

23 “(C) the organization’s mailing address
 24 and Internet web site address (if any),

1 “(D) the organization’s taxpayer identifica-
2 tion number,

3 “(E) the name and address of a principal
4 officer, and

5 “(F) evidence of the continuing basis for
6 the organization’s exemption from the filing re-
7 quirements under subsection (a)(1), and

8 “(2) upon the termination of the existence of
9 the organization, shall furnish notice of such termi-
10 nation.”.

11 (b) LOSS OF EXEMPT STATUS FOR FAILURE TO
12 FILE RETURN OR NOTICE.—Section 6033 (relating to re-
13 turns by exempt organizations), as amended by subsection
14 (a), is amended by redesignating subsection (k) as sub-
15 section (l) and by inserting after subsection (j) the fol-
16 lowing new subsection:

17 “(k) LOSS OF EXEMPT STATUS FOR FAILURE TO
18 FILE RETURN OR NOTICE.—

19 “(1) IN GENERAL.—If an organization de-
20 scribed in subsection (a)(1) or (i) fails to file an an-
21 nual return or notice required under either sub-
22 section for 3 consecutive years, such organization’s
23 status as an organization exempt from tax under
24 section 501(a) shall be considered revoked on and
25 after the date set by the Secretary for the filing of

1 the third annual return or notice. The Secretary
2 shall publish and maintain a list of any organization
3 the status of which is so revoked.

4 “(2) APPLICATION NECESSARY FOR REINSTATE-
5 MENT.—Any organization the tax-exempt status of
6 which is revoked under paragraph (1) must apply in
7 order to obtain reinstatement of such status regard-
8 less of whether such organization was originally re-
9 quired to make such an application.

10 “(3) RETROACTIVE REINSTATEMENT IF REA-
11 SONABLE CAUSE SHOWN FOR FAILURE.—If upon ap-
12 plication for reinstatement of status as an organiza-
13 tion exempt from tax under section 501(a), an orga-
14 nization described in paragraph (1) can show to the
15 satisfaction of the Secretary evidence of reasonable
16 cause for the failure described in such paragraph,
17 the organization’s exempt status may, in the discre-
18 tion of the Secretary, be reinstated effective from
19 the date of the revocation under such paragraph.”.

20 (c) NO DECLARATORY JUDGMENT RELIEF.—Section
21 7428(b) (relating to limitations) is amended by adding at
22 the end the following new paragraph:

23 “(4) NONAPPLICATION FOR CERTAIN REVOCA-
24 TIONS.—No action may be brought under this sec-

1 tion with respect to any revocation of status de-
2 scribed in section 6033(k)(1).”.

3 (d) NO INSPECTION REQUIREMENT.—Section
4 6104(b) (relating to inspection of annual information re-
5 turns) is amended by inserting “(other than subsection (j)
6 thereof)” after “6033”.

7 (e) NO DISCLOSURE REQUIREMENT.—Section
8 6104(d)(3) (relating to exceptions from disclosure require-
9 ments) is amended by redesignating subparagraph (B) as
10 subparagraph (C) and by inserting after subparagraph (A)
11 the following new subparagraph:

12 “(B) NONDISCLOSURE OF ANNUAL NO-
13 TICES.—Paragraph (1) shall not require the
14 disclosure of any notice required under section
15 6033(j).”.

16 (f) NO MONETARY PENALTY FOR FAILURE TO NO-
17 TIFY.—Section 6652(c)(1) (relating to annual returns
18 under section 6033 or 6012(a)(6)) is amended by adding
19 at the end the following new subparagraph:

20 “(E) NO PENALTY FOR CERTAIN ANNUAL
21 NOTICES.—This paragraph shall not apply with
22 respect to any notice required under section
23 6033(j).”.

24 (g) SECRETARIAL OUTREACH REQUIREMENTS.—

1 (1) NOTICE REQUIREMENT.—The Secretary of
2 the Treasury shall notify in a timely manner every
3 organization described in section 6033(j) of the In-
4 ternal Revenue Code of 1986 (as added by this sec-
5 tion) of the requirement under such section 6033(j)
6 and of the penalty established under section
7 6033(k)—

8 (A) by mail, in the case of any organiza-
9 tion the identity and address of which is in-
10 cluded in the list of exempt organizations main-
11 tained by the Secretary, and

12 (B) by Internet or other means of out-
13 reach, in the case of any other organization.

14 (2) LOSS OF STATUS PENALTY FOR FAILURE TO
15 FILE RETURN.—The Secretary of the Treasury shall
16 publicize in a timely manner in appropriate forms
17 and instructions and through other appropriate
18 means, the penalty established under section
19 6033(k) of such Code for the failure to file a return
20 under section 6033(a)(1) of such Code.

21 (h) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to notices and returns with respect
23 to annual periods beginning after 2005

1 **SEC. 325. DISCLOSURE TO STATE OFFICIALS OF PROPOSED**
2 **ACTIONS RELATED TO EXEMPT ORGANIZA-**
3 **TIONS.**

4 (a) IN GENERAL.—Subsection (c) of section 6104 is
5 amended by striking paragraph (2) and inserting the fol-
6 lowing new paragraphs:

7 “(2) DISCLOSURE OF PROPOSED ACTIONS RE-
8 LATED TO CHARITABLE ORGANIZATIONS.—

9 “(A) SPECIFIC NOTIFICATIONS.—In the
10 case of an organization to which paragraph (1)
11 applies, the Secretary may disclose to the ap-
12 propriate State officer—

13 “(i) a notice of proposed refusal to
14 recognize such organization as an organi-
15 zation described in section 501(c)(3) or a
16 notice of proposed revocation of such orga-
17 nization’s recognition as an organization
18 exempt from taxation,

19 “(ii) the issuance of a letter of pro-
20 posed deficiency of tax imposed under sec-
21 tion 507 or chapter 41 or 42, and

22 “(iii) the names, addresses, and tax-
23 payer identification numbers of organiza-
24 tions which have applied for recognition as
25 organizations described in section
26 501(c)(3).

1 “(B) ADDITIONAL DISCLOSURES.—Returns
2 and return information of organizations with
3 respect to which information is disclosed under
4 subparagraph (A) may be made available for in-
5 spection by or disclosed to an appropriate State
6 officer.

7 “(C) PROCEDURES FOR DISCLOSURE.—In-
8 formation may be inspected or disclosed under
9 subparagraph (A) or (B) only—

10 “(i) upon written request by an ap-
11 propriate State officer, and

12 “(ii) for the purpose of, and only to
13 the extent necessary in, the administration
14 of State laws regulating such organiza-
15 tions.

16 Such information may only be inspected by or
17 disclosed to representatives of the appropriate
18 State officer designated as the individuals who
19 are to inspect or to receive the returns or re-
20 turn information under this paragraph on be-
21 half of such officer. Such representatives shall
22 not include any contractor or agent.

23 “(D) DISCLOSURES OTHER THAN BY RE-
24 QUEST.—The Secretary may make available for
25 inspection or disclose returns and return infor-

1 mation of an organization to which paragraph
2 (1) applies to an appropriate State officer of
3 any State if the Secretary determines that such
4 inspection or disclosure may facilitate the reso-
5 lution of Federal or State issues relating to the
6 tax-exempt status of such organization.

7 “(3) DISCLOSURE WITH RESPECT TO CERTAIN
8 OTHER EXEMPT ORGANIZATIONS.—Upon written re-
9 quest by an appropriate State officer, the Secretary
10 may make available for inspection or disclosure re-
11 turns and return information of an organization de-
12 scribed in paragraph (2), (4), (6), (7), (8), (10), or
13 (13) of section 501(c) for the purpose of, and to the
14 extent necessary in, the administration of State laws
15 regulating the solicitation or administration of the
16 charitable funds or charitable assets of such organi-
17 zations. Such information may be inspected only by
18 or disclosed only to representatives of the appro-
19 priate State officer designated as the individuals who
20 are to inspect or to receive the returns or return in-
21 formation under this paragraph on behalf of such of-
22 ficer. Such representatives shall not include any con-
23 tractor or agent.

24 “(4) USE IN CIVIL JUDICIAL AND ADMINISTRA-
25 TIVE PROCEEDINGS.—Returns and return informa-

1 tion disclosed pursuant to this subsection may be
2 disclosed in civil administrative and civil judicial pro-
3 ceedings pertaining to the enforcement of State laws
4 regulating such organizations in a manner pre-
5 scribed by the Secretary similar to that for tax ad-
6 ministration proceedings under section 6103(h)(4).

7 “(5) NO DISCLOSURE IF IMPAIRMENT.—Re-
8 turns and return information shall not be disclosed
9 under this subsection, or in any proceeding described
10 in paragraph (4), to the extent that the Secretary
11 determines that such disclosure would seriously im-
12 pair Federal tax administration.

13 “(6) DEFINITIONS.—For purposes of this
14 subsection—

15 “(A) RETURN AND RETURN INFORMA-
16 TION.—The terms ‘return’ and ‘return informa-
17 tion’ have the respective meanings given to such
18 terms by section 6103(b).

19 “(B) APPROPRIATE STATE OFFICER.—The
20 term ‘appropriate State officer’ means—

21 “(i) the State attorney general,

22 “(ii) the State tax officer,

23 “(iii) in the case of an organization to
24 which paragraph (1) applies, any other
25 State official charged with overseeing orga-

1 nizations of the type described in section
2 501(c)(3), and

3 “(iv) in the case of an organization to
4 which paragraph (3) applies, the head of
5 an agency designated by the State attorney
6 general as having primary responsibility
7 for overseeing the solicitation of funds for
8 charitable purposes.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Subparagraph (A) of section 6103(p)(3) is
11 amended by inserting “an section 6104(c)” after
12 “section” in the first sentence.

13 (2) Paragraph (4) of section 6103(p) is
14 amended—

15 (A) in the matter preceding subparagraph
16 (A), by inserting “, or any appropriate State of-
17 ficer (as defined in section 6104(c)),” before
18 “or any other person”,

19 (B) in subparagraph (F)(i), by inserting
20 “or any appropriate State officer (as defined in
21 section 6104(c)),” before “or any other per-
22 son”, and

23 (C) in the matter following subparagraph
24 (F), by inserting “, an appropriate State officer

1 (as defined in section 6104(c)),” after “includ-
 2 ing an agency” each place it appear.

3 (3) The heading for paragraph (1) of section
 4 6104(c) is amended by inserting “FOR CHARITABLE
 5 ORGANIZATIONS” after “RULE”.

6 (4) Paragraph (2) of section 7213(a) is amend-
 7 ed by inserting “or under section 6104(c)” after
 8 “6103”.

9 (5) Paragraph (2) of section 7213A(a) is
 10 amended by inserting “or 6104(c)” after “6103”.

11 (6) Paragraph (2) of section 7431(a) is amend-
 12 ed by inserting “(including any disclosure in viola-
 13 tion of section 6014(c)” after “6103”.

14 (c) EFFECTIVE DATE.—The amendments made by
 15 this section shall take effect on the date of the enactment
 16 of this Act but shall not apply to requests made before
 17 such date.

18 **PART II—IMPROVED ACCOUNTABILITY OF**
 19 **DONOR ADVISED FUNDS**
 20 **SEC. 331. EXCISE TAX ON SPONSORING ORGANIZATIONS OF**
 21 **DONOR ADVISED FUNDS FOR FAILURE TO**
 22 **MEET DISTRIBUTION REQUIREMENTS.**

23 (a) IN GENERAL.—Chapter 42 (relating to private
 24 foundations and certain other tax-exempt organizations),

1 as amended by section 311, is amended by adding at the
 2 end the following new subchapter:

3 **“Subchapter G—Donor Advised Funds**

“Sec. 4967. Taxes on sponsoring organizations of donor advised funds for fail-
 ure to meet distributions requirements.

“Sec. 4968. Taxes on prohibited distributions.

“Sec. 4969. Taxes on prohibited benefits.

4 **“SEC. 4967. TAXES ON SPONSORING ORGANIZATIONS OF**
 5 **DONOR ADVISED FUNDS FOR FAILURE TO**
 6 **MEET DISTRIBUTION REQUIREMENTS.**

7 “(a) INITIAL TAX.—There is hereby imposed on any
 8 sponsoring organization a tax equal to 30 percent of each
 9 of the following amounts:

10 “(1) The organization level undistributed
 11 amount of such sponsoring organization (other than
 12 any organization subject to tax under section 4942)
 13 for any taxable year which has not been distributed
 14 before the first day of the second (or any suc-
 15 ceeding) taxable year following such taxable year (if
 16 such first day falls within the taxable period).

17 “(2) The fund level undistributed amount of
 18 any donor advised fund of such sponsoring organiza-
 19 tion for any taxable year which has not been distrib-
 20 uted before the 181st day of the first (or any suc-
 21 ceeding) taxable year following the applicable period
 22 (if such 181st day falls within the taxable period).

1 “(3) The illiquid fund undistributed amount of
2 any illiquid asset donor advised fund of such spon-
3 soring organization for any taxable year which has
4 not been distributed before the 181st day of the sec-
5 ond (or any succeeding) taxable year following such
6 taxable year (if such 181st day falls within the tax-
7 able period).

8 “(b) ADDITIONAL TAX.—In any case in which an ini-
9 tial tax is imposed under subsection (a) on any amount,
10 if any portion of such amount remains undistributed at
11 the close of the taxable period, there is hereby imposed
12 a tax equal to 100 percent of the amount remaining undis-
13 tributed at such time.

14 “(c) ORGANIZATION LEVEL UNDISTRIBUTED
15 AMOUNT; FUND LEVEL UNDISTRIBUTED AMOUNT; IL-
16 LIQUID FUND UNDISTRIBUTED AMOUNT.—For purposes
17 of this section—

18 “(1) ORGANIZATION LEVEL UNDISTRIBUTED
19 AMOUNT.—The term ‘organization level undistrib-
20 uted amount’ means, with respect to any sponsoring
21 organization for any taxable year, the amount by
22 which—

23 “(A) the organization level distributable
24 amount for such taxable year, exceeds

1 “(B) the qualifying distributions made
2 during such taxable year and designated for the
3 purpose of reducing such amount.

4 “(2) FUND LEVEL UNDISTRIBUTED AMOUNT.—
5 The term ‘fund level undistributed amount’ means,
6 with respect to any donor advised fund of a spon-
7 soring organization for any applicable period, the
8 amount by which—

9 “(A) the fund level distributable amount
10 for such applicable period, exceeds

11 “(B) the qualifying distributions made
12 during such applicable period and designated
13 for the purpose of reducing such amount.

14 “(3) ILLIQUID FUND UNDISTRIBUTED
15 AMOUNT.—

16 “(A) IN GENERAL.—The term ‘illiquid
17 fund undistributed amount’ means, with respect
18 to any illiquid asset donor advised fund of a
19 sponsoring organization for any taxable year,
20 the amount by which—

21 “(i) the illiquid fund distributable
22 amount for such taxable year, exceeds

23 “(ii) the qualifying distributions made
24 during such taxable year and designated
25 for the purpose of reducing such amount.

1 “(B) ILLIQUID ASSET DONOR ADVISED
2 FUND.—The term ‘illiquid asset donor advised
3 fund’ means for any taxable year a donor ad-
4 vised fund the value of the illiquid assets of
5 which (as of the end of the preceding taxable
6 year) exceeds 10 percent of the value of the
7 total assets of such fund.

8 “(C) ILLIQUID ASSET.—The term ‘illiquid
9 asset’ means for any taxable year any asset
10 other than cash and marketable securities the
11 value of which is held for the entire taxable
12 year as such asset or any other illiquid asset.

13 “(d) ORGANIZATION LEVEL DISTRIBUTABLE
14 AMOUNT; FUND LEVEL DISTRIBUTABLE AMOUNT; IL-
15 LIQUID FUND DISTRIBUTABLE AMOUNT.—For purposes
16 of this section—

17 “(1) ORGANIZATION LEVEL DISTRIBUTABLE
18 AMOUNT.—The term ‘organization level distributable
19 amount’ means, with respect to any sponsoring orga-
20 nization for any taxable year, an amount equal to
21 the applicable percentage of the fair market value of
22 the aggregate assets of all donor advised funds
23 maintained by such organization as determined on
24 the last day of the preceding taxable year (other

1 than such funds which have been in existence for
 2 less than 1 year as so determined).

3 “(2) FUND LEVEL DISTRIBUTABLE AMOUNT.—

4 The term ‘fund level distributable amount’ means,
 5 with respect to any donor advised fund of any spon-
 6 soring organization for any applicable 3-consecutive
 7 taxable year period, an amount equal to the greater
 8 of—

9 “(A) \$250, or

10 “(B) 2.5 percent of the greater of—

11 “(i) the average of the sponsoring or-
 12 ganization’s required minimum initial con-
 13 tribution amount for such period, or

14 “(ii) the average of the sponsoring or-
 15 ganization’s required minimum balance for
 16 such period,

17 for the type of donor with respect to such donor
 18 advised fund.

19 “(3) ILLIQUID FUND DISTRIBUTABLE

20 AMOUNT.—The term ‘illiquid fund distributable
 21 amount’ means, with respect to any illiquid asset
 22 donor advised fund of any sponsoring organization
 23 for any taxable year, an amount equal to the appli-
 24 cable percentage of the value of the assets in such

1 fund as determined at the end of the preceding tax-
2 able year.

3 “(4) APPLICABLE PERCENTAGE.—For purposes
4 of paragraphs (1) and (3), the applicable percentage
5 is—

6 “(A) 3 percent for the first taxable year
7 beginning after the date of the enactment of
8 this section,

9 “(B) 4 percent for the second taxable year
10 beginning after such date, and

11 “(C) 5 percent for any taxable year begin-
12 ning after the second taxable year beginning
13 after such date.

14 “(e) QUALIFYING DISTRIBUTION.—For purposes of
15 this section—

16 “(1) IN GENERAL.—The term ‘qualifying dis-
17 tribution’ means—

18 “(A) any amount paid by the sponsoring
19 organization from a donor advised fund—

20 “(i) to any organization described in
21 section 170(b)(1)(A) (other than any orga-
22 nization described in section 509(a)(3)) or
23 any sponsoring organization if such
24 amount is for maintenance in a donor ad-
25 vised fund), and

1 “(ii) notwithstanding clause (i), to
2 any organization described section
3 170(f)(17)(B)(ii), but only to the extent
4 not prohibited by regulations, and

5 “(B) any amount set aside in such donor
6 advised fund for purposes, and under proce-
7 dures similar to those, described in section
8 4942(g)(2).

9 Such term shall also include any amount paid during
10 any taxable year for reasonable and necessary ad-
11 ministrative expenses charged to a donor advised
12 fund by a sponsoring organization.

13 “(2) DISTRIBUTIONS TO SPONSORING ORGANI-
14 ZATIONS.—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraph (B), such term shall include any
17 distribution to a sponsoring organization.

18 “(B) ORGANIZATION LEVEL DISTRIBUTI-
19 ONS.—For purposes of subsection (c)(1)(B),
20 such term shall not include any distribution to
21 a sponsoring organization unless such distribu-
22 tion is designated for use in connection with a
23 charitable program of such organization.

24 “(3) PURPOSE OF DISTRIBUTION.—Each quali-
25 fying distribution shall be taken into account in de-

1 termining whether each of the requirements of para-
2 graphs (1), (2), and (3) of subsection (a) are met,
3 except that only qualifying distributions from a
4 donor advised fund shall be taken into account in
5 determining whether the requirements of paragraphs
6 (2) and (3) of subsection (a) are met with respect
7 to the fund.

8 “(4) DESIGNATION OF TAXABLE YEAR.—

9 “(A) IN GENERAL.—A sponsoring organi-
10 zation shall designate the taxable years or ap-
11 plicable periods with respect to which any quali-
12 fying distribution shall be applied for purposes
13 of satisfying the distribution requirements of
14 such taxable year or applicable period.

15 “(B) CARRYOVER OF EXCESS DISTRIBUTION DESIGNATIONS.—If a sponsoring organi-
16 zation designates an amount of qualifying dis-
17 tributions in excess of the amount necessary to
18 meet the distribution requirements for all tax-
19 able years and all applicable periods, the spon-
20 soring organization may designate such excess
21 as a carryover distribution which may be ap-
22 plied for purposes of satisfying the distribution
23 requirements of the succeeding 5 taxable years.
24

1 “(f) VALUATION RULES.—For purposes of deter-
2 mining the value of any asset held by a donor advised
3 fund, the following rules shall apply:

4 “(1) Securities for which market quotations are
5 readily available shall be valued at fair market value
6 determined on a monthly basis.

7 “(2) Cash shall be determined on an average
8 monthly basis.

9 “(3) Any illiquid asset transferred by a donor
10 to a sponsoring organization for maintenance in
11 such donor advised fund shall be valued in an
12 amount equal to the sum of—

13 “(A) the value of such asset claimed by the
14 donor for purposes of determining the donor’s
15 deduction under section 170, 2055, or 2522
16 with respect to such transfer and reported by
17 the donor to the sponsoring organization (in
18 any manner specified by the Secretary), and

19 “(B) an assumed annual rate of return of
20 5 percent of such value.

21 “(4) Any illiquid asset purchased by such fund
22 shall be valued in an amount equal to—

23 “(A) the purchase price paid for such asset
24 by such fund, and

1 “(B) an assumed annual rate of return of
2 5 percent of such value.

3 “(g) SPONSORING ORGANIZATION; DONOR ADVISED
4 FUND.—For purposes of this subchapter—

5 “(1) SPONSORING ORGANIZATION.—The term
6 ‘sponsoring organization’ means any organization
7 which—

8 “(A) is described in section 170(c) (other
9 than in paragraph (1) thereof, and without re-
10 gard to paragraph (2)(A) thereof), and

11 “(B) maintains 1 or more donor advised
12 funds.

13 “(2) DONOR ADVISED FUND.—

14 “(A) IN GENERAL.—Except as provided in
15 subparagraph (B), the term ‘donor advised
16 fund’ means a fund or account—

17 “(i) which is separately identified by
18 reference to contributions of a donor or do-
19 nors,

20 “(ii) which is owned and controlled by
21 a sponsoring organization, and

22 “(iii) with respect to which a donor or
23 any person appointed or designated by
24 such person) has, or reasonably expects to
25 have, advisory privileges with respect to

1 the distribution or investment of amounts
2 held in such fund or account by reason of
3 the donor's status as a donor.

4 “(B) EXCEPTION.—The term ‘donor ad-
5 vised fund’ shall not include any fund or ac-
6 count with respect to which a person described
7 in subparagraph (A)(iii) advises as to which in-
8 dividuals receive grants for travel, study, or
9 other similar purposes, but only if—

10 “(i) such person's advisory privileges
11 are performed exclusively by such person
12 in the person's capacity as a member of a
13 committee appointed by the sponsoring or-
14 ganization,

15 “(ii) no combination of persons de-
16 scribed in subparagraph (A)(iii) (or per-
17 sons related to such persons) control, di-
18 rectly or indirectly, such committee, and

19 “(iii) all grants from such fund or ac-
20 count satisfy requirements similar to those
21 described in section 4945(g) (concerning
22 grants to individuals by private founda-
23 tions).

1 “(C) SECRETARIAL AUTHORITY.—The Sec-
2 retary may exempt a fund or account from
3 treatment as a donor advised fund which—

4 “(i) is advised by committee not di-
5 rectly or indirectly controlled by the donor
6 or advisor (and any related parties), or

7 “(ii) will benefit a single identified or-
8 ganization or governmental entity or a sin-
9 gle identified charitable purpose.

10 “(h) OTHER DEFINITIONS.—For purposes of this
11 section—

12 “(1) TAXABLE PERIOD.—The term ‘taxable pe-
13 riod’ means, with respect to the undistributed
14 amount for any taxable year, the period beginning
15 with the first day of the taxable year and ending on
16 the earlier of—

17 “(A) the date of mailing of a notice of defi-
18 ciency with respect to the tax imposed by sub-
19 section (a) under section 6212, or

20 “(B) the date on which the tax imposed by
21 subsection (a) is assessed.

22 “(2) APPLICABLE PERIOD.—The term ‘applica-
23 ble period’ means, with respect to any donor advised
24 fund of any sponsoring organization, a 3-consecutive

1 taxable year period determined under the following
2 rules:

3 “(A) The first applicable 3-consecutive tax-
4 able year period for any donor advised fund
5 shall begin on the first day of the first taxable
6 year of the sponsoring organization beginning
7 after the date such fund has been in existence
8 for 1 year.

9 “(B) Any applicable 3-consecutive taxable
10 year period after the first such period shall
11 begin on the day after the termination of any
12 preceding applicable 3-consecutive taxable year
13 period with respect to such donor advised fund.

14 “(i) REGULATIONS.—The Secretary may issue such
15 regulations as are necessary to carry out the purposes of
16 this section, including regulations regarding—

17 “(1) the acceptable methods for calculating the
18 organization level undistributed amount for spon-
19 soring organizations,

20 “(2) the allowable adjustments in the deter-
21 mination of the value of any illiquid asset where the
22 asset value has declined significantly after a con-
23 tribution to, or purchase by, the donor advised fund,
24 and

1 “(3) the treatment or disregard of transactions
2 designed to avoid the application of the illiquid asset
3 rules, such as through exchanges of illiquid assets
4 for other assets.

5 **“SEC. 4968. TAXES ON PROHIBITED DISTRIBUTIONS.**

6 “(a) IMPOSITION OF TAXES.—

7 “(1) ON THE DONOR OR DONOR ADVISOR.—

8 There is hereby imposed on the advice of any person
9 described in section 4967(g)(2)(A)(iii) to have a
10 sponsoring organization of a donor advised fund
11 make a taxable distribution from such fund a tax
12 equal to 20 percent of the amount thereof. The tax
13 imposed by this paragraph shall be paid by such per-
14 son who advised the sponsoring organization of the
15 donor advised fund to make the distribution.

16 “(2) ON THE FUND MANAGEMENT.—There is
17 hereby imposed on the agreement of any fund man-
18 ager to the making of a distribution, knowing that
19 it is a taxable distribution, a tax equal to 5 percent
20 of the amount thereof, unless such agreement is not
21 willful and is due to reasonable cause. The tax im-
22 posed by this paragraph shall be paid by any fund
23 manager who agreed to the making of the distribu-
24 tion.

1 “(b) JOINT AND SEVERAL LIABILITY.—For purposes
2 of subsection (a), if more than one person is liable under
3 subsection (a)(1) or (a)(2) with respect to the making of
4 a taxable distribution, all such persons shall be jointly and
5 severally liable under such paragraph with respect to such
6 distribution.

7 “(c) TAXABLE DISTRIBUTION.—For purposes of this
8 subsection—

9 “(1) IN GENERAL.—The term ‘taxable distribu-
10 tion’ means any distribution from a donor advised
11 fund to any person other than the sponsoring orga-
12 nization’s non donor advised funds or accounts or
13 organizations described in section 170(b)(1)(A)
14 (other than any organization described in section
15 509(a)(3) or any sponsoring organization if such
16 amount is for maintenance in a donor advised fund).

17 “(2) EXCEPTION.—Notwithstanding paragraph
18 (1), such term shall not include any distribution
19 from a donor advised fund to any organization de-
20 scribed section 170(f)(17)(B)(ii) to the extent such
21 distribution is not prohibited under regulations.

22 “(d) FUND MANAGER.—For purposes of this sub-
23 chapter, the term ‘fund manager’ means, with respect to
24 any sponsoring organization of a donor advised fund—

1 “(1) an officer, director, or trustee of such
2 sponsoring organization (or an individual having
3 powers or responsibilities similar to those of officers,
4 directors, or trustees of the sponsoring organiza-
5 tion), and

6 “(2) with respect to any act (or failure to act),
7 the employees of the sponsoring organization having
8 authority or responsibility with respect to such act
9 (or failure to act).

10 **“SEC. 4969. TAXES ON PROHIBITED BENEFITS.**

11 “(a) IMPOSITION OF TAXES.—

12 “(1) ON THE DONOR, DONOR ADVISOR, OR RE-
13 LATED PERSON.—There is hereby imposed on the
14 advice of any person described in subsection (c) to
15 have a sponsoring organization of a donor advised
16 fund make a distribution from such fund which re-
17 sults in such a person receiving, directly or indi-
18 rectly, a more than incidental benefit as a result of
19 such distribution, a tax equal to 25 percent of the
20 amount of such distribution. The tax imposed by
21 this paragraph shall be paid by such person who ad-
22 vised the sponsoring organization of the donor ad-
23 vised fund to make the distribution.

24 “(2) ON THE RECIPIENT OF THE BENEFIT.—
25 There is hereby imposed on any person described in

1 subsection (c) who receives a benefit described in
2 paragraph (1), a tax equal to 25 percent of the
3 amount of the distribution described in paragraph
4 (1).

5 “(3) ON THE FUND MANAGEMENT.—There is
6 hereby imposed on the agreement of any fund man-
7 ager to the making of a distribution, knowing that
8 such distribution would confer a benefit described in
9 paragraph (1), a tax equal to 10 percent of the
10 amount of such distribution, unless such agreement
11 is not willful and is due to reasonable cause. The tax
12 imposed by this paragraph shall be paid by any fund
13 manager who agreed to the making of the distribu-
14 tion.

15 “(b) JOINT AND SEVERAL LIABILITY.—For purposes
16 of subsection (a), if more than one person is liable under
17 subsection (a)(1), (a)(2), or (a)(3) with respect to the
18 making of a distribution described in subsection (a), all
19 such persons shall be jointly and severally liable under
20 such paragraph with respect to such distribution.

21 “(c) DONOR, DONOR ADVISOR, OR RELATED PER-
22 SON.—A person is described in this subsection if such per-
23 son is described in section 4958(f)(1)(D) (determined
24 without regard to any investment advisor).”.

1 (b) ABATEMENT OF TAXES ALLOWED.—Section
2 4963 is amended—

3 (1) by inserting “4967, 4968, 4969,” after
4 “4958,” each place it appears in subsections (a) and
5 (c),

6 (2) by inserting “4967,” after “4958,” in sub-
7 section (b),

8 (3) in subsection (d)(2), by striking “and” at
9 the end of subparagraph (B), by striking the period
10 at the end of subparagraph (C) and inserting “,
11 and”, and by adding at the end the following new
12 subparagraph:

13 “(D) in the case of the second tier tax im-
14 posed by section 4967(b), reducing the amount
15 of the undistributed amount to zero.”, and

16 (4) in subsection (e)(2), by redesignating sub-
17 paragraphs (C) and (D) as subparagraphs (E) and
18 (F), respectively, and by inserting after subpara-
19 graph (B) the following new subparagraphs:

20 “(C) in the case of section 4967(a)(1), on
21 the first day of the taxable year for which there
22 was a failure to distribute,

23 “(D) in the case of paragraph (2) or (3)
24 of section 4967(a), on the 181st day of the tax-

1 able year for which there was a failure to dis-
2 tribute.”.

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

 “SUBCHAPTER G. DONOR ADVISED FUNDS.”.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 the date of the enactment of this Act.

9 **SEC. 332. PROHIBITED TRANSACTIONS.**

10 (a) DISQUALIFIED PERSONS.—

11 (1) IN GENERAL.—Paragraph (1) of section
12 4958(f) is amended by striking “and” at the end of
13 subparagraph (B), by striking the period at the end
14 of subparagraph (C) and inserting “, and”, and by
15 adding after subparagraph (C) the following new
16 subparagraph:

17 “(D) any person who is described in para-
18 graph (7) with respect to any sponsoring orga-
19 nization (as defined in section 4967(g)(1)).”.

20 (2) DONORS, DONOR ADVISORS, AND INVEST-
21 MENT ADVISORS TREATED AS DISQUALIFIED PER-
22 SONS.—Section 4958(f) is amended by adding at the
23 end the following new paragraph:

1 “(7) DONORS, DONOR ADVISORS, AND INVEST-
2 MENT ADVISORS WITH RESPECT TO SPONSORING OR-
3 GANIZATIONS.—For purposes of paragraph (1)(D)—

4 “(A) IN GENERAL.—A person is described
5 in this paragraph if such person—

6 “(i) is described in section
7 4967(g)(2)(A)(iii),

8 “(ii) is an investment advisor,

9 “(iii) is a member of the family of an
10 individual described in clause (i) or (ii), or

11 “(iv) is a 35-percent controlled entity
12 (as defined in paragraph (3) by sub-
13 stituting ‘persons described in clause (i),
14 (ii), or (iii) of paragraph (7)(A)’ for ‘per-
15 sons described in subparagraph (A) or (B)
16 of paragraph (1)’ in subparagraph (A)(i)
17 thereof).

18 “(B) INVESTMENT ADVISOR.—The term
19 ‘investment advisor’ means, with respect to any
20 sponsoring organization (as defined in section
21 4967(g)(1)), any person (other than an em-
22 ployee of such organization) compensated by
23 such organization for managing the investment
24 of, or providing investment advice with respect
25 to, assets maintained in donor advised funds

1 (as defined in section 4967(g)(2)) owned by
2 such organization.”.

3 (3) DONORS, DONOR ADVISORS, AND INVEST-
4 MENT ADVISORS TREATED AS DISQUALIFIED PER-
5 SONS WITH RESPECT TO A SPONSORING ORGANIZA-
6 TION WHICH IS A PRIVATE FOUNDATION.—Section
7 4946(a)(1) is amended by striking “and” at the end
8 of subparagraph (H), by striking the period at the
9 end of subparagraph (I) and inserting “, and”, and
10 by adding at the end the following new subpara-
11 graph:

12 “(J) a person described in section
13 4958(f)(1)(D).”.

14 (b) CERTAIN TRANSACTIONS TREATED AS EXCESS
15 BENEFIT TRANSACTIONS.—

16 (1) IN GENERAL.—Section 4958(c) is amended
17 by redesignating paragraph (2) as paragraph (3)
18 and by inserting after paragraph (1) the following
19 new paragraph:

20 “(2) SPECIAL RULES FOR DONOR ADVISED
21 FUNDS OWNED BY SPONSORING ORGANIZATIONS.—
22 In the case of any donor advised fund (as defined
23 in section 4967(g)(2)) of a sponsoring organization
24 (as defined in section 4967(g)(1))—

1 “(A) the term ‘excess benefit transaction’
2 includes any grant, loan, compensation, or other
3 payment from such fund to a person described
4 in subsection (f)(1)(D) (determined without re-
5 gard to any investment advisor) with respect to
6 such fund, and

7 “(B) the term ‘excess benefit’ includes,
8 with respect to any transaction described in
9 subparagraph (A), the amount of any such
10 grant, loan, compensation, or other payment.

11 Notwithstanding the last sentence of subsection (e),
12 a sponsoring organization shall be treated as an ap-
13 plicable tax-exempt organization to the extent nec-
14 essary to carry out this paragraph.”.

15 (2) SPECIAL RULE FOR CORRECTION OF TRANS-
16 ACTION.—Section 4958(f)(6) is amended by insert-
17 ing “, except that in the case of any correction of
18 an excess benefit transaction described in subsection
19 (c)(2), no amount repaid in a manner prescribed by
20 the Secretary may be held in, or credited to, any
21 donor advised fund” after “standards”.

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

1 **SEC. 333. TREATMENT OF CHARITABLE CONTRIBUTION DE-**
2 **DUCTIONS TO DONOR ADVISED FUNDS.**

3 (a) INCOME.—Section 170(f) (relating to disallow-
4 ance of deduction in certain cases and special rules), as
5 amended by section 318 of this Act, is amended by adding
6 at the end the following new paragraph:

7 “(17) CONTRIBUTIONS TO DONOR ADVISED
8 FUNDS.—

9 “(A) IN GENERAL.—A deduction otherwise
10 allowed under subsection (a) for any contribu-
11 tion to a sponsoring organization (as defined in
12 section 4967(g)(1)) to be maintained in any
13 donor advised fund (as defined in section
14 4967(g)(2)) of such organization shall only be
15 allowed if—

16 “(i) such sponsoring organization is
17 not described in paragraph (3), (4), or (5)
18 of subsection (c) or section 509(a)(3), and

19 “(ii) the taxpayer obtains a contem-
20 poraneous written acknowledgment (deter-
21 mined under rules similar to the rules of
22 paragraph (8)(C) from the sponsoring or-
23 ganization that such organization has ex-
24 clusive legal control over the assets con-
25 tributed.

1 “(B) CONTRIBUTIONS TO TYPE I OR TYPE
2 II SUPPORTING ORGANIZATIONS.—

3 “(i) IN GENERAL.—Notwithstanding
4 subparagraph (A)(i), a contribution to a
5 sponsoring organization (as so defined) de-
6 scribed in clause (ii) to be maintained in
7 any donor advised fund (as so defined) of
8 such organization shall be allowed to the
9 extent not prohibited by regulations.

10 “(ii) ORGANIZATION DESCRIBED.—An
11 organization is described in this clause if
12 the organization meets the requirements of
13 subparagraphs (A) and (C) of section
14 509(a)(3) and is—

15 “(I) operated, supervised, or con-
16 trolled by one or more organizations
17 described in paragraph (1) or (2) of
18 section 509(a), or

19 “(II) supervised or controlled in
20 connection with one or more such or-
21 ganizations.”.

22 (b) ESTATE.—Section 2055(e) is amended by adding
23 at the end the following new paragraph:

24 “(5) CONTRIBUTIONS TO DONOR ADVISED
25 FUNDS.—

1 “(A) IN GENERAL.—A deduction otherwise
2 allowed under subsection (a) for any contribu-
3 tion to a sponsoring organization (as defined in
4 section 4967(g)(1)) to be maintained in any
5 donor advised fund (as defined in section
6 4967(g)(2)) of such organization shall only be
7 allowed if—

8 “(i) such sponsoring organization is
9 not described in paragraph (3) or(4) of
10 subsection (a) or section 509(a)(3), and

11 “(ii) the taxpayer obtains a contem-
12 poraneous written acknowledgment (deter-
13 mined under rules similar to the rules of
14 section 170(f)(8)(C)) from the sponsoring
15 organization that such organization has ex-
16 clusive legal control over the assets con-
17 tributed.

18 “(B) CONTRIBUTIONS TO TYPE I OR TYPE
19 II SUPPORTING ORGANIZATIONS.—

20 “(i) IN GENERAL.—Notwithstanding
21 subparagraph (A)(i), a contribution to a
22 sponsoring organization (as so defined) de-
23 scribed in clause (ii) to be maintained in
24 any donor advised fund (as so defined) of

1 such organization shall be allowed to the
2 extent not prohibited by regulations.

3 “(ii) ORGANIZATION DESCRIBED.—An
4 organization is described in this clause if
5 the organization meets the requirements of
6 subparagraphs (A) and (C) of section
7 509(a)(3) and is—

8 “(I) operated, supervised, or con-
9 trolled by one or more organizations
10 described in paragraph (1) or (2) of
11 section 509(a), or

12 “(II) supervised or controlled in
13 connection with one or more such or-
14 ganizations.”.

15 (c) GIFT.—Section 2522(c) is amended by adding at
16 the end the following new paragraph:

17 “(13) CONTRIBUTIONS TO DONOR ADVISED
18 FUNDS.—

19 “(A) IN GENERAL.—A deduction otherwise
20 allowed under subsection (a) for any contribu-
21 tion to a sponsoring organization (as defined in
22 section 4967(g)(1)) to be maintained in any
23 donor advised fund (as defined in section
24 4967(g)(2)) of such organization shall only be
25 allowed if—

1 “(i) such sponsoring organization is
2 not described in paragraph (3) or (4) of
3 subsection (a) or section 509(a)(3), and

4 “(ii) the taxpayer obtains a contem-
5 poraneous written acknowledgment (deter-
6 mined under rules similar to the rules of
7 section 170(f)(8)(C)) from the sponsoring
8 organization that such organization has ex-
9 clusive legal control over the assets con-
10 tributed.

11 “(B) CONTRIBUTIONS TO TYPE I OR TYPE
12 II SUPPORTING ORGANIZATIONS.—

13 “(i) IN GENERAL.—Notwithstanding
14 subparagraph (A)(i), a contribution to a
15 sponsoring organization (as so defined) de-
16 scribed in clause (ii) to be maintained in
17 any donor advised fund (as so defined) of
18 such organization shall be allowed to the
19 extent not prohibited by regulations.

20 “(ii) ORGANIZATION DESCRIBED.—An
21 organization is described in this clause if
22 the organization meets the requirements of
23 subparagraphs (A) and (C) of section
24 509(a)(3) and is—

1 “(I) operated, supervised, or con-
2 trolled by one or more organizations
3 described in paragraph (1) or (2) of
4 section 509(a), or

5 “(II) supervised or controlled in
6 connection with one or more such or-
7 ganizations.”.

8 (d) REGULATIONS.—The regulations prescribed
9 under sections 170(f)(17)(B)(i), 2055(e)(5)(B)(i),
10 2522(c)(13)(B)(i), 4967(e)(i)(A)(ii), and 4968(c)(2) of
11 the Internal Revenue Code of 1986 shall deny a deduction
12 for contributions to sponsoring organizations (as defined
13 in section 4967(g)(1) of such Code) which are described
14 in section 170(f)(17)(B)(ii) of such Code and shall apply
15 excise taxes to distributions from donor advised funds (as
16 defined in section 4967(g)(2) of such Code) and spon-
17 soring organizations (as so defined) to organizations so
18 described in cases where the donor of the contributions
19 or the donor or donor advisor of the amounts distributed
20 directly or indirectly controls a supported organization (as
21 defined in section 509(f)(3) of such Code) of such organi-
22 zation.

23 (e) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to contributions made after the

1 date which is 180 days after the date of the enactment
2 of this Act.

3 **SEC. 334. RETURNS OF, AND APPLICATIONS FOR RECOGNI-**
4 **TION BY, SPONSORING ORGANIZATIONS.**

5 (a) MATTERS INCLUDED ON RETURNS.—

6 (1) IN GENERAL.—Section 6033 is amended by
7 redesignating subsection (h) as subsection (i) and by
8 inserting after subsection (g) the following new sub-
9 section:

10 “(h) ADDITIONAL PROVISIONS RELATING TO SPON-
11 SORING ORGANIZATIONS.—Every organization described
12 in section 4967(g)(1) shall, on the return required under
13 subsection (a) for the taxable year—

14 “(1) list the total number of donor advised
15 funds (as defined in section 4967(g)(2)) it owns at
16 the end of such taxable year,

17 “(2) indicate the aggregate value of assets held
18 in such funds at the end of such taxable year, and

19 “(3) indicate the aggregate contributions to and
20 grants made from such funds during such taxable
21 year.”.

22 (2) EXTENSION OF STATUTE OF LIMITA-
23 TIONS.—Section 6501(c) is amended by adding at
24 the end the following new paragraph:

1 “(11) DONOR ADVISED FUNDS.—If a spon-
 2 soring organization (as defined in section
 3 4967(g)(1)) fails to include on any return for any
 4 taxable year any information with respect to any
 5 donor advised fund of such organization which is re-
 6 quired under section 6033(h) to be included with
 7 such return, the time for assessment of any tax im-
 8 posed under subchapter G of chapter 42 with re-
 9 spect to any distribution from such donor advised
 10 fund shall not expire before the date which is 3
 11 years after the date on which the secretary is fur-
 12 nished the information so required.”.

13 (3) EFFECTIVE DATE.—The amendments made
 14 by this subsection shall apply to returns filed for
 15 taxable years ending after the date of the enactment
 16 of this Act.

17 (b) MATTERS INCLUDED ON EXEMPT STATUS APPLI-
 18 CATION.—

19 (1) IN GENERAL.—Section 508 is amended by
 20 adding at the end the following new subsection:

21 “(f) ADDITIONAL PROVISIONS RELATING TO SPON-
 22 SORING ORGANIZATIONS.—sponsoring organization (as
 23 defined in section 4967(g)(1)) shall give notice to the Sec-
 24 retary (in such manner as the Secretary may provide)
 25 whether such organization maintains or intends to main-

tain donor advised funds (as defined in section 4967(g)(2)) and the manner in which such organization plans to operate such funds.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to organizations applying for tax-exempt status after the date of the enactment of this Act.

**PART III—IMPROVED ACCOUNTABILITY OF
SUPPORTING ORGANIZATIONS**

SEC. 341. REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.

(a) TYPES OF SUPPORTING ORGANIZATIONS.—Subparagraph (B) of section 509(a)(3) is amended to read as follows:

“(B) is—

“(i) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2),

“(ii) supervised or controlled in connection with one or more such organizations, or

“(iii) operated in connection with one or more such organizations, and”.

(b) REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.—Section 509 (relating to private foundation de-

1 fined) is amended by adding at the end the following new
2 subsection:

3 “(f) REQUIREMENTS FOR SUPPORTING ORGANIZA-
4 TIONS.—

5 “(1) TYPE III SUPPORTING ORGANIZATIONS.—

6 For purposes of subsection (a)(3)(B)(iii), an organi-
7 zation shall not be considered to be operated in con-
8 nection with any organization described in para-
9 graph (1) or (2) of subsection (a) unless such orga-
10 nization meets the following requirements:

11 “(A) APPLICATION REQUIREMENT.—The
12 organization provides to the Secretary, as a
13 part of any notification filed under section
14 508(a) after the date of the enactment of this
15 subsection, a letter from each supported organi-
16 zation acknowledging that the supported orga-
17 nization has been designated by such organiza-
18 tion as a supported organization.

19 “(B) RESPONSIVENESS.—For each taxable
20 year beginning after the date of the enactment
21 of this subsection, the organization provides to
22 each supported organization such information
23 as the Secretary may require to ensure that
24 such organization is responsive to the needs or
25 demands of the supported organization.

1 “(C) SUPPORTED ORGANIZATIONS.—

2 “(i) IN GENERAL.—The
3 organization—

4 “(I) is not operated in connection
5 with more than 5 supported organiza-
6 tions, and

7 “(II) is not operated in connec-
8 tion with any supported organization
9 that is not organized in the United
10 States on any date after the date
11 which is 180 days after the date of
12 the enactment of this subsection.

13 “(ii) SPECIAL RULE FOR EXISTING
14 ORGANIZATIONS.—If the organization is
15 operated in connection with more than 5
16 supported organizations on the date of the
17 enactment of this subsection—

18 “(I) clause (i)(I) shall not apply,
19 and

20 “(II) the organization may not be
21 operated in connection with any other
22 organization after such date unless
23 the total number of supported organi-
24 zations is 5 or less.

1 “(D) CONTRIBUTIONS TO DONOR ADVISED
2 FUNDS.—The organization makes no contribu-
3 tions to or for the use of any donor advised
4 fund (as defined in section 4967(g)(2)).

5 “(2) ORGANIZATIONS CONTROLLED BY DO-
6 NORS.—

7 “(A) IN GENERAL.—For purposes of sub-
8 section (a)(3)(B), an organization shall not be
9 considered to be—

10 “(i) operated, supervised, or controlled
11 by any organization described in paragraph
12 (1) or (2) of subsection (a), or

13 “(ii) operated in connection with any
14 organization described in paragraph (1) or
15 (2) of subsection (a),

16 if such organization accepts any gift or con-
17 tribution from any person described in subpara-
18 graph (B).

19 “(B) PERSON DESCRIBED.—A person is
20 described in this subparagraph if such person
21 is—

22 “(i) a person (other than an organiza-
23 tion described in paragraph (1), (2), or (4)
24 of section 509(a)) who controls, directly or
25 indirectly, either alone or together with

1 persons described in clauses (ii) and (iii),
2 the governing body of a supported organi-
3 zation,

4 “(ii) a member of the family (deter-
5 mined under section 4958(f)(4)) of an in-
6 dividual described in clause (i), or

7 “(iii) a 35-percent controlled entity
8 (as defined in section 4958(f)(3) by sub-
9 stituting ‘persons described in clause (i) or
10 (ii) of section 509(f)(2)(B)’ for ‘persons
11 described in subparagraph (A) or (B) of
12 paragraph (1)’ in subparagraph (A)(i)
13 thereof).

14 “(3) SUPPORTED ORGANIZATION.—For pur-
15 poses of this subsection, the term ‘supported organi-
16 zation’ means, with respect to an organization de-
17 scribed in subsection (a)(3), an organization de-
18 scribed in paragraph (1) or (2) of subsection (a)—

19 “(A) for whose benefit the organization de-
20 scribed in subsection (a)(3) is organized and
21 operated, or

22 “(B) with respect to which the organiza-
23 tion performs the functions of, or carries out
24 the purposes of.”.

1 (c) CHARITABLE TRUSTS WHICH ARE TYPE III SUP-
2 PORTING ORGANIZATIONS.—For purposes of section
3 509(a)(3)(B)(iii) of the Internal Revenue Code of 1986,
4 an organization which is a trust shall not be considered
5 to be operated in connection with any organization de-
6 scribed in paragraph (1) or (2) of section 509(a) of such
7 Code solely because—

8 (1) it is a charitable trust under State law,

9 (2) the supported organization (as defined in
10 section 509(f)(3) of such Code) is a beneficiary of
11 such trust, and

12 (3) the supported organization (as so defined)
13 has the power to enforce the trust and compel an ac-
14 counting.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect on the date of the enactment
17 of this Act.

18 **SEC. 342. EXCISE TAX ON SUPPORTING ORGANIZATIONS**
19 **FOR FAILURE TO MEET DISTRIBUTION RE-**
20 **QUIREMENTS.**

21 (a) IN GENERAL.—Subchapter D of chapter 42 (re-
22 lating to failure by certain charitable organizations to
23 meet certain qualification requirements) is amended by
24 adding at the end the following new section:

1 **“SEC. 4959. TAXES ON CERTAIN SUPPORTING ORGANIZA-**
2 **TIONS FAILING TO MEET DISTRIBUTION RE-**
3 **QUIREMENTS.**

4 “(a) INITIAL TAX.—There is hereby imposed on the
5 undistributed income of any type III supporting organiza-
6 tion for any taxable year, which has not been distributed
7 before the first day of the second (or any succeeding) tax-
8 able year following such taxable year (if such first day falls
9 within the taxable period), a tax equal to 30 percent of
10 the amount of such income remaining undistributed at the
11 beginning of such second (or succeeding) taxable year.

12 “(b) ADDITIONAL TAX.—In any case in which an ini-
13 tial tax is imposed under subsection (a) on the undistrib-
14 uted income of a type III supporting organization for any
15 taxable year, if any portion of such income remains undis-
16 tributed at the close of the taxable period, there is hereby
17 imposed a tax equal to 100 percent of the amount remain-
18 ing undistributed at such time.

19 “(c) UNDISTRIBUTED INCOME.—For purposes of this
20 section, the term ‘undistributed income’ means, with re-
21 spect to any type III supporting organization for any tax-
22 able year as of any time, the amount by which—

23 “(1) the distributable amount for such taxable
24 year, exceeds

25 “(2) the qualifying distributions made before
26 such time out of such distributable amount.

1 “(d) DISTRIBUTABLE AMOUNT.—For purposes of
2 this section—

3 “(1) IN GENERAL.—the term ‘distributable
4 amount’ means, with respect to any type III sup-
5 porting organization for any taxable year, an
6 amount equal to the sum of—

7 “(A) the greater of—

8 “(i) 85 percent of the adjusted net in-
9 come (as defined in section 4942(f)) of the
10 type III supporting organization for the
11 preceding taxable year, or

12 “(ii) the applicable percentage of the
13 fair market value of the aggregate assets
14 of such organization (other than assets
15 used or held to perform the functions of,
16 or carry out the purposes of, a supported
17 organization) on the last day of the pre-
18 ceding taxable year, and

19 “(B) any amount received during the pre-
20 ceding taxable year which is a repayment of
21 amounts paid by the organization in any prior
22 taxable year to a supported organization exclu-
23 sively for the benefit of such supported organi-
24 zation or to perform the functions of, or carry

1 out the purposes of such supported organiza-
2 tion.

3 “(2) INVESTMENT ASSETS.—For purposes of
4 paragraph (1)(A)(ii), assets held for investment or
5 for the operation of an unrelated trade or business
6 shall not be considered as assets used or held to per-
7 form the functions of, or carry out the purposes of,
8 a supported organization.

9 “(3) APPLICABLE PERCENTAGE.—For purposes
10 of paragraph (1)(A)(ii), the applicable percentage
11 is—

12 “(A) 3 percent for the first taxable year
13 beginning after the date of the enactment of
14 this section,

15 “(B) 4 percent for the second taxable year
16 beginning after such date, and

17 “(C) 5 percent for any taxable year begin-
18 ning after the second taxable year beginning
19 after such date.

20 “(e) QUALIFYING DISTRIBUTION.—For purposes of
21 this section—

22 “(1) IN GENERAL.—The term ‘qualifying dis-
23 tribution’ means amounts paid by the type III sup-
24 porting organization to or for the use of a supported
25 organization.

1 “(2) ADMINISTRATIVE AND OPERATING EX-
2 PENSES.—Reasonable and necessary administrative
3 expenses of a type III supporting organization shall
4 be treated as a qualifying distribution to a supported
5 organization.

6 “(f) TREATMENT OF QUALIFYING DISTRIBUTIONS.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graph (2), any qualifying distribution made during
9 a taxable year shall be treated as made—

10 “(A) first out of the undistributed income
11 of the immediately preceding taxable year (if
12 the type III supporting organization was sub-
13 ject to the tax imposed by this section for such
14 preceding taxable year) to the extent thereof,
15 and

16 “(B) second out of the undistributed in-
17 come for the taxable year to the extent thereof.

18 For purposes of this paragraph, distributions shall
19 be taken into account in the order of time in which
20 made.

21 “(2) CORRECTION OF DEFICIENT DISTRIBU-
22 TIONS FOR PRIOR TAXABLE YEARS, ETC.—In the
23 case of any qualifying distribution which (under
24 paragraph (1)) is not treated as made out of the un-
25 distributed income of the immediately preceding tax-

1 able year, the type III supporting organization may
2 elect to treat any portion of such distribution as
3 made out of the undistributed income of a des-
4 ignated prior taxable year. The election shall be
5 made by the type III supporting organization at
6 such time and in such manner as the Secretary shall
7 by regulations prescribe.

8 “(g) ADJUSTMENT OF DISTRIBUTABLE AMOUNT
9 WHERE DISTRIBUTIONS DURING PRIOR YEARS HAVE
10 EXCEEDED INCOME.—

11 “(1) IN GENERAL.—If, for the taxable years in
12 the adjustment period for which an organization is
13 a type III supporting organization—

14 “(A) the aggregate qualifying distributions
15 treated (under subsection (f)) as made out of
16 the undistributed income for such taxable years,
17 exceed

18 “(B) the distributable amounts for such
19 taxable years (determined without regard to
20 this subsection),

21 then, for purposes of this section (other than sub-
22 section (f)), the distributable amount for the taxable
23 year shall be reduced by an amount equal to such
24 excess.

1 “(2) TAXABLE YEARS IN ADJUSTMENT PE-
2 RIOD.—For purposes of paragraph (1), with respect
3 to any taxable year of a type III supporting organi-
4 zation, the taxable years in the adjustment period
5 are the taxable years (not exceeding 5) beginning
6 after the date of the enactment of this section and
7 immediately preceding the taxable year.

8 “(h) OTHER DEFINITIONS.—For purposes of this
9 section—

10 “(1) TAXABLE PERIOD.—The term ‘taxable pe-
11 riod’ means, with respect to the undistributed in-
12 come for any taxable year, the period beginning with
13 the first day of the taxable year and ending on the
14 earlier of—

15 “(A) the date of mailing of a notice of defi-
16 ciency with respect to the tax imposed by sub-
17 section (a) under section 6212, or

18 “(B) the date on which the tax imposed by
19 subsection (a) is assessed.

20 “(2) TYPE III SUPPORTING ORGANIZATION.—
21 The term ‘type III supporting organization’ means
22 an organization which meets the requirements of
23 subparagraphs (A) and (C) of section 509(a)(3) and
24 which is operated in connection with one or more or-

1 organizations described in paragraph (1) or (2) of sec-
2 tion 509(a).

3 “(3) SUPPORTED ORGANIZATION.—The term
4 ‘supported organization’ has the meaning given such
5 term under section 509(f)(3).”.

6 (b) CONFORMING AMENDMENT.—The table of sec-
7 tion for subchapter D of chapter 42 is amended by insert-
8 ing after the item relating to section 4958 the following
9 new item:

“Sec. 4959. Taxes on certain supporting organizations failing to meet dis-
tribution requirements.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 the date of the enactment of this Act.

13 **SEC. 343. EXCESS BENEFIT TRANSACTIONS.**

14 (a) IN GENERAL.—Section 4958(c), as amended by
15 section 332 of this Act, is amended by redesignating para-
16 graph (3) as paragraph (4) and by inserting after para-
17 graph (2) the following new paragraph:

18 “(3) SPECIAL RULES FOR SUPPORTING ORGANI-
19 ZATIONS.—

20 “(A) IN GENERAL.—In the case of any or-
21 ganization described in section 509(a)(3)—

22 “(i) the term ‘excess benefit trans-
23 action’ includes—

1 “(I) any grant, loan, compensa-
2 tion, or other payment provided by
3 such organization to a person de-
4 scribed in subparagraph (B), and

5 “(II) any loan provided by such
6 organization to a disqualified person
7 (other than an organization described
8 in paragraph (1), (2), or (4) of section
9 509(a)), and

10 “(ii) the term ‘excess benefit’ includes,
11 with respect to any transaction described
12 in clause (i), the amount of any such
13 grant, loan, compensation, or other pay-
14 ment.

15 “(B) PERSON DESCRIBED.—A person is
16 described in this subparagraph if such person
17 is—

18 “(i) a substantial contributor to such
19 organization,

20 “(ii) a member of the family (deter-
21 mined under section 4958(f)(4)) of an in-
22 dividual described in clause (i), or

23 “(iii) a 35-percent controlled entity
24 (as defined in section 4958(f)(3) by sub-
25 stituting ‘persons described in clause (i) or

1 (ii) of section 4958(c)(3)(B)’ for ‘persons
2 described in subparagraph (A) or (B) of
3 paragraph (1)’ in subparagraph (A)(i)
4 thereof).

5 “(C) SUBSTANTIAL CONTRIBUTOR.—For
6 purposes of this paragraph—

7 “(i) IN GENERAL.—The term ‘sub-
8 stantial contributor’ means any person who
9 contributed or bequeathed an aggregate
10 amount of more than \$5,000 to the organi-
11 zation, if such amount is more than 2 per-
12 cent of the total contributions and be-
13 quests received by the organization before
14 the close of the taxable year of the organi-
15 zation in which the contribution or bequest
16 is received by the organization from such
17 person. In the case of a trust, such term
18 also means the creator of the trust.

19 “(ii) EXCEPTION.—Such term shall
20 not include any organization described in
21 paragraph (1), (2), or (4) of section
22 509(a).”.

23 (b) DISQUALIFIED PERSONS.—Paragraph (1) of sec-
24 tion 4958(f), as amended by section 332 of this Act, is
25 amended by striking “and” at the end of subparagraph

1 (D), by striking the period at the end of subparagraph
 2 (E) and inserting “, and”, and by adding after subpara-
 3 graph (D) the following new subparagraph:

4 “(E) any person who is described in sub-
 5 paragraph (A), (B), or (C) with respect to an
 6 organization described in section 509(a)(3)
 7 which is organized and operated exclusively for
 8 the benefit of, to perform the functions of, or
 9 to carry out the purposes of the applicable tax-
 10 exempt organization.”.

11 (c) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to transactions occurring after the
 13 date of the enactment of this Act.

14 **SEC. 344. EXCESS BUSINESS HOLDINGS OF SUPPORTING**
 15 **ORGANIZATIONS.**

16 (a) IN GENERAL.—Section 4943 is amended by add-
 17 ing at the end the following new subsection:

18 “(e) APPLICATION OF TAX TO SUPPORTING ORGANI-
 19 ZATIONS.—

20 “(1) IN GENERAL.—For purposes of this sec-
 21 tion, a qualified supporting organization shall be
 22 treated as a private foundation.

23 “(2) EXCEPTION.—The Secretary may exempt
 24 any qualified supporting organization from the appli-
 25 cation of this subsection if the Secretary determines

1 that the excess business holdings of such organiza-
2 tion are consistent with the purpose or function con-
3 stituting the basis for its exemption under section
4 501.

5 “(3) QUALIFIED SUPPORTING ORGANIZATION.—

6 For purposes of this subsection, the term ‘qualified
7 supporting organization’ means any—

8 “(A) type III supporting organization (as
9 defined in section 4959(h)(2)), or

10 “(B) organization which meets the require-
11 ments of subparagraphs (A) and (C) of section
12 509(a)(3) and which is supervised or controlled
13 in connection with or one or more organizations
14 described in paragraph (1) or (2) of section
15 509(a), but only if such organization accepts
16 any gift or contribution from any person de-
17 scribed in section 509(f)(2)(B).

18 “(4) DISQUALIFIED PERSON.—

19 “(A) IN GENERAL.—In applying this sec-
20 tion to any organization described in section
21 509(a)(3), the term ‘disqualified person’ means,
22 with respect to the organization—

23 “(i) any person who was, at any time
24 during the 5-year period ending on date
25 described in subsection (a)(2)(A), in a po-

1 sition to exercise substantial influence over
2 the affairs of the organization,

3 “(ii) any member of the family (deter-
4 mined under section 4958(f)(4)) of an in-
5 dividual described in clause (i),

6 “(iii) any 35-percent controlled entity
7 (as defined in section 4958(f)(3) by sub-
8 stituting ‘persons described in clause (i) or
9 (ii) of section 4943(e)(2)(A)’ for ‘persons
10 described in subparagraph (A) or (B) of
11 paragraph (1)’ in subparagraph (A)(i)
12 thereof),

13 “(iv) any person described in section
14 4958(c)(3)(B)), and

15 “(v) any organization—

16 “(I) which is effectively con-
17 trolled (directly or indirectly) by the
18 same person or persons who control
19 the organization in question, or

20 “(II) substantially all of the con-
21 tributions to which were made (di-
22 rectly or indirectly) by the same per-
23 son or persons described in subpara-
24 graph (B) or a member of their family
25 (within the meaning of section

1 4946(d)) who made (directly or indi-
2 rectly) substantially all of the con-
3 tributions to the organization in ques-
4 tion.

5 “(B) PERSONS DESCRIBED.—A person is
6 described in this subparagraph if such person
7 is—

8 “(i) a substantial contributor to the
9 organization (as defined in section
10 4958(c)(3)(C)),

11 “(ii) an officer, director, or trustee of
12 the organization (or an individual having
13 powers or responsibilities similar to those
14 officers, directors, or trustees of the orga-
15 nization), or

16 “(iii) an owner of more than 20 per-
17 cent of—

18 “(I) the total combined voting
19 power of a corporation,

20 “(II) the profits interest of a
21 partnership, or

22 “(III) the beneficial interest of a
23 trust or unincorporated enterprise,

24 which is a substantial contributor (as so
25 defined) to the organization.

1 “(5) SPECIAL RULE FOR CERTAIN HOLDINGS
2 OF TYPE III SUPPORTING ORGANIZATIONS.—For
3 purposes of this subsection, the term ‘excess busi-
4 ness holdings’ shall not include any holdings of a
5 type III supporting organization (as defined in sec-
6 tion 4959(h)(2)) in any business enterprise if the
7 holdings are held for the benefit of the community
8 pursuant to the direction of a State attorney general
9 or a State official with jurisdiction over the type III
10 supporting organization.

11 “(6) PRESENT HOLDINGS.—For purposes of
12 this subsection, rules similar to the rules of para-
13 graphs (4), (5), and (6) of subsection (c) shall apply
14 to organizations described in section 509(a)(3), ex-
15 cept that—

16 “(A) ‘the date of the enactment of this
17 subsection’ shall be substituted for ‘May 26,
18 1969’ each place it appears in paragraphs (4),
19 (5), and (6), and

20 “(B) ‘January 1, 2007’ shall be sub-
21 stituted for ‘January 1, 1970’ in paragraph
22 (4)(E).”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply to taxable years beginning after
25 the date of the enactment of this Act.

1 **SEC. 345. TREATMENT OF AMOUNTS PAID TO SUPPORTING**
2 **ORGANIZATIONS BY PRIVATE FOUNDATIONS.**

3 (a) **QUALIFYING DISTRIBUTIONS.**—Paragraph (4) of
4 section 4942(g) is amended to read as follows:

5 “(4) **LIMITATION ON DISTRIBUTIONS BY NON-**
6 **OPERATING PRIVATE FOUNDATIONS TO SUPPORTING**
7 **ORGANIZATIONS.**—For purposes of this section, the
8 term ‘qualifying distribution’ shall not include any
9 amount paid by a private foundation which is not an
10 operating foundation to an organization described in
11 section 509(a)(3).”.

12 (b) **TAXABLE EXPENDITURES.**—

13 (1) **IN GENERAL.**—Subsection (d) of section
14 4945 is amended by redesignating paragraphs (4)
15 and (5) as paragraphs (5) and (6), respectively, and
16 by inserting after paragraph (3) the following new
17 paragraph:

18 “(4) to an organization described in section
19 509(a)(3).”.

20 (2) **CONFORMING AMENDMENTS.**—

21 (A) Section 4945(d)(5), as redesignated by
22 subparagraph (A), is amended—

23 (i) by striking “a grant to an organi-
24 zation” and inserting “a grant to any
25 other organization”, and

1 (ii) by striking “paragraph (1), (2), or
2 (3) of section 509(a)” in subparagraph (A)
3 and inserting “paragraph (1) or (2) of sec-
4 tion 509(a)”.

5 (B) Section 4945(f) is amended by striking
6 “Subsection (d)(4)” in the last sentence thereof
7 and inserting “Subsection (d)(5)”.

8 (C) Section 4945(h) is amended by strik-
9 ing “subsection (d)(4)” and inserting “sub-
10 section (d)(5)”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to distributions and expenditures
13 after the date of the enactment of this Act.

14 **SEC. 346. RETURNS OF SUPPORTING ORGANIZATIONS.**

15 (a) REQUIREMENT TO FILE RETURN.—Subpara-
16 graph (B) of section 6033(a)(3), as redesignated by sec-
17 tion 311, is amended by inserting “(other than an organi-
18 zation described in section 509(a)(3))” after “paragraph
19 (1)”.

20 (b) MATTERS INCLUDED ON RETURNS.—Section
21 6033, as amended by section 334 of this Act, is amended
22 by redesignating subsection (i) as subsection (j) and by
23 inserting after subsection (h) the following new subsection:

24 “(i) ADDITIONAL PROVISIONS RELATING TO SUP-
25 PORTING ORGANIZATIONS.—

1 “(1) IN GENERAL.—Every organization de-
2 scribed in section 509(a)(3) shall, on the return re-
3 quired under subsection (a)—

4 “(A) list the organizations described in
5 section 509(a)(3)(A) with respect to which such
6 organization provides support,

7 “(B) indicate whether the organization
8 meets the requirements of clause (i), (ii), or (iii)
9 of section 509(a)(3)(B), and

10 “(C) certify that the organization meets
11 the requirements of section 509(a)(3)(C).

12 “(2) TYPE III SUPPORTING ORGANIZATIONS.—
13 Every type III supporting organization (as defined
14 in section 4959(h)(2)) shall indicate on the return
15 required under subsection (a) for the taxable year
16 whether the organization has received a letter from
17 each supported organization (as defined in section
18 509(f)(3)) during the taxable year which—

19 “(A) acknowledges that the supporting or-
20 ganization has designated such organization as
21 a supported organization,

22 “(B) details the type of support provided
23 by the supporting organization, and

1 “(C) explains how such support furthers
2 the charitable purpose of the supported organi-
3 zation.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to returns filed for taxable years
6 ending after the date of the enactment of this Act.

7 **TITLE IV—MISCELLANEOUS**
8 **PROVISIONS**

9 **SEC. 401. RESTRUCTURING OF NEW YORK LIBERTY ZONE**
10 **TAX CREDITS.**

11 (a) IN GENERAL.—Subchapter Y of chapter 1 is
12 amended by adding at the end the following new section:

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

14 “(a) IN GENERAL.—There shall be allowed as a cred-
15 it against any taxes imposed by this title (other than by
16 section 3111(a), section 3403, or subtitle D) paid or in-
17 curred by any governmental unit of the State of New York
18 and the City of New York, New York (including any agen-
19 cy or instrumentality thereof) for any calendar year an
20 amount equal to the lesser of—

21 “(1) the total expenditures during such year by
22 such governmental unit for qualifying projects, or

23 “(2) the amount allocated to such governmental
24 unit for such calendar year under subsection (b)(2).

1 “(b) QUALIFYING PROJECT.—For purposes of this
2 section—

3 “(1) IN GENERAL.—The term ‘qualifying
4 project’ means any transportation infrastructure
5 project, including highways, mass transit systems,
6 railroads, airports, ports, and waterways, in or con-
7 necting with the New York Liberty Zone (as defined
8 in section 1400L(h)), which is designated as a quali-
9 fying project under this section jointly by the Gov-
10 ernor of the State of New York and the Mayor of
11 the City of New York, New York.

12 “(2) DOLLAR LIMITATION.—

13 “(A) IN GENERAL.—The Governor of the
14 State of New York and the Mayor of the City
15 of New York, New York, shall jointly allocate to
16 a governmental unit the amount of expenditures
17 which may be taken into account under sub-
18 section (a) for any calendar year in the credit
19 period with respect to a qualifying project.

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

24 “(C) ANNUAL LIMIT.—The aggregate
25 amount which may be allocated under subpara-

1 graph (A) for any calendar year in the credit
2 period shall not exceed the sum of—

3 “(i) \$200,000,000, plus

4 “(ii) the aggregate amount authorized
5 to be allocated under this paragraph for all
6 preceding calendar years in the credit pe-
7 riod which was not so allocated.

8 “(D) UNALLOCATED AMOUNTS AT END OF
9 CREDIT PERIOD.—If, as of the close of the cred-
10 it period, the amount under subparagraph (B)
11 exceeds the aggregate amount allocated under
12 subparagraph (A) for all calendar years in the
13 credit period, the Governor of the State of New
14 York and the Mayor of the City of New York,
15 New York, may jointly allocate for any calendar
16 year following the credit period for expenditures
17 with respect to qualifying projects which may
18 be taken into account under subsection (a) an
19 amount equal to such excess, reduced by the
20 aggregate amount allocated under this subpara-
21 graph for all preceding calendar years.

22 “(c) CARRYOVER OF UNUSED ALLOCATIONS.—

23 “(1) IN GENERAL.—If the amount allocated
24 under subsection (b)(2) to a governmental unit for
25 any calendar year exceeds the total expenditures for

1 such year by such governmental unit for qualifying
2 projects, the allocation of such governmental unit for
3 the succeeding calendar year shall be increased by
4 the amount of such excess.

5 “(2) REALLOCATION.—If a governmental unit
6 does not use an amount allocated to it under sub-
7 section (b)(2) within the time prescribed by the Gov-
8 ernor of the State of New York and the Mayor of
9 the City of New York, New York, then such amount
10 shall after such time be treated for purposes of sub-
11 section (b)(2) in the same manner as if it had never
12 been allocated.

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

15 “(1) CREDIT PERIOD.—The term ‘credit period’
16 means the 10-year period beginning on January 1,
17 2006.

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

23 “(e) REGULATIONS.—The Secretary may prescribe
24 such regulations as are necessary to ensure compliance
25 with the purposes of this section.”

1 (b) TERMINATION OF CERTAIN NEW YORK LIBERTY
2 ZONE BENEFITS.—

3 (1) SPECIAL ALLOWANCE AND EXPENSING.—

4 Section 1400L(b)(2)(A)(v) is amended by striking
5 “the termination date” and inserting “the date of
6 the enactment of the Tax Relief Act of 2005 or the
7 termination date if pursuant to a binding contract in
8 effect on such enactment date”.

9 (2) LEASEHOLD.—Section 1400L(c)(2)(B) is
10 amended by striking “before January 1, 2007” and
11 inserting “on or before the date of the enactment of
12 the Tax Relief Act of 2005 or before January 1,
13 2007, if pursuant to a binding contract in effect on
14 such enactment date”.

15 **SEC. 402. MODIFICATION TO S CORPORATION PASSIVE IN-**
16 **VESTMENT INCOME RULES.**

17 (a) INCREASED PERCENTAGE LIMIT.—Paragraph (2)
18 of section 1375(a) is amended by striking “25 percent”
19 and inserting “60 percent”.

20 (b) REPEAL OF EXCESSIVE PASSIVE INCOME AS A
21 TERMINATION EVENT.—

22 (1) IN GENERAL.—Section 1362(d) is amended
23 by striking paragraph (3).

24 (2) CONFORMING AMENDMENT.—Subsection (b)
25 of section 1375 is amended by striking paragraphs

1 (3) and (4) and inserting the following new para-
2 graph:

3 “(3) PASSIVE INVESTMENT INCOME DE-
4 FINED.—

5 “(A) Except as otherwise provided in this
6 paragraph, the term ‘passive investment in-
7 come’ means gross receipts derived from royal-
8 ties, rents, dividends, interest, and annuities.

9 “(B) EXCEPTION FOR INTEREST ON
10 NOTES FROM SALES OF INVENTORY.—The term
11 ‘passive investment income’ shall not include in-
12 terest on any obligation acquired in the ordi-
13 nary course of the corporation’s trade or busi-
14 ness from its sale of property described in sec-
15 tion 1221(a)(1).

16 “(C) TREATMENT OF CERTAIN LENDING
17 OR FINANCE COMPANIES.—If the S corporation
18 meets the requirements of section 542(c)(6) for
19 the taxable year, the term ‘passive investment
20 income’ shall not include gross receipts for the
21 taxable year which are derived directly from the
22 active and regular conduct of a lending or fi-
23 nance business (as defined in section
24 542(d)(1)).

1 “(D) TREATMENT OF CERTAIN DIVI-
2 DENDS.—If an S corporation holds stock in a
3 C corporation meeting the requirements of sec-
4 tion 1504(a)(2), the term ‘passive investment
5 income’ shall not include dividends from such C
6 corporation to the extent such dividends are at-
7 tributable to the earnings and profits of such C
8 corporation derived from the active conduct of
9 a trade or business.

10 “(E) EXCEPTION FOR BANKS, ETC.—In
11 the case of a bank (as defined in section 581),
12 a bank holding company (within the meaning of
13 section 2(a) of the Bank Holding Company Act
14 of 1956 (12 U.S.C. 1841(a))), or a financial
15 holding company (within the meaning of section
16 2(p) of such Act), the term ‘passive investment
17 income’ shall not include—

18 “(i) interest income earned by such
19 bank or company, or

20 “(ii) dividends on assets required to
21 be held by such bank or company, includ-
22 ing stock in the Federal Reserve Bank, the
23 Federal Home Loan Bank, or the Federal
24 Agricultural Mortgage Bank or participa-

1 tion certificates issued by a Federal Inter-
2 mediate Credit Bank.

3 “(F) COORDINATION WITH SECTION
4 1374.—The amount of passive investment in-
5 come shall be determined by not taking into ac-
6 count any recognized built-in gain or loss of the
7 S corporation for any taxable year in the rec-
8 ognition period. Terms used in the preceding
9 sentence shall have the same respective mean-
10 ings as when used in section 1374.”.

11 (c) CONFORMING AMENDMENTS.—

12 (1) Subparagraph (J) of section 26(b)(2) is
13 amended by striking “25 percent” and inserting “60
14 percent”.

15 (2) Clause (i) of section 1042(e)(4)(A) is
16 amended by striking “section 1362(d)(3)(C)” and
17 inserting “section 1375(b)(3)”.

18 (3) Subparagraph (B) of section 1362(f)(1) is
19 amended by striking “or (3)”.

20 (4) Clause (i) of section 1375(b)(1)(A) is
21 amended by striking “25 percent” and inserting “60
22 percent”.

23 (5) Subsection (d) of section 1375 is amended
24 by striking “subchapter C” both places it appears
25 and inserting “accumulated”.

1 (6) The heading for section 1375 is amended by
2 striking “**25 PERCENT**” and inserting “**60 PER-**
3 **CENT**”.

4 (7) The item relating to section 1375 in the
5 table of sections for part III of subchapter S of
6 chapter 1 is amended by striking “25 percent” and
7 inserting “60 percent”.

8 (d) **EFFECTIVE DATE.**—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2005.

11 **SEC. 403. MODIFICATION OF EFFECTIVE DATE OF DIS-**
12 **REGARD OF CERTAIN CAPITAL EXPENDI-**
13 **TURES FOR PURPOSES OF QUALIFIED SMALL**
14 **ISSUE BONDS.**

15 (a) **IN GENERAL.**—Section 144(a)(4)(G) is amended
16 by striking “September 30, 2009” and inserting “Decem-
17 ber 31, 2006”.

18 (b) **CONFORMING AMENDMENT.**—Section
19 144(a)(4)(F) is amended by striking “September 30,
20 2009” and inserting “December 31, 2006”.

21 **SEC. 404. PREMIUMS FOR MORTGAGE INSURANCE.**

22 (a) **IN GENERAL.**—Section 163(h)(3) (relating to
23 qualified residence interest) is amended by adding at the
24 end the following new subparagraph:

1 “(E) MORTGAGE INSURANCE PREMIUMS
2 TREATED AS INTEREST.—

3 “(i) IN GENERAL.—Premiums paid or
4 accrued for qualified mortgage insurance
5 by a taxpayer during the taxable year in
6 connection with acquisition indebtedness
7 with respect to a qualified residence of the
8 taxpayer shall be treated for purposes of
9 this section as interest which is qualified
10 residence interest.

11 “(ii) PHASEOUT.—The amount other-
12 wise treated as interest under clause (i)
13 shall be reduced (but not below zero) by 10
14 percent of such amount for each \$1,000
15 (\$500 in the case of a married individual
16 filing a separate return) (or fraction there-
17 of) that the taxpayer’s adjusted gross in-
18 come for the taxable year exceeds
19 \$100,000 (\$50,000 in the case of a mar-
20 ried individual filing a separate return).”.

21 (b) DEFINITION AND SPECIAL RULES.—Section
22 163(h)(4) (relating to other definitions and special rules)
23 is amended by adding at the end the following new sub-
24 paragraphs:

1 “(E) QUALIFIED MORTGAGE INSUR-
2 ANCE.—The term ‘qualified mortgage insur-
3 ance’ means—

4 “(i) mortgage insurance provided by
5 the Veterans Administration, the Federal
6 Housing Administration, or the Rural
7 Housing Administration, and

8 “(ii) private mortgage insurance (as
9 defined by section 2 of the Homeowners
10 Protection Act of 1998 (12 U.S.C. 4901),
11 as in effect on the date of the enactment
12 of this subparagraph).

13 “(F) SPECIAL RULES FOR PREPAID QUALI-
14 FIED MORTGAGE INSURANCE.—Any amount
15 paid by the taxpayer for qualified mortgage in-
16 surance that is properly allocable to any mort-
17 gage the payment of which extends to periods
18 that are after the close of the taxable year in
19 which such amount is paid shall be chargeable
20 to capital account and shall be treated as paid
21 in such periods to which so allocated. No deduc-
22 tion shall be allowed for the unamortized bal-
23 ance of such account if such mortgage is satis-
24 fied before the end of its term. The preceding
25 sentences shall not apply to amounts paid for

1 qualified mortgage insurance provided by the
2 Veterans Administration or the Rural Housing
3 Administration.”.

4 (c) INFORMATION RETURNS RELATING TO MORT-
5 GAGE INSURANCE.—Section 6050H (relating to returns
6 relating to mortgage interest received in trade or business
7 from individuals) is amended by adding at the end the fol-
8 lowing new subsection:

9 “(h) RETURNS RELATING TO MORTGAGE INSURANCE
10 PREMIUMS.—

11 “(1) IN GENERAL.—The Secretary may pre-
12 scribe, by regulations, that any person who, in the
13 course of a trade or business, receives from any indi-
14 vidual premiums for mortgage insurance aggregating
15 \$600 or more for any calendar year, shall make a
16 return with respect to each such individual. Such re-
17 turn shall be in such form, shall be made at such
18 time, and shall contain such information as the Sec-
19 retary may prescribe.

20 “(2) STATEMENT TO BE FURNISHED TO INDI-
21 VIDUALS WITH RESPECT TO WHOM INFORMATION IS
22 REQUIRED.—Every person required to make a re-
23 turn under paragraph (1) shall furnish to each indi-
24 vidual with respect to whom a return is made a writ-
25 ten statement showing such information as the Sec-

1 retary may prescribe. Such written statement shall
2 be furnished on or before January 31 of the year
3 following the calendar year for which the return
4 under paragraph (1) was required to be made.

5 “(3) SPECIAL RULES.—For purposes of this
6 subsection—

7 “(A) rules similar to the rules of sub-
8 section (c) shall apply, and

9 “(B) the term ‘mortgage insurance’
10 means—

11 “(i) mortgage insurance provided by
12 the Veterans Administration, the Federal
13 Housing Administration, or the Rural
14 Housing Administration, and

15 “(ii) private mortgage insurance (as
16 defined by section 2 of the Homeowners
17 Protection Act of 1998 (12 U.S.C. 4901),
18 as in effect on the date of the enactment
19 of this subsection).”.

20 (d) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to amounts paid or accrued during
22 the period beginning after December 31, 2006, and before
23 January 1, 2008, and properly allocable to such period,
24 with respect to mortgage insurance contracts issued after
25 December 31, 2006.

1 **SEC. 405. SENSE OF THE SENATE ON USE OF NO-BID CON-**
2 **TRACTING BY FEDERAL EMERGENCY MAN-**
3 **AGEMENT AGENCY.**

4 (a) FINDINGS.—The Senate finds that—

5 (1) on September 8, 2005, the Federal Emer-
6 gency Management Agency announced that it had
7 awarded 4 contracts for emergency housing relief
8 following Hurricane Katrina to The Shaw Group of
9 Baton Rouge, Louisiana, Fluor Corporation of Aliso
10 Viejo, California, Bechtel National of San Francisco,
11 California, and CH2M Hill of Denver, Colorado;

12 (2) these contracts were awarded with no com-
13 petition from other capable firms, and up to
14 \$100,000,000 in taxpayer funds were authorized for
15 each of these contracts;

16 (3) in the midst of concerns about abusive and
17 irresponsible spending of taxpayer funds, the Fed-
18 eral Emergency Management Agency pledged to re-
19 bid these noncompetitive contracts, with Acting
20 Under Secretary of Emergency Preparedness and
21 Response, R. David Paulison, stating before the
22 Committee on Homeland Security and Government
23 Affairs of the Senate that “[a]ll of these no-bid con-
24 tracts, we are going to go back and re-bid”;

25 (4) the Federal Emergency Management Agen-
26 cy has yet to reopen these 4 contracts to competitive

1 bidding, and declared on November 11, 2005, that
2 these contracts would not be reopened for bidding
3 until February 2006;

4 (5) by February 2006, the majority of the con-
5 tracts will have been completed and the majority of
6 taxpayer funds will have been spent;

7 (6) large and politically-connected firms con-
8 tinue to benefit from no-bid and limited-competition
9 contracts, and contracts are not being awarded to
10 capable, local companies;

11 (7) according to an analysis in the Washington
12 Post, companies outside the States most affected by
13 Hurricane Katrina have received more than 90 per-
14 cent of the Federal contracts for recovery and recon-
15 struction;

16 (8) the monitoring of Federal contracting prac-
17 tices remains difficult, with a report by the San Jose
18 Mercury News stating “The database of contracts is
19 incomplete. Information released by Federal agencies
20 is spotty and sporadic. And disclosure of many no-
21 bid contracts isn’t required by law”; and

22 (9)(A) there is currently no Chief Financial Of-
23 ficer charged with monitoring the flow of all funds
24 to the affected areas; and

1 (B) the task of financial management is spread
2 across disparate Federal departments and agencies
3 with inadequate oversight of taxpayer funds.

4 (b) SENSE OF THE SENATE.—It is the sense of the
5 Senate that the Federal Emergency Management Agency
6 should—

7 (1) immediately rebid noncompetitive contracts
8 entered into following Hurricane Katrina, consistent
9 with the commitment of the Agency made on Octo-
10 ber 6, 2005, before millions of taxpayer dollars are
11 wasted on irresponsible and inefficient spending;

12 (2)(A) immediately implement the planned com-
13 petitive contracting strategy of the Agency for recov-
14 ery work in all current and future reconstruction ef-
15 forts; and

16 (B) in carrying out that strategy, should
17 prioritize local and small disadvantaged businesses
18 in the contracting and subcontracting process; and

19 (3) immediately after the awarding of a con-
20 tract, publicly disclose the amount and competitive
21 or noncompetitive nature of the contract.

22 **SEC. 406. DISABILITY PREFERENCE PROGRAM FOR TAX**
23 **COLLECTION CONTRACTS.**

24 (a) IN GENERAL.—The Secretary of the Treasury
25 shall not enter into any qualified tax collection contract

1 after April 1, 2006, until the Secretary implements a dis-
2 ability preference program that meets the requirements of
3 subsection (b).

4 (b) DISABILITY PREFERENCE PROGRAM REQUIRE-
5 MENTS.—

6 (1) IN GENERAL.—A disability preference pro-
7 gram meets the requirements of this subsection if
8 such program requires that not less than 10 percent
9 of the accounts of each dollar value category are
10 awarded to persons described in paragraph (2).

11 (2) PERSON DESCRIBED.—For purposes of
12 paragraph (1), a person is described in this para-
13 graph if—

14 (A) as of the date any qualified tax collec-
15 tion contract is awarded—

16 (i) such person employs not less than
17 50 severely disabled individuals within the
18 United States; or

19 (ii) not less than 30 percent of the
20 employees of such person within the
21 United States are severely disabled individ-
22 uals;

23 (B) such person agrees as a condition of
24 the qualified tax collection contract that not
25 more than 90 days after the date such contract

1 is awarded, not less than 35 percent of the em-
2 ployees of such person employed in connection
3 with providing services under such contract
4 shall—

5 (i) be hired after the date such con-
6 tract is awarded; and

7 (ii) be severely disabled individuals;
8 and

9 (C) such person is otherwise qualified to
10 perform the services required.

11 (c) DEFINITIONS.—For purposes of this section—

12 (1) QUALIFIED TAX COLLECTION CONTRACT.—

13 The term “qualified tax collection contract” shall
14 have the meaning given such term under section
15 6306(b) of the Internal Revenue Code of 1986.

16 (2) DOLLAR VALUE CATEGORY.—The term
17 “dollar value category” means the dollar ranges of
18 accounts for collection as determined and assigned
19 by the Secretary under section 6306(b)(1)(B) of the
20 Internal Revenue Code of 1986 with respect to a
21 qualified tax collection contract.

22 (3) SEVERELY DISABLED INDIVIDUAL.—The
23 term “severely disabled individual” means—

1 (A) a veteran of the United States armed
2 forces with a disability of 50 percent or
3 greater—

4 (i) determined by the Secretary of
5 Veterans Affairs to be service-connected; or

6 (ii) deemed by law to be service-con-
7 nected; or

8 (B) any individual who is a disabled bene-
9 ficiary (as defined in section 1148(k)(2) of the
10 Social Security Act (42 U.S.C. 1320b-
11 19(k)(2))) or who would be considered to be
12 such a disabled beneficiary but for having in-
13 come or resources in excess of the income or re-
14 sources eligibility limits established under title
15 XVI of the Social Security Act (42 U.S.C. 1381
16 et seq.), respectively.

17 **SEC. 407. SENSE OF CONGRESS REGARDING DOHA ROUND.**

18 (a) FINDINGS.—The Congress makes the following
19 findings:

20 (1) Members of the World Trade Organization
21 (WTO) are currently engaged in a round of trade
22 negotiations known as the Doha Development Agen-
23 da (Doha Round).

24 (2) The Doha Round includes negotiations
25 aimed at clarifying and improving disciplines under

1 the Agreement on Implementation of Article VI of
2 the General Agreement on Tariffs and Trade 1994
3 (Antidumping Agreement) and the Agreement on
4 Subsidies and Countervailing Measures (Subsidies
5 Agreement).

6 (3) The WTO Ministerial Declaration adopted
7 on November 14, 2001 (WTO Paper No. WT/
8 MIN(01)/DEC/1) specifically provides that the Doha
9 Round negotiations are to preserve the “basic con-
10 cepts, principles and effectiveness” of the Anti-
11 dumping Agreement and the Subsidies Agreement.

12 (4) In section 2102(b)(14)(A) of the Bipartisan
13 Trade Promotion Authority Act of 2002, the Con-
14 gress mandated that the principal negotiating objec-
15 tive of the United States with respect to trade rem-
16 edy laws was to “preserve the ability of the United
17 States to enforce rigorously its trade laws . . . and
18 avoid agreements that lessen the effectiveness of do-
19 mestic and international disciplines on unfair trade,
20 especially dumping and subsidies”.

21 (5) The countries that have been the most per-
22 sistent and egregious violators of international fair
23 trade rules are engaged in an aggressive effort to
24 significantly weaken the disciplines provided in the
25 Antidumping Agreement and the Subsidies Agree-

1 ment and undermine the ability of the United States
2 to effectively enforce its trade remedy laws.

3 (6) Chronic violators of fair trade disciplines
4 have put forward proposals that would substantially
5 weaken United States trade remedy laws and prac-
6 tices, including mandating that unfair trade orders
7 terminate after a set number of years even if unfair
8 trade and injury are likely to recur, mandating that
9 trade remedy duties reflect less than the full margin
10 of dumping or subsidization, mandating higher de-
11 minimis levels of unfair trade, making cumulation of
12 the effects of imports from multiple countries more
13 difficult in unfair trade investigations, outlawing the
14 critical practice of “zeroing” in antidumping inves-
15 tigations, mandating the weighing of causes, and
16 mandating other provisions that make it more dif-
17 ficult to prove injury.

18 (7) United States trade remedy laws have al-
19 ready been significantly weakened by numerous un-
20 just and activist WTO dispute settlement decisions
21 which have created new obligations to which the
22 United States never agreed.

23 (8) Trade remedy laws remain a critical re-
24 source for American manufacturers, agricultural
25 producers, and aquacultural producers in responding

1 to closed foreign markets, subsidized imports, and
2 other forms of unfair trade, particularly in the con-
3 text of the challenges currently faced by these vital
4 sectors of the United States economy.

5 (9) The United States had a current account
6 trade deficit of approximately \$668,000,000,000 in
7 2004, including a trade deficit of almost
8 \$162,000,000,000 with China alone, as well as a
9 trade deficit of \$40,000,000,000 in advanced tech-
10 nology.

11 (10) United States manufacturers have lost
12 over 3,000,000 jobs since June 2000, and United
13 States manufacturing employment is currently at its
14 lowest level since 1950.

15 (11) Many industries critical to United States
16 national security are at severe risk from unfair for-
17 eign competition.

18 (12) The Congress strongly believes that the
19 proposals put forward by countries seeking to under-
20 mine trade remedy disciplines in the Doha Round
21 would result in serious harm to the United States
22 economy, including significant job losses and trade
23 disadvantages.

24 (b) SENSE OF CONGRESS.—It is the sense of Con-
25 gress that—

1 (1) the United States should not be a signatory
2 to any agreement or protocol with respect to the
3 Doha Development Round of the World Trade Orga-
4 nization negotiations, or any other bilateral or multi-
5 lateral trade negotiations, that—

6 (A) adopts any proposal to lessen the effec-
7 tiveness of domestic and international dis-
8 ciplines on unfair trade or safeguard provisions,
9 including proposals—

10 (i) mandating that unfair trade orders
11 terminate after a set number of years even
12 if unfair trade and injury are likely to
13 recur;

14 (ii) mandating that trade remedy du-
15 ties reflect less than the full margin of
16 dumping or subsidization;

17 (iii) mandating higher de minimis lev-
18 els of unfair trade;

19 (iv) making cumulation of the effects
20 of imports from multiple countries more
21 difficult in unfair trade investigations;

22 (v) outlawing the critical practice of
23 “zeroing” in antidumping investigations; or

1 (vi) mandating the weighing of causes
2 or other provisions making it more difficult
3 to prove injury in unfair trade cases; and

4 (B) would lessen in any manner the ability
5 of the United States to enforce rigorously its
6 trade laws, including the antidumping, counter-
7 vailing duty, and safeguard laws;

8 (2) the United States trade laws and inter-
9 national rules appropriately serve the public interest
10 by offsetting injurious unfair trade, and that further
11 “balancing modifications” or other similar provisions
12 are unnecessary and would add to the complexity
13 and difficulty of achieving relief against injurious
14 unfair trade practices; and

15 (3) the United States should ensure that any
16 new agreement relating to international disciplines
17 on unfair trade or safeguard provisions fully rectifies
18 and corrects decisions by WTO dispute settlement
19 panels or the Appellate Body that have unjustifiably
20 and negatively impacted, or threaten to negatively
21 impact, United States law or practice, including a
22 law or practice with respect to foreign dumping or
23 subsidization.

1 **SEC. 408. MODIFICATION OF BOND RULE.**

2 In the case of bonds issued after the date of the en-
3 actment of this Act and before August 31, 2009—

4 (1) the requirement of paragraph (1) of section
5 648 of the Deficit Reduction Act of 1984 (98 Stat.
6 941) shall be treated as met with respect to the se-
7 curities or obligations referred to in such section if
8 such securities or obligations are held in a fund the
9 annual distributions from which cannot exceed 7
10 percent of the average fair market value of the as-
11 sets held in such fund except to the extent distribu-
12 tions are necessary to pay debt service on the bond
13 issue,

14 (2) paragraph (3) of such section shall be ap-
15 plied by substituting “distributions from” for “the
16 investment earnings of” both places it appears, and

17 (3) Paragraph (4) of such section shall be ap-
18 plied by substituting “March 1, 1985” for “October
19 9, 1969”.

20 **SEC. 409. TREATMENT OF CERTAIN STOCK OPTION PLANS**
21 **UNDER NONQUALIFIED DEFERRED COM-**
22 **PENSATION RULES.**

23 (a) **IN GENERAL.**—The Secretary of the Treasury
24 shall modify the regulations under section 409A of the In-
25 ternal Revenue Code of 1986 to extend to applicable for-
26 eign option plans the exception under such section for in-

1 centive stock options under section 422 of such Code and
2 options granted under an employee stock purchase plan
3 meeting the requirements of section 423 of such Code.
4 Such extension shall be subject to such terms and condi-
5 tions as may be prescribed in such regulations.

6 (b) APPLICABLE FOREIGN OPTION PLANS.—For
7 purposes of subsection (a)—

8 (1) IN GENERAL.—The term “applicable foreign
9 option plan” means a plan providing for the
10 issuance of employee stock options—

11 (A) which is established under the laws of
12 a foreign jurisdiction, and

13 (B) which, under such laws or the terms of
14 the plan (or both), is subject to requirements
15 substantially similar to the requirements under
16 section 422 or 423 of such Code.

17 (2) SUBSTANTIALLY SIMILAR.—A plan shall not
18 be treated as subject to substantially similar require-
19 ments under paragraph (1)(B) unless—

20 (A) the plan is required to cover substan-
21 tially all employees,

22 (B) in the case of an option under an em-
23 ployee stock purchase plan, the plan is required
24 to provide an option price which is not less than
25 the amount specified in section 423(b)(6) of

1 such Code, except that such section shall be ap-
2 plied by substituting “80 percent” for “85 per-
3 cent” each place it appears,

4 (C) the plan is required to provide cov-
5 erage of individuals who, but for the exception
6 of the application of section 409A of such Code
7 by reason of this section, would be subject to
8 tax under such section with respect to the plan,
9 and

10 (D) the plan meets such other require-
11 ments as the Secretary of the Treasury pre-
12 scribes in the regulations under subsection (a).

13 **SEC. 410. SENSE OF THE SENATE REGARDING THE DEDICA-**
14 **TION OF EXCESS FUNDS.**

15 It is the sense of the Senate that any increases in
16 revenues to the Treasury as a result of this Act and the
17 amendments made by this Act that exceed the amounts
18 specified in the reconciliation instructions shall be dedi-
19 cated to the Low-Income Home Energy Assistance Pro-
20 gram, in an amount not to exceed the amount which is
21 \$2,900,000,000 more than the funding levels established
22 for such Program for fiscal year 2005.

1 **TITLE V—REVENUE OFFSET**
2 **PROVISIONS**
3 **Subtitle A—Provisions Designed To**
4 **Curtail Tax Shelters**

5 **SEC. 501. UNDERSTATEMENT OF TAXPAYER’S LIABILITY BY**
6 **INCOME TAX RETURN PREPARER.**

7 (a) STANDARDS CONFORMED TO TAXPAYER STAND-
8 ARDS.—Section 6694(a) (relating to understatements due
9 to unrealistic positions) is amended—

10 (1) by striking “realistic possibility of being
11 sustained on its merits” in paragraph (1) and in-
12 serting “reasonable belief that the tax treatment in
13 such position was more likely than not the proper
14 treatment”,

15 (2) by striking “or was frivolous” in paragraph
16 (3) and inserting “or there was no reasonable basis
17 for the tax treatment of such position”, and

18 (3) by striking “**UNREALISTIC**” in the heading
19 and inserting “**IMPROPER**”.

20 (b) AMOUNT OF PENALTY.—Section 6694 is
21 amended—

22 (1) by striking “\$250” in subsection (a) and in-
23 serting “\$1,000”, and

24 (2) by striking “\$1,000” in subsection (b) and
25 inserting “\$5,000”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to documents prepared after the
3 date of the enactment of this Act.

4 **SEC. 502. MODIFICATION OF EFFECTIVE DATE OF EXCEP-**
5 **TION FROM SUSPENSION RULES FOR CER-**
6 **TAIN LISTED AND REPORTABLE TRANS-**
7 **ACTIONS.**

8 (a) EFFECTIVE DATE MODIFICATION.—

9 (1) IN GENERAL.—Paragraph (2) of section
10 903(d) of the American Jobs Creation Act of 2004
11 is amended to read as follows:

12 “(2) EXCEPTION FOR REPORTABLE OR LISTED
13 TRANSACTIONS.—

14 “(A) IN GENERAL.—The amendments
15 made by subsection (c) shall apply with respect
16 to interest accruing after October 3, 2004.

17 “(B) SPECIAL RULE FOR CERTAIN LISTED
18 AND REPORTABLE TRANSACTIONS.—

19 “(i) IN GENERAL.—Except as pro-
20 vided in clause (ii), the amendments made
21 by subsection (c) shall also apply with re-
22 spect to interest accruing on or before Oc-
23 tober 3, 2004.

24 “(ii) PARTICIPANTS IN SETTLEMENT
25 INITIATIVES.—Clause (i) shall not apply to

1 any transaction if, as of January 23,
2 2006—

3 “(I) the taxpayer is participating
4 in a settlement initiative described in
5 Internal Revenue Service Announce-
6 ment 2005–80 with respect to such
7 transaction, or

8 “(II) the taxpayer has entered
9 into a settlement agreement pursuant
10 to such an initiative.

11 “(iii) TERMINATION OF EXCEPTION.—
12 Clause (ii)(I) shall not apply to any tax-
13 payer if, after January 23, 2006, the tax-
14 payer withdraws from, or terminates, par-
15 ticipation in the initiative or the Secretary
16 of the Treasury or the Secretary’s delegate
17 determines that a settlement agreement
18 will not be reached pursuant to the initia-
19 tive within a reasonable period of time.”.

20 (2) EFFECTIVE DATE.—The amendment made
21 by this subsection shall take effect as if included in
22 the provisions of the American Jobs Creation Act of
23 2004 to which it relates.

24 (b) TREATMENT OF AMENDED RETURNS AND
25 OTHER SIMILAR NOTICES OF ADDITIONAL TAX OWED.—

1 (1) IN GENERAL.—Section 6404(g)(1) (relating
2 to suspension) is amended by adding at the end the
3 following new sentence: “If, after the return for a
4 taxable year is filed, the taxpayer provides to the
5 Secretary one or more signed written documents
6 showing that the taxpayer owes an additional
7 amount of tax for the taxable year, clause (i) shall
8 be applied by substituting the date the last of the
9 documents was provided for the date on which the
10 return is filed.”.

11 (2) EFFECTIVE DATE.—The amendment made
12 by this subsection shall apply to documents provided
13 on or after the date of the enactment of this Act.

14 **SEC. 503. FRIVOLOUS TAX SUBMISSIONS.**

15 (a) CIVIL PENALTIES.—Section 6702 is amended to
16 read as follows:

17 **“SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.**

18 “(a) CIVIL PENALTY FOR FRIVOLOUS TAX RE-
19 TURNS.—A person shall pay a penalty of \$5,000 if—

20 “(1) such person files what purports to be a re-
21 turn of a tax imposed by this title but which—

22 “(A) does not contain information on
23 which the substantial correctness of the self-as-
24 sessment may be judged, or

1 “(B) contains information that on its face
2 indicates that the self-assessment is substan-
3 tially incorrect; and

4 “(2) the conduct referred to in paragraph (1)—

5 “(A) is based on a position which the Sec-
6 retary has identified as frivolous under sub-
7 section (c), or

8 “(B) reflects a desire to delay or impede
9 the administration of Federal tax laws.

10 “(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS
11 SUBMISSIONS.—

12 “(1) IMPOSITION OF PENALTY.—Except as pro-
13 vided in paragraph (3), any person who submits a
14 specified frivolous submission shall pay a penalty of
15 \$5,000.

16 “(2) SPECIFIED FRIVOLOUS SUBMISSION.—For
17 purposes of this section—

18 “(A) SPECIFIED FRIVOLOUS SUBMIS-
19 SION.—The term ‘specified frivolous submis-
20 sion’ means a specified submission if any por-
21 tion of such submission—

22 “(i) is based on a position which the
23 Secretary has identified as frivolous under
24 subsection (c), or

1 “(ii) reflects a desire to delay or im-
2 pede the administration of Federal tax
3 laws.

4 “(B) SPECIFIED SUBMISSION.—The term
5 ‘specified submission’ means—

6 “(i) a request for a hearing under—

7 “(I) section 6320 (relating to no-
8 tice and opportunity for hearing upon
9 filing of notice of lien), or

10 “(II) section 6330 (relating to
11 notice and opportunity for hearing be-
12 fore levy), and

13 “(ii) an application under—

14 “(I) section 6159 (relating to
15 agreements for payment of tax liabil-
16 ity in installments),

17 “(II) section 7122 (relating to
18 compromises), or

19 “(III) section 7811 (relating to
20 taxpayer assistance orders).

21 “(3) OPPORTUNITY TO WITHDRAW SUBMIS-
22 SION.—If the Secretary provides a person with no-
23 tice that a submission is a specified frivolous sub-
24 mission and such person withdraws such submission
25 within 30 days after such notice, the penalty im-

1 posed under paragraph (1) shall not apply with re-
2 spect to such submission.

3 “(c) LISTING OF FRIVOLOUS POSITIONS.—The Sec-
4 retary shall prescribe (and periodically revise) a list of po-
5 sitions which the Secretary has identified as being frivo-
6 lous for purposes of this subsection. The Secretary shall
7 not include in such list any position that the Secretary
8 determines meets the requirement of section
9 6662(d)(2)(B)(ii)(II).

10 “(d) REDUCTION OF PENALTY.—The Secretary may
11 reduce the amount of any penalty imposed under this sec-
12 tion if the Secretary determines that such reduction would
13 promote compliance with and administration of the Fed-
14 eral tax laws.

15 “(e) PENALTIES IN ADDITION TO OTHER PEN-
16 ALTIES.—The penalties imposed by this section shall be
17 in addition to any other penalty provided by law.”.

18 (b) TREATMENT OF FRIVOLOUS REQUESTS FOR
19 HEARINGS BEFORE LEVY.—

20 (1) FRIVOLOUS REQUESTS DISREGARDED.—
21 Section 6330 (relating to notice and opportunity for
22 hearing before levy) is amended by adding at the
23 end the following new subsection:

24 “(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—
25 Notwithstanding any other provision of this section, if the

1 Secretary determines that any portion of a request for a
2 hearing under this section or section 6320 meets the re-
3 quirement of clause (i) or (ii) of section 6702(b)(2)(A),
4 then the Secretary may treat such portion as if it were
5 never submitted and such portion shall not be subject to
6 any further administrative or judicial review.”.

7 (2) PRECLUSION FROM RAISING FRIVOLOUS
8 ISSUES AT HEARING.—Section 6330(c)(4) is
9 amended—

10 (A) by striking “(A)” and inserting
11 “(A)(i)”;

12 (B) by striking “(B)” and inserting “(ii)”;

13 (C) by striking the period at the end of the
14 first sentence and inserting “; or”; and

15 (D) by inserting after subparagraph (A)(ii)
16 (as so redesignated) the following:

17 “(B) the issue meets the requirement of
18 clause (i) or (ii) of section 6702(b)(2)(A).”.

19 (3) STATEMENT OF GROUNDS.—Section
20 6330(b)(1) is amended by striking “under sub-
21 section (a)(3)(B)” and inserting “in writing under
22 subsection (a)(3)(B) and states the grounds for the
23 requested hearing”.

1 (c) TREATMENT OF FRIVOLOUS REQUESTS FOR
2 HEARINGS UPON FILING OF NOTICE OF LIEN.—Section
3 6320 is amended—

4 (1) in subsection (b)(1), by striking “under sub-
5 section (a)(3)(B)” and inserting “in writing under
6 subsection (a)(3)(B) and states the grounds for the
7 requested hearing”, and

8 (2) in subsection (c), by striking “and (e)” and
9 inserting “(e), and (g)”.

10 (d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR
11 OFFERS-IN-COMPROMISE AND INSTALLMENT AGREE-
12 MENTS.—Section 7122 is amended by adding at the end
13 the following new subsection:

14 “(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwith-
15 standing any other provision of this section, if the Sec-
16 retary determines that any portion of an application for
17 an offer-in-compromise or installment agreement sub-
18 mitted under this section or section 6159 meets the re-
19 quirement of clause (i) or (ii) of section 6702(b)(2)(A),
20 then the Secretary may treat such portion as if it were
21 never submitted and such portion shall not be subject to
22 any further administrative or judicial review.”.

23 (e) CLERICAL AMENDMENT.—The table of sections
24 for part I of subchapter B of chapter 68 is amended by

1 striking the item relating to section 6702 and inserting
 2 the following new item:

“Sec. 6702. Frivolous tax submissions.”.

3 (f) **EFFECTIVE DATE.**—The amendments made by
 4 this section shall apply to submissions made and issues
 5 raised after the date on which the Secretary first pre-
 6 scribes a list under section 6702(c) of the Internal Rev-
 7 enue Code of 1986, as amended by subsection (a).

8 **SEC. 504. PENALTY FOR PROMOTING ABUSIVE TAX SHEL-**
 9 **TERS.**

10 (a) **PENALTY FOR PROMOTING ABUSIVE TAX SHEL-**
 11 **TERS.**—Section 6700 (relating to promoting abusive tax
 12 shelters, etc.) is amended—

13 (1) by redesignating subsections (b) and (c) as
 14 subsections (d) and (e), respectively,

15 (2) by striking “a penalty” and all that follows
 16 through the period in the first sentence of subsection
 17 (a) and inserting “a penalty determined under sub-
 18 section (b)”, and

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

21 “(b) **AMOUNT OF PENALTY; CALCULATION OF PEN-**
 22 **ALTY; LIABILITY FOR PENALTY.**—

23 “(1) **AMOUNT OF PENALTY.**—The amount of
 24 the penalty imposed by subsection (a) shall be 100
 25 percent of the gross income derived (or to be de-

1 rived) from such activity by the person or persons
2 subject to such penalty.

3 “(2) CALCULATION OF PENALTY.—The penalty
4 amount determined under paragraph (1) shall be
5 calculated with respect to each instance of an activ-
6 ity described in subsection (a), each instance in
7 which income was derived by the person or persons
8 subject to such penalty, and each person who par-
9 ticipated in such an activity.

10 “(3) LIABILITY FOR PENALTY.—If more than 1
11 person is liable under subsection (a) with respect to
12 such activity, all such persons shall be jointly and
13 severally liable for the penalty under such sub-
14 section.

15 “(c) PENALTY NOT DEDUCTIBLE.—The payment of
16 any penalty imposed under this section or the payment
17 of any amount to settle or avoid the imposition of such
18 penalty shall not be considered an ordinary and necessary
19 expense in carrying on a trade or business for purposes
20 of this title and shall not be deductible by the person who
21 is subject to such penalty or who makes such payment.”.

22 (b) CONFORMING AMENDMENT.—Section 6700(a) is
23 amended by striking the last sentence.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to the activities described in para-

1 graphs (1) and (2) of section 6700(a) of the Internal Rev-
2 enue Code of 1986 and after the date of the enactment
3 of this Act.

4 **SEC. 505. PENALTY FOR AIDING AND ABETTING THE UN-**
5 **DERSTATEMENT OF TAX LIABILITY.**

6 (a) IN GENERAL.—Section 6701(a) (relating to impo-
7 sition of penalty) is amended—

8 (1) by inserting “, or tax liability reflected in,”
9 after “the preparation or presentation of” in para-
10 graph (1),

11 (2) by inserting “aid, assistance, procurement,
12 or advice with respect to such” before “portion”
13 both places it appears in paragraphs (2) and (3),
14 and

15 (3) by inserting “instance of aid, assistance,
16 procurement, or advice or each such” before “docu-
17 ment” in the matter following paragraph (3).

18 (b) AMOUNT OF PENALTY.—Subsection (b) of section
19 6701 (relating to penalties for aiding and abetting under-
20 statement of tax liability) is amended to read as follows:

21 “(b) AMOUNT OF PENALTY; CALCULATION OF PEN-
22 ALTY; LIABILITY FOR PENALTY.—

23 “(1) AMOUNT OF PENALTY.—The amount of
24 the penalty imposed by subsection (a) shall be 100
25 percent of the gross income derived (or to be de-

1 rived) from such aid, assistance, procurement, or ad-
2 vice provided by the person or persons subject to
3 such penalty.

4 “(2) CALCULATION OF PENALTY.—The penalty
5 amount determined under paragraph (1) shall be
6 calculated with respect to each instance of aid, as-
7 sistance, procurement, or advice described in sub-
8 section (a), each instance in which income was de-
9 rived by the person or persons subject to such pen-
10 alty, and each person who made such an understatement
11 of the liability for tax.

12 “(3) LIABILITY FOR PENALTY.—If more than 1
13 person is liable under subsection (a) with respect to
14 providing such aid, assistance, procurement, or ad-
15 vice, all such persons shall be jointly and severally
16 liable for the penalty under such subsection.”.

17 (c) PENALTY NOT DEDUCTIBLE.—Section 6701 is
18 amended by adding at the end the following new sub-
19 section:

20 “(g) PENALTY NOT DEDUCTIBLE.—The payment of
21 any penalty imposed under this section or the payment
22 of any amount to settle or avoid the imposition of such
23 penalty shall not be considered an ordinary and necessary
24 expense in carrying on a trade or business for purposes

1 of this title and shall not be deductible by the person who
 2 is subject to such penalty or who makes such payment.”.

3 (d) **EFFECTIVE DATE.**—The amendments made by
 4 this section shall apply to the activities described in sec-
 5 tion 6701(a) of the Internal Revenue Code of 1986 after
 6 the date of the enactment of this Act.

7 **Subtitle B—Economic Substance** 8 **Doctrine**

9 **SEC. 511. CLARIFICATION OF ECONOMIC SUBSTANCE DOC-** 10 **TRINE.**

11 (a) **IN GENERAL.**—Section 7701 is amended by re-
 12 designating subsection (o) as subsection (p) and by insert-
 13 ing after subsection (n) the following new subsection:

14 “(o) **CLARIFICATION OF ECONOMIC SUBSTANCE**
 15 **DOCTRINE; ETC.**—

16 “(1) **GENERAL RULES.**—

17 “(A) **IN GENERAL.**—In any case in which
 18 a court determines that the economic substance
 19 doctrine is relevant for purposes of this title to
 20 a transaction (or series of transactions), such
 21 transaction (or series of transactions) shall have
 22 economic substance only if the requirements of
 23 this paragraph are met.

24 “(B) **DEFINITION OF ECONOMIC SUB-**
 25 **STANCE.**—For purposes of subparagraph (A)—

1 “(i) IN GENERAL.—A transaction has
2 economic substance only if—

3 “(I) the transaction changes in a
4 meaningful way (apart from Federal
5 tax effects) the taxpayer’s economic
6 position, and

7 “(II) the taxpayer has a substan-
8 tial nontax purpose for entering into
9 such transaction and the transaction
10 is a reasonable means of accom-
11 plishing such purpose.

12 In applying subclause (II), a purpose of
13 achieving a financial accounting benefit
14 shall not be taken into account in deter-
15 mining whether a transaction has a sub-
16 stantial nontax purpose if the origin of
17 such financial accounting benefit is a re-
18 duction of income tax.

19 “(ii) SPECIAL RULE WHERE TAX-
20 PAYER RELIES ON PROFIT POTENTIAL.—A
21 transaction shall not be treated as having
22 economic substance by reason of having a
23 potential for profit unless—

24 “(I) the present value of the rea-
25 sonably expected pre-tax profit from

1 the transaction is substantial in rela-
2 tion to the present value of the ex-
3 pected net tax benefits that would be
4 allowed if the transaction were re-
5 spected, and

6 “(II) the reasonably expected
7 pre-tax profit from the transaction ex-
8 ceeds a risk-free rate of return.

9 “(C) TREATMENT OF FEES AND FOREIGN
10 TAXES.—Fees and other transaction expenses
11 and foreign taxes shall be taken into account as
12 expenses in determining pre-tax profit under
13 subparagraph (B)(ii).

14 “(2) SPECIAL RULES FOR TRANSACTIONS WITH
15 TAX-INDIFFERENT PARTIES.—

16 “(A) SPECIAL RULES FOR FINANCING
17 TRANSACTIONS.—The form of a transaction
18 which is in substance the borrowing of money
19 or the acquisition of financial capital directly or
20 indirectly from a tax-indifferent party shall not
21 be respected if the present value of the deduc-
22 tions to be claimed with respect to the trans-
23 action is substantially in excess of the present
24 value of the anticipated economic returns of the
25 person lending the money or providing the fi-

1 nancial capital. A public offering shall be treat-
2 ed as a borrowing, or an acquisition of financial
3 capital, from a tax-indifferent party if it is rea-
4 sonably expected that at least 50 percent of the
5 offering will be placed with tax-indifferent par-
6 ties.

7 “(B) ARTIFICIAL INCOME SHIFTING AND
8 BASIS ADJUSTMENTS.—The form of a trans-
9 action with a tax-indifferent party shall not be
10 respected if—

11 “(i) it results in an allocation of in-
12 come or gain to the tax-indifferent party in
13 excess of such party’s economic income or
14 gain, or

15 “(ii) it results in a basis adjustment
16 or shifting of basis on account of over-
17 stating the income or gain of the tax-indif-
18 ferent party.

19 “(3) DEFINITIONS AND SPECIAL RULES.—For
20 purposes of this subsection—

21 “(A) ECONOMIC SUBSTANCE DOCTRINE.—
22 The term ‘economic substance doctrine’ means
23 the common law doctrine under which tax bene-
24 fits under subtitle A with respect to a trans-
25 action are not allowable if the transaction does

1 not have economic substance or lacks a business
2 purpose.

3 “(B) TAX-INDIFFERENT PARTY.—The
4 term ‘tax-indifferent party’ means any person
5 or entity not subject to tax imposed by subtitle
6 A. A person shall be treated as a tax-indifferent
7 party with respect to a transaction if the items
8 taken into account with respect to the trans-
9 action have no substantial impact on such per-
10 son’s liability under subtitle A.

11 “(C) EXCEPTION FOR PERSONAL TRANS-
12 ACTIONS OF INDIVIDUALS.—In the case of an
13 individual, this subsection shall apply only to
14 transactions entered into in connection with a
15 trade or business or an activity engaged in for
16 the production of income.

17 “(D) TREATMENT OF LESSORS.—In apply-
18 ing paragraph (1)(B)(ii) to the lessor of tan-
19 gible property subject to a lease—

20 “(i) the expected net tax benefits with
21 respect to the leased property shall not in-
22 clude the benefits of—

23 “(I) depreciation,

24 “(II) any tax credit, or

1 “(III) any other deduction as
2 provided in guidance by the Secretary,
3 and

4 “(ii) subclause (II) of paragraph
5 (1)(B)(ii) shall be disregarded in deter-
6 mining whether any of such benefits are al-
7 lowable.

8 “(4) OTHER COMMON LAW DOCTRINES NOT AF-
9 FECTED.—Except as specifically provided in this
10 subsection, the provisions of this subsection shall not
11 be construed as altering or supplanting any other
12 rule of law, and the requirements of this subsection
13 shall be construed as being in addition to any such
14 other rule of law.

15 “(5) REGULATIONS.—The Secretary shall pre-
16 scribe such regulations as may be necessary or ap-
17 propriate to carry out the purposes of this sub-
18 section. Such regulations may include exemptions
19 from the application of this subsection.”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to transactions entered into after
22 the date of the enactment of this Act.

1 **SEC. 512. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
2 **UTABLE TO TRANSACTIONS LACKING ECO-**
3 **NOMIC SUBSTANCE, ETC.**

4 (a) IN GENERAL.—Subchapter A of chapter 68 is
5 amended by inserting after section 6662A the following
6 new section:

7 **“SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
8 **UTABLE TO TRANSACTIONS LACKING ECO-**
9 **NOMIC SUBSTANCE, ETC.**

10 “(a) IMPOSITION OF PENALTY.—If a taxpayer has an
11 noneconomic substance transaction understatement for
12 any taxable year, there shall be added to the tax an
13 amount equal to 40 percent of the amount of such under-
14 statement.

15 “(b) REDUCTION OF PENALTY FOR DISCLOSED
16 TRANSACTIONS.—Subsection (a) shall be applied by sub-
17 stituting ‘20 percent’ for ‘40 percent’ with respect to the
18 portion of any noneconomic substance transaction under-
19 statement with respect to which the relevant facts affect-
20 ing the tax treatment of the item are adequately disclosed
21 in the return or a statement attached to the return.

22 “(c) NONECONOMIC SUBSTANCE TRANSACTION UN-
23 DERSTATEMENT.—For purposes of this section—

24 “(1) IN GENERAL.—The term ‘noneconomic
25 substance transaction understatement’ means any
26 amount which would be an understatement under

1 section 6662A(b)(1) if section 6662A were applied
2 by taking into account items attributable to non-
3 economic substance transactions rather than items
4 to which section 6662A would apply without regard
5 to this paragraph.

6 “(2) NONECONOMIC SUBSTANCE TRANS-
7 ACTION.—The term ‘noneconomic substance trans-
8 action’ means any transaction if—

9 “(A) there is a lack of economic substance
10 (within the meaning of section 7701(o)(1)) for
11 the transaction giving rise to the claimed ben-
12 efit or the transaction was not respected under
13 section 7701(o)(2), or

14 “(B) the transaction fails to meet the re-
15 quirements of any similar rule of law.

16 “(d) RULES APPLICABLE TO COMPROMISE OF PEN-
17 ALTY.—

18 “(1) IN GENERAL.—If the 1st letter of pro-
19 posed deficiency which allows the taxpayer an oppor-
20 tunity for administrative review in the Internal Rev-
21 enue Service Office of Appeals has been sent with
22 respect to a penalty to which this section applies,
23 only the Commissioner of Internal Revenue may
24 compromise all or any portion of such penalty.

1 “(2) APPLICABLE RULES.—The rules of para-
2 graphs (2) and (3) of section 6707A(d) shall apply
3 for purposes of paragraph (1).

4 “(e) COORDINATION WITH OTHER PENALTIES.—Ex-
5 cept as otherwise provided in this part, the penalty im-
6 posed by this section shall be in addition to any other pen-
7 alty imposed by this title.

8 “(f) CROSS REFERENCES.—

 “(1) For coordination of penalty with understatements
 under section 6662 and other special rules, see section
 6662A(e).

 “(2) For reporting of penalty imposed under this section
 to the Securities and Exchange Commission, see section
 6707A(e)”.

9 (b) COORDINATION WITH OTHER UNDERSTATE-
10 MENTS AND PENALTIES.—

11 (1) The second sentence of section
12 6662(d)(2)(A) is amended by inserting “and without
13 regard to items with respect to which a penalty is
14 imposed by section 6662B” before the period at the
15 end.

16 (2) Subsection (e) of section 6662A is
17 amended—

18 (A) in paragraph (1), by inserting “and
19 noneconomic substance transaction understatement-
20 ments” after “reportable transaction under-
21 statements” both places it appears,

1 (B) in paragraph (2)(A), by inserting “and
2 a noneconomic substance transaction under-
3 statement” after “reportable transaction under-
4 statement”,

5 (C) in paragraph (2)(B), by inserting
6 “6662B or” before “6663”,

7 (D) in paragraph (2)(C)(i), by inserting
8 “or section 6662B” before the period at the
9 end,

10 (E) in paragraph (2)(C)(ii), by inserting
11 “and section 6662B” after “This section”,

12 (F) in paragraph (3), by inserting “or non-
13 economic substance transaction understatement”
14 after “reportable transaction understatement”
15 and

16 (G) by adding at the end the following new
17 paragraph:

18 “(4) NONECONOMIC SUBSTANCE TRANSACTION
19 UNDERSTATEMENT.—For purposes of this sub-
20 section, the term ‘noneconomic substance trans-
21 action understatement’ has the meaning given such
22 term by section 6662B(c).”.

23 (3) Subsection (e) of section 6707A is
24 amended—

1 (A) by striking “or” at the end of subpara-
2 graph (B), and

3 (B) by striking subparagraph (C) and in-
4 serting the following new subparagraphs:

5 “(C) is required to pay a penalty under
6 section 6662B with respect to any noneconomic
7 substance transaction, or

8 “(D) is required to pay a penalty under
9 section 6662(h) with respect to any transaction
10 and would (but for section 6662A(e)(2)(C))
11 have been subject to penalty under section
12 6662A at a rate prescribed under section
13 6662A(c) or under section 6662B.”.

14 (c) CLERICAL AMENDMENT.—The table of sections
15 for part II of subchapter A of chapter 68 is amended by
16 inserting after the item relating to section 6662A the fol-
17 lowing new item:

“Sec. 6662B. Penalty for understatements attributable to transactions lacking
economic substance, etc.”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to transactions entered into after
20 the date of the enactment of this Act.

1 **SEC. 513. DENIAL OF DEDUCTION FOR INTEREST ON UN-**
2 **DERPAYMENTS ATTRIBUTABLE TO NON-**
3 **ECONOMIC SUBSTANCE TRANSACTIONS.**

4 (a) **IN GENERAL.**—Section 163(m) (relating to inter-
5 est on unpaid taxes attributable to nondisclosed reportable
6 transactions) is amended—

7 (1) by striking “attributable” and all that fol-
8 lows and inserting the following: “attributable to—

9 “(1) the portion of any reportable transaction
10 understatement (as defined in section 6662A(b))
11 with respect to which the requirement of section
12 6664(d)(2)(A) is not met, or

13 “(2) any noneconomic substance transaction
14 understatement (as defined in section 6662B(c)).”,
15 and

16 (2) by inserting “**AND NONECONOMIC SUB-**
17 **STANCE TRANSACTIONS**” in the heading thereof
18 after “**TRANSACTIONS**”.

19 (b) **EFFECTIVE DATE.**—The amendments made by
20 this section shall apply to transactions after the date of
21 the enactment of this Act in taxable years ending after
22 such date.

1 **Subtitle C—Improvements in Effi-**
2 **ciency and Safeguards in Inter-**
3 **nal Revenue Service Collection**

4 **SEC. 521. WAIVER OF USER FEE FOR INSTALLMENT AGREE-**
5 **MENTS USING AUTOMATED WITHDRAWALS.**

6 (a) IN GENERAL.—Section 6159 (relating to agree-
7 ments for payment of tax liability in installments) is
8 amended by redesignating subsection (e) as subsection (f)
9 and by inserting after subsection (d) the following:

10 “(e) WAIVER OF USER FEES FOR INSTALLMENT
11 AGREEMENTS USING AUTOMATED WITHDRAWALS.—In
12 the case of a taxpayer who enters into an installment
13 agreement in which automated installment payments are
14 agreed to, the Secretary shall waive the fee (if any) for
15 entering into the installment agreement.”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to agreements entered into on or
18 after the date which is 180 days after the date of the en-
19 actment of this Act.

20 **SEC. 522. TERMINATION OF INSTALLMENT AGREEMENTS.**

21 (a) IN GENERAL.—Section 6159(b)(4) (relating to
22 failure to pay an installment or any other tax liability
23 when due or to provide requested financial information)
24 is amended by striking “or” at the end of subparagraph
25 (B), by redesignating subparagraph (C) as subparagraph

1 (E), and by inserting after subparagraph (B) the fol-
 2 lowing:

3 “(C) to make a Federal tax deposit under
 4 section 6302 at the time such deposit is re-
 5 quired to be made,

6 “(D) to file a return of tax imposed under
 7 this title by its due date (including extensions),
 8 or”.

9 (b) CONFORMING AMENDMENT.—The heading for
 10 section 6159(b)(4) is amended by striking “FAILURE TO
 11 PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY
 12 WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL IN-
 13 FORMATION” and inserting “FAILURE TO MAKE PAY-
 14 MENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR
 15 TO PROVIDE REQUESTED FINANCIAL INFORMATION”.

16 (c) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to failures occurring on or after
 18 the date of the enactment of this Act.

19 **SEC. 523. PARTIAL PAYMENTS REQUIRED WITH SUBMIS-**
 20 **SION OF OFFERS-IN-COMPROMISE.**

21 (a) IN GENERAL.—Section 7122 (relating to com-
 22 promises), as amended by this Act, is amended by redesi-
 23 gnating subsections (c), (d), and (e) as subsections (d), (e),
 24 and (f), respectively, and by inserting after subsection (b)
 25 the following new subsection:

1 “(c) RULES FOR SUBMISSION OF OFFERS-IN-COM-
2 PROMISE.—

3 “(1) PARTIAL PAYMENT REQUIRED WITH SUB-
4 MISSION.—

5 “(A) LUMP-SUM OFFERS.—

6 “(i) IN GENERAL.—The submission of
7 any lump-sum offer-in-compromise shall be
8 accompanied by the payment of 20 percent
9 of amount of such offer.

10 “(ii) LUMP-SUM OFFER-IN-COM-
11 PROMISE.—For purposes of this section,
12 the term ‘lump-sum offer-in-compromise’
13 means any offer of payments made in 5 or
14 fewer installments.

15 “(B) PERIODIC PAYMENT OFFERS.—The
16 submission of any periodic payment offer-in-
17 compromise shall be accompanied by the pay-
18 ment of the amount of the first proposed in-
19 stallment and each proposed installment due
20 during the period such offer is being evaluated
21 for acceptance and has not been rejected by the
22 Secretary. Any failure to make a payment re-
23 quired under the preceding sentence shall be
24 deemed a withdrawal of the offer-in-com-
25 promise.

1 “(2) RULES OF APPLICATION.—

2 “(A) USE OF PAYMENT.—The application
3 of any payment made under this subsection to
4 the assessed tax or other amounts imposed
5 under this title with respect to such tax may be
6 specified by the taxpayer.

7 “(B) NO USER FEE IMPOSED.—Any user
8 fee which would otherwise be imposed under
9 this section shall not be imposed on any offer-
10 in-compromise accompanied by a payment re-
11 quired under this subsection.

12 “(C) WAIVER AUTHORITY.—The Secretary
13 may issue regulations waiving any payment re-
14 quired under paragraph (1) in a manner con-
15 sistent with the practices established in accord-
16 ance with the requirements under subsection
17 (d)(3).”.

18 (b) ADDITIONAL RULES RELATING TO TREATMENT
19 OF OFFERS.—

20 (1) UNPROCESSABLE OFFER IF PAYMENT RE-
21 QUIREMENTS ARE NOT MET.—Paragraph (3) of sec-
22 tion 7122(d) (relating to standards for evaluation of
23 offers), as redesignated by subsection (a), is amend-
24 ed by striking “; and” at the end of subparagraph
25 (A) and inserting a comma, by striking the period

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

4 “(C) any offer-in-compromise which does
5 not meet the requirements of subsection (c)
6 shall be returned to the taxpayer as
7 unprocessable.”.

8 (2) DEEMED ACCEPTANCE OF OFFER NOT RE-
9 JECTED WITHIN CERTAIN PERIOD.—Section 7122,
10 as amended by subsection (a), is amended by adding
11 at the end the following new subsection:

12 “(g) DEEMED ACCEPTANCE OF OFFER NOT RE-
13 JECTED WITHIN CERTAIN PERIOD.—Any offer-in-com-
14 promise submitted under this section shall be deemed to
15 be accepted by the Secretary if such offer is not rejected
16 by the Secretary before the date which is 24 months after
17 the date of the submission of such offer (12 months for
18 offers-in-compromise submitted after the date which is 5
19 years after the date of the enactment of this subsection).
20 For purposes of the preceding sentence, any period during
21 which any tax liability which is the subject of such offer-
22 in-compromise is in dispute in any judicial proceeding
23 shall not be taken in to account in determining the expira-
24 tion of the 24-month period (or 12-month period, if appli-
25 cable).”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to offers-in-compromise submitted
 3 on and after the date which is 60 days after the date of
 4 the enactment of this Act.

5 **Subtitle D—Penalties and Fines**

6 **SEC. 531. INCREASE IN CRIMINAL MONETARY PENALTY** 7 **LIMITATION FOR THE UNDERPAYMENT OR** 8 **OVERPAYMENT OF TAX DUE TO FRAUD.**

9 (a) IN GENERAL.—Section 7206 (relating to fraud
 10 and false statements) is amended—

11 (1) by striking “Any person who—” and insert-
 12 ing “(a) IN GENERAL.—Any person who—”, and

13 (2) by adding at the end the following new sub-
 14 section:

15 “(b) INCREASE IN MONETARY LIMITATION FOR UN-
 16 DERPAYMENT OR OVERPAYMENT OF TAX DUE TO
 17 FRAUD.—If any portion of any underpayment (as defined
 18 in section 6664(a)) or overpayment (as defined in section
 19 6401(a)) of tax required to be shown on a return is attrib-
 20 utable to fraudulent action described in subsection (a), the
 21 applicable dollar amount under subsection (a) shall in no
 22 event be less than an amount equal to such portion. A
 23 rule similar to the rule under section 6663(b) shall apply
 24 for purposes of determining the portion so attributable.”.

25 (b) INCREASE IN PENALTIES.—

1 (1) ATTEMPT TO EVADE OR DEFEAT TAX.—

2 Section 7201 is amended—

3 (A) by striking “\$100,000” and inserting
4 “\$500,000”,

5 (B) by striking “\$500,000” and inserting
6 “\$1,000,000”, and

7 (C) by striking “5 years” and inserting
8 “10 years”.

9 (2) WILLFUL FAILURE TO FILE RETURN, SUP-
10 PLY INFORMATION, OR PAY TAX.—Section 7203 is
11 amended—

12 (A) in the first sentence—

13 (i) by striking “Any person” and in-
14 serting the following:

15 “(a) IN GENERAL.—Any person”, and

16 (ii) by striking “\$25,000” and insert-
17 ing “\$50,000”,

18 (B) in the third sentence, by striking “sec-
19 tion” and inserting “subsection”, and

20 (C) by adding at the end the following new
21 subsection:

22 “(b) AGGRAVATED FAILURE TO FILE.—

23 “(1) IN GENERAL.—In the case of any failure
24 described in paragraph (2), the first sentence of sub-
25 section (a) shall be applied by substituting—

1 “(A) ‘felony’ for ‘misdemeanor’,

2 “(B) ‘\$500,000 (\$1,000,000’ for ‘\$25,000
3 (\$100,000’, and

4 “(C) ‘10 years’ for ‘1 year’.

5 “(2) FAILURE DESCRIBED.—A failure described
6 in this paragraph is a failure to make a return de-
7 scribed in subsection (a) for a period of 3 or more
8 consecutive taxable years.”.

9 (3) FRAUD AND FALSE STATEMENTS.—Section
10 7206(a) (as redesignated by subsection (a)) is
11 amended—

12 (A) by striking “\$100,000” and inserting
13 “\$500,000”,

14 (B) by striking “\$500,000” and inserting
15 “\$1,000,000”, and

16 (C) by striking “3 years” and inserting “5
17 years”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to actions, and failures to act, oc-
20 ccurring after the date of the enactment of this Act.

21 **SEC. 532. DOUBLING OF CERTAIN PENALTIES, FINES, AND**
22 **INTEREST ON UNDERPAYMENTS RELATED TO**
23 **CERTAIN OFFSHORE FINANCIAL ARRANGE-**
24 **MENTS.**

25 (a) DETERMINATION OF PENALTY.—

1 (1) IN GENERAL.—Notwithstanding any other
2 provision of law, in the case of an applicable
3 taxpayer—

4 (A) the determination as to whether any
5 interest or applicable penalty is to be imposed
6 with respect to any arrangement described in
7 paragraph (2), or to any underpayment of Fed-
8 eral income tax attributable to items arising in
9 connection with any such arrangement, shall be
10 made without regard to the rules of subsections
11 (b), (c), and (d) of section 6664 of the Internal
12 Revenue Code of 1986, and

13 (B) if any such interest or applicable pen-
14 alty is imposed, the amount of such interest or
15 penalty shall be equal to twice that determined
16 without regard to this section.

17 (2) APPLICABLE TAXPAYER.—For purposes of
18 this subsection—

19 (A) IN GENERAL.—The term “applicable
20 taxpayer” means a taxpayer which—

21 (i) has underreported its United
22 States income tax liability with respect to
23 any item which directly or indirectly
24 involves—

1 (I) any financial arrangement
2 which in any manner relies on the use
3 of offshore payment mechanisms (in-
4 cluding credit, debit, or charge cards)
5 issued by banks or other entities in
6 foreign jurisdictions, or

7 (II) any offshore financial ar-
8 rangement (including any arrange-
9 ment with foreign banks, financial in-
10 stitutions, corporations, partnerships,
11 trusts, or other entities), and

12 (ii) has neither signed a closing agree-
13 ment pursuant to the Voluntary Offshore
14 Compliance Initiative established by the
15 Department of the Treasury under Rev-
16 enue Procedure 2003–11 nor voluntarily
17 disclosed its participation in such arrange-
18 ment by notifying the Internal Revenue
19 Service of such arrangement prior to the
20 issue being raised by the Internal Revenue
21 Service during an examination.

22 (B) AUTHORITY TO WAIVE.—The Sec-
23 retary of the Treasury or the Secretary’s dele-
24 gate may waive the application of paragraph (1)
25 to any taxpayer if the Secretary or the Sec-

1 retary’s delegate determines that the use of
2 such offshore payment mechanisms is incidental
3 to the transaction and, in addition, in the case
4 of a trade or business, such use is conducted in
5 the ordinary course of the type of trade or busi-
6 ness of the taxpayer.

7 (C) ISSUES RAISED.—For purposes of sub-
8 paragraph (A)(ii), an item shall be treated as
9 an issue raised during an examination if the in-
10 dividual examining the return—

11 (i) communicates to the taxpayer
12 knowledge about the specific item, or

13 (ii) has made a request to the tax-
14 payer for information and the taxpayer
15 could not make a complete response to
16 that request without giving the examiner
17 knowledge of the specific item.

18 (b) APPLICABLE PENALTY.—For purposes of this
19 section, the term “applicable penalty” means any penalty,
20 addition to tax, or fine imposed under chapter 68 of the
21 Internal Revenue Code of 1986.

22 (c) EFFECTIVE DATE.—The provisions of this section
23 shall apply to interest, penalties, additions to tax, and
24 fines with respect to any taxable year if, as of the date
25 of the enactment of this Act, the assessment of any tax,

1 penalty, or interest with respect to such taxable year is
2 not prevented by the operation of any law or rule of law.

3 **SEC. 533. DENIAL OF DEDUCTION FOR CERTAIN FINES,**
4 **PENALTIES, AND OTHER AMOUNTS.**

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

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

9 “(1) IN GENERAL.—Except as provided in para-
10 graph (2), no deduction otherwise allowable shall be
11 allowed under this chapter for any amount paid or
12 incurred (whether by suit, agreement, or otherwise)
13 to, or at the direction of, a government or entity de-
14 scribed in paragraph (4) in relation to the violation
15 of any law or the investigation or inquiry by such
16 government or entity into the potential violation of
17 any law.

18 “(2) EXCEPTION FOR AMOUNTS CONSTITUTING
19 RESTITUTION OR PAID TO COME INTO COMPLIANCE
20 WITH LAW.—Paragraph (1) shall not apply to any
21 amount which—

22 “(A) the taxpayer establishes—

23 “(i) constitutes restitution (including
24 remediation of property) for damage or
25 harm caused by or which may be caused by

1 the violation of any law or the potential
2 violation of any law, or

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

6 “(B) is identified as restitution or as an
7 amount paid to come into compliance with the
8 law, as the case may be, in the court order or
9 settlement agreement.

10 Identification pursuant to subparagraph (B) alone
11 shall not satisfy the requirement under subpara-
12 graph (A). This paragraph shall not apply to any
13 amount paid or incurred as reimbursement to the
14 government or entity for the costs of any investiga-
15 tion or litigation.

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

22 “(4) CERTAIN NONGOVERNMENTAL REGU-
23 LATORY ENTITIES.—An entity is described in this
24 paragraph if it is—

1 “(A) a nongovernmental entity which exer-
2 cises self-regulatory powers (including imposing
3 sanctions) in connection with a qualified board
4 or exchange (as defined in section 1256(g)(7)),
5 or

6 “(B) to the extent provided in regulations,
7 a nongovernmental entity which exercises self-
8 regulatory powers (including imposing sanc-
9 tions) as part of performing an essential gov-
10 ernmental function.

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

14 (b) REPORTING OF DEDUCTIBLE AMOUNTS.—

15 (1) IN GENERAL.—Subpart B of part III of
16 subchapter A of chapter 61 is amended by inserting
17 after section 6050T the following new section:

18 **“SEC. 6050U. INFORMATION WITH RESPECT TO CERTAIN**

19 **FINES, PENALTIES, AND OTHER AMOUNTS.**

20 “(a) REQUIREMENT OF REPORTING.—

21 “(1) IN GENERAL.—The appropriate official of
22 any government or entity which is described in sec-
23 tion 162(f)(4) which is involved in a suit or agree-
24 ment described in paragraph (2) shall make a return

1 in such form as determined by the Secretary setting
2 forth—

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

6 “(B) any amount required to be paid as a
7 result of the suit or agreement which con-
8 stitutes restitution or remediation of property,
9 and

10 “(C) any amount required to be paid as a
11 result of the suit or agreement for the purpose
12 of coming into compliance with any law which
13 was violated or involved in the investigation or
14 inquiry.

15 “(2) SUIT OR AGREEMENT DESCRIBED.—

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

18 “(i) it is—

19 “(I) a suit with respect to a vio-
20 lation of any law over which the gov-
21 ernment or entity has authority and
22 with respect to which there has been
23 a court order, or

24 “(II) an agreement which is en-
25 tered into with respect to a violation

1 of any law over which the government
2 or entity has authority, or with re-
3 spect to an investigation or inquiry by
4 the government or entity into the po-
5 tential violation of any law over which
6 such government or entity has author-
7 ity, and

8 “(ii) the aggregate amount involved in
9 all court orders and agreements with re-
10 spect to the violation, investigation, or in-
11 quiry is \$600 or more.

12 “(B) ADJUSTMENT OF REPORTING
13 THRESHOLD.—The Secretary may adjust the
14 \$600 amount in subparagraph (A)(ii) as nec-
15 essary in order to ensure the efficient adminis-
16 tration of the internal revenue laws.

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

19 “(A) 30 days after the date on which a
20 court order is issued with respect to the suit or
21 the date the agreement is entered into, as the
22 case may be, or

23 “(B) the date specified Secretary.

24 “(b) STATEMENTS TO BE FURNISHED TO INDIVID-
25 UALS INVOLVED IN THE SETTLEMENT.—Every person re-

1 quired to make a return under subsection (a) shall furnish
2 to each person who is a party to the suit or agreement
3 a written statement showing—

4 “(1) the name of the government or entity, and
5 “(2) the information supplied to the Secretary
6 under subsection (a)(1).

7 The written statement required under the preceding sen-
8 tence shall be furnished to the person at the same time
9 the government or entity provides the Secretary with the
10 information required under subsection (a).

11 “(c) APPROPRIATE OFFICIAL DEFINED.—For pur-
12 poses of this section, the term ‘appropriate official’ means
13 the officer or employee having control of the suit, inves-
14 tigation, or inquiry or the person appropriately designated
15 for purposes of this section.”.

16 (2) CONFORMING AMENDMENT.—The table of
17 sections for subpart B of part III of subchapter A
18 of chapter 61 is amended by inserting after the item
19 relating to section 6050T the following new item:

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

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to amounts paid or incurred on
22 or after the date of the enactment of this Act, except that
23 such amendments shall not apply to amounts paid or in-
24 curred under any binding order or agreement entered into

1 before such date. Such exception shall not apply to an
2 order or agreement requiring court approval unless the ap-
3 proval was obtained before such date.

4 **SEC. 534. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.**

5 (a) **DISALLOWANCE OF DEDUCTION.**—

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

9 (A) by redesignating paragraphs (1) and
10 (2) as subparagraphs (A) and (B), respectively,

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

12 “(1) **TREBLE DAMAGES.**—If”, and

13 (C) by adding at the end the following new
14 paragraph:

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

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

24 (b) **INCLUSION IN INCOME OF PUNITIVE DAMAGES**
25 **PAID BY INSURER OR OTHERWISE.**—

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

5 **“SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSUR-**
6 **ANCE OR OTHERWISE.**

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

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

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

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

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

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

1 **SEC. 535. INCREASE IN PENALTY FOR BAD CHECKS AND**
2 **MONEY ORDERS.**

3 (a) IN GENERAL.—Section 6657 (relating to bad
4 checks) is amended—

5 (1) by striking “\$750” and inserting “\$2,000”,
6 and

7 (2) by striking “\$15” and inserting “\$40”.

8 (b) EFFECTIVE DATE.—The amendments made by
9 this section apply to checks or money orders received after
10 the date of the enactment of this Act.

11 **Subtitle E—Provisions To**
12 **Discourage Expatriation**

13 **SEC. 541. TAX TREATMENT OF INVERTED ENTITIES.**

14 (a) IN GENERAL.—Section 7874 is amended—

15 (1) by striking “March 4, 2003” in subsection
16 (a)(2)(B)(i) and in the matter following subsection
17 (a)(2)(B)(iii) and inserting “March 20, 2002”,

18 (2) by striking “at least 60 percent” in sub-
19 section (a)(2)(B)(ii) and inserting “more than 50
20 percent”,

21 (3) by striking “80 percent” in subsection (b)
22 and inserting “at least 80 percent”,

23 (4) by striking “60 percent” in subsection (b)
24 and inserting “more than 50 percent”,

25 (5) by adding at the end of subsection (a)(2)
26 the following new sentence: “Except as provided in

1 regulations, an acquisition of properties of a domes-
2 tic corporation shall not be treated as described in
3 subparagraph (B) if none of the corporation's stock
4 was readily tradeable on an established securities
5 market at any time during the 4-year period ending
6 on the date of the acquisition.”, and

7 (6) by redesignating subsection (g) as sub-
8 section (h) and by inserting after subsection (f) the
9 following new subsection:

10 “(g) SPECIAL RULES APPLICABLE TO EXPATRIATED
11 ENTITIES.—

12 “(1) INCREASES IN ACCURACY-RELATED PEN-
13 ALTIES.—In the case of any underpayment of tax of
14 an expatriated entity—

15 “(A) section 6662(a) shall be applied with
16 respect to such underpayment by substituting
17 ‘30 percent’ for ‘20 percent’, and

18 “(B) if such underpayment is attributable
19 to one or more gross valuation understatement-
20 s, the increase in the rate of penalty under
21 section 6662(h) shall be to 50 percent rather
22 than 40 percent.

23 “(2) MODIFICATIONS OF LIMITATION ON INTER-
24 EST DEDUCTION.—In the case of an expatriated en-
25 tity, section 163(j) shall be applied—

1 “(A) without regard to paragraph
2 (2)(A)(ii) thereof, and

3 “(B) by substituting ‘25 percent’ for ‘50
4 percent’ each place it appears in paragraph
5 (2)(B) thereof.”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years ending after
8 March 20, 2002.

9 **SEC. 542. REVISION OF TAX RULES ON EXPATRIATION OF**
10 **INDIVIDUALS.**

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

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

15 “(a) GENERAL RULES.—For purposes of this
16 subtitle—

17 “(1) MARK TO MARKET.—Except as provided in
18 subsections (d) and (f), all property of a covered ex-
19 patriate to whom this section applies shall be treated
20 as sold on the day before the expatriation date for
21 its fair market value.

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

24 “(A) notwithstanding any other provision
25 of this title, any gain arising from such sale

1 shall be taken into account for the taxable year
2 of the sale, and

3 “(B) any loss arising from such sale shall
4 be taken into account for the taxable year of
5 the sale to the extent otherwise provided by this
6 title, except that section 1091 shall not apply to
7 any such loss.

8 Proper adjustment shall be made in the amount of
9 any gain or loss subsequently realized for gain or
10 loss taken into account under the preceding sen-
11 tence.

12 “(3) EXCLUSION FOR CERTAIN GAIN.—

13 “(A) IN GENERAL.—The amount which,
14 but for this paragraph, would be includible in
15 the gross income of any individual by reason of
16 this section shall be reduced (but not below
17 zero) by \$600,000. For purposes of this para-
18 graph, allocable expatriation gain taken into ac-
19 count under subsection (f)(2) shall be treated in
20 the same manner as an amount required to be
21 includible in gross income.

22 “(B) COST-OF-LIVING ADJUSTMENT.—

23 “(i) IN GENERAL.—In the case of an
24 expatriation date occurring in any calendar
25 year after 2005, the \$600,000 amount

1 under subparagraph (A) shall be increased
2 by an amount equal to—

3 “(I) such dollar amount, multi-
4 plied by

5 “(II) the cost-of-living adjust-
6 ment determined under section 1(f)(3)
7 for such calendar year, determined by
8 substituting ‘calendar year 2004’ for
9 ‘calendar year 1992’ in subparagraph
10 (B) thereof.

11 “(ii) ROUNDING RULES.—If any
12 amount after adjustment under clause (i)
13 is not a multiple of \$1,000, such amount
14 shall be rounded to the next lower multiple
15 of \$1,000.

16 “(4) ELECTION TO CONTINUE TO BE TAXED AS
17 UNITED STATES CITIZEN.—

18 “(A) IN GENERAL.—If a covered expatriate
19 elects the application of this paragraph—

20 “(i) this section (other than this para-
21 graph and subsection (i)) shall not apply to
22 the expatriate, but

23 “(ii) in the case of property to which
24 this section would apply but for such elec-
25 tion, the expatriate shall be subject to tax

1 under this title in the same manner as if
2 the individual were a United States citizen.

3 “(B) REQUIREMENTS.—Subparagraph (A)
4 shall not apply to an individual unless the
5 individual—

6 “(i) provides security for payment of
7 tax in such form and manner, and in such
8 amount, as the Secretary may require,

9 “(ii) consents to the waiver of any
10 right of the individual under any treaty of
11 the United States which would preclude as-
12 sessment or collection of any tax which
13 may be imposed by reason of this para-
14 graph, and

15 “(iii) complies with such other re-
16 quirements as the Secretary may prescribe.

17 “(C) ELECTION.—An election under sub-
18 paragraph (A) shall apply to all property to
19 which this section would apply but for the elec-
20 tion and, once made, shall be irrevocable. Such
21 election shall also apply to property the basis of
22 which is determined in whole or in part by ref-
23 erence to the property with respect to which the
24 election was made.

25 “(b) ELECTION TO DEFER TAX.—

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

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

21 “(3) TERMINATION OF POSTPONEMENT.—No
22 tax may be postponed under this subsection later
23 than the due date for the return of tax imposed by
24 this chapter for the taxable year which includes the
25 date of death of the expatriate (or, if earlier, the

1 time that the security provided with respect to the
2 property fails to meet the requirements of paragraph
3 (4), unless the taxpayer corrects such failure within
4 the time specified by the Secretary).

5 “(4) SECURITY.—

6 “(A) IN GENERAL.—No election may be
7 made under paragraph (1) with respect to any
8 property unless adequate security is provided to
9 the Secretary with respect to such property.

10 “(B) ADEQUATE SECURITY.—For purposes
11 of subparagraph (A), security with respect to
12 any property shall be treated as adequate secu-
13 rity if—

14 “(i) it is a bond in an amount equal
15 to the deferred tax amount under para-
16 graph (2) for the property, or

17 “(ii) the taxpayer otherwise estab-
18 lishes to the satisfaction of the Secretary
19 that the security is adequate.

20 “(5) WAIVER OF CERTAIN RIGHTS.—No elec-
21 tion may be made under paragraph (1) unless the
22 taxpayer consents to the waiver of any right under
23 any treaty of the United States which would pre-
24 clude assessment or collection of any tax imposed by
25 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. An election may
4 be made under paragraph (1) with respect to an in-
5 terest in a trust with respect to which gain is re-
6 quired to be recognized under subsection (f)(1).

7 “(7) INTEREST.—For purposes of section
8 6601—

9 “(A) the last date for the payment of tax
10 shall be determined without regard to the elec-
11 tion under this subsection, and

12 “(B) section 6621(a)(2) shall be applied by
13 substituting ‘5 percentage points’ for ‘3 per-
14 centage points’ in subparagraph (B) thereof.

15 “(c) COVERED EXPATRIATE.—For purposes of this
16 section—

17 “(1) IN GENERAL.—Except as provided in para-
18 graph (2), the term ‘covered expatriate’ means an
19 expatriate.

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

22 “(A) the individual—

23 “(i) became at birth a citizen of the
24 United States and a citizen of another
25 country and, as of the expatriation date,

1 continues to be a citizen of, and is taxed
2 as a resident of, such other country, and

3 “(ii) has not been a resident of the
4 United States (as defined in section
5 7701(b)(1)(A)(ii)) during the 5 taxable
6 years ending with the taxable year during
7 which the expatriation date occurs, or

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

11 “(ii) the individual has been a resident of
12 the United States (as so defined) for not more
13 than 5 taxable years before the date of relin-
14 quishment.

15 “(d) EXEMPT PROPERTY; SPECIAL RULES FOR PEN-
16 SION PLANS.—

17 “(1) EXEMPT PROPERTY.—This section shall
18 not apply to the following:

19 “(A) UNITED STATES REAL PROPERTY IN-
20 TERESTS.—Any United States real property in-
21 terest (as defined in section 897(c)(1)), other
22 than stock of a United States real property
23 holding corporation which does not, on the day
24 before the expatriation date, meet the require-
25 ments of section 897(c)(2).

1 “(B) SPECIFIED PROPERTY.—Any prop-
2 erty or interest in property not described in
3 subparagraph (A) which the Secretary specifies
4 in regulations.

5 “(2) SPECIAL RULES FOR CERTAIN RETIRE-
6 MENT PLANS.—

7 “(A) IN GENERAL.—If a covered expatriate
8 holds on the day before the expatriation date
9 any interest in a retirement plan to which this
10 paragraph applies—

11 “(i) such interest shall not be treated
12 as sold for purposes of subsection (a)(1),
13 but

14 “(ii) an amount equal to the present
15 value of the expatriate’s nonforfeitable ac-
16 crued benefit shall be treated as having
17 been received by such individual on such
18 date as a distribution under the plan.

19 “(B) TREATMENT OF SUBSEQUENT DIS-
20 TRIBUTIONS.—In the case of any distribution
21 on or after the expatriation date to or on behalf
22 of the covered expatriate from a plan from
23 which the expatriate was treated as receiving a
24 distribution under subparagraph (A), the
25 amount otherwise includible in gross income by

1 reason of the subsequent distribution shall be
2 reduced by the excess of the amount includible
3 in gross income under subparagraph (A) over
4 any portion of such amount to which this sub-
5 paragraph previously applied.

6 “(C) TREATMENT OF SUBSEQUENT DIS-
7 TRIBUTIONS BY PLAN.—For purposes of this
8 title, a retirement plan to which this paragraph
9 applies, and any person acting on the plan’s be-
10 half, shall treat any subsequent distribution de-
11 scribed in subparagraph (B) in the same man-
12 ner as such distribution would be treated with-
13 out regard to this paragraph.

14 “(D) APPLICABLE PLANS.—This para-
15 graph shall apply to—

16 “(i) any qualified retirement plan (as
17 defined in section 4974(c)),

18 “(ii) an eligible deferred compensation
19 plan (as defined in section 457(b)) of an
20 eligible employer described in section
21 457(e)(1)(A), and

22 “(iii) to the extent provided in regula-
23 tions, any foreign pension plan or similar
24 retirement arrangements or programs.

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

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

3 “(A) any United States citizen who relin-
4 quishes citizenship, and

5 “(B) any long-term resident of the United
6 States who—

7 “(i) ceases to be a lawful permanent
8 resident of the United States (within the
9 meaning of section 7701(b)(6)), or

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

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

19 “(A) the date an individual relinquishes
20 United States citizenship, or

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

1 “(3) RELINQUISHMENT OF CITIZENSHIP.—A
2 citizen shall be treated as relinquishing United
3 States citizenship on the earliest of—

4 “(A) the date the individual renounces
5 such individual’s United States nationality be-
6 fore a diplomatic or consular officer of the
7 United States pursuant to paragraph (5) of sec-
8 tion 349(a) of the Immigration and Nationality
9 Act (8 U.S.C. 1481(a)(5)),

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

18 “(C) the date the United States Depart-
19 ment of State issues to the individual a certifi-
20 cate of loss of nationality, or

21 “(D) the date a court of the United States
22 cancels a naturalized citizen’s certificate of nat-
23 uralization.

24 Subparagraph (A) or (B) shall not apply to any indi-
25 vidual unless the renunciation or voluntary relin-

1 quishment is subsequently approved by the issuance
2 to the individual of a certificate of loss of nationality
3 by the United States Department of State.

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

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

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

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

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

17 “(C)(i) such separate share shall be treat-
18 ed as a separate trust consisting of the assets
19 allocable to such share,

20 “(ii) the separate trust shall be treated as
21 having sold its assets on the day before the ex-
22 patriation date for their fair market value and
23 as having distributed all of its assets to the in-
24 dividual as of such time, and

1 “(iii) the individual shall be treated as hav-
2 ing recontributed the assets to the separate
3 trust.

4 Subsection (a)(2) shall apply to any income, gain, or
5 loss of the individual arising from a distribution de-
6 scribed in subparagraph (C)(ii). In determining the
7 amount of such distribution, proper adjustments
8 shall be made for liabilities of the trust allocable to
9 an individual’s share in the trust.

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

12 “(A) IN GENERAL.—If the trust interest
13 described in paragraph (1) is an interest in a
14 qualified trust—

15 “(i) paragraph (1) and subsection (a)
16 shall not apply, and

17 “(ii) in addition to any other tax im-
18 posed by this title, there is hereby imposed
19 on each distribution with respect to such
20 interest a tax in the amount determined
21 under subparagraph (B).

22 “(B) AMOUNT OF TAX.—The amount of
23 tax under subparagraph (A)(ii) shall be equal to
24 the lesser of—

1 “(i) the highest rate of tax imposed by
2 section 1(e) for the taxable year which in-
3 cludes the day before the expatriation date,
4 multiplied by the amount of the distribu-
5 tion, or

6 “(ii) the balance in the deferred tax
7 account immediately before the distribution
8 determined without regard to any increases
9 under subparagraph (C)(ii) after the 30th
10 day preceding the distribution.

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

13 “(i) OPENING BALANCE.—The open-
14 ing balance in a deferred tax account with
15 respect to any trust interest is an amount
16 equal to the tax which would have been im-
17 posed on the allocable expatriation gain
18 with respect to the trust interest if such
19 gain had been included in gross income
20 under subsection (a).

21 “(ii) INCREASE FOR INTEREST.—The
22 balance in the deferred tax account shall
23 be increased by the amount of interest de-
24 termined (on the balance in the account at
25 the time the interest accrues), for periods

1 after the 90th day after the expatriation
2 date, by using the rates and method appli-
3 cable under section 6621 for underpay-
4 ments of tax for such periods, except that
5 section 6621(a)(2) shall be applied by sub-
6 stituting ‘5 percentage points’ for ‘3 per-
7 centage points’ in subparagraph (B) there-
8 of.

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

12 “(I) by the amount of taxes im-
13 posed by subparagraph (A) on any
14 distribution to the person holding the
15 trust interest, and

16 “(II) in the case of a person
17 holding a nonvested interest, to the
18 extent provided in regulations, by the
19 amount of taxes imposed by subpara-
20 graph (A) on distributions from the
21 trust with respect to nonvested inter-
22 ests not held by such person.

23 “(D) ALLOCABLE EXPATRIATION GAIN.—

24 For purposes of this paragraph, the allocable
25 expatriation gain with respect to any bene-

1 beneficiary's interest in a trust is the amount of
2 gain which would be allocable to such bene-
3 ficiary's vested and nonvested interests in the
4 trust if the beneficiary held directly all assets
5 allocable to such interests.

6 “(E) TAX DEDUCTED AND WITHHELD.—

7 “(i) IN GENERAL.—The tax imposed
8 by subparagraph (A)(ii) shall be deducted
9 and withheld by the trustees from the dis-
10 tribution to which it relates.

11 “(ii) EXCEPTION WHERE FAILURE TO
12 WAIVE TREATY RIGHTS.—If an amount
13 may not be deducted and withheld under
14 clause (i) by reason of the distributee fail-
15 ing to waive any treaty right with respect
16 to such distribution—

17 “(I) the tax imposed by subpara-
18 graph (A)(ii) shall be imposed on the
19 trust and each trustee shall be person-
20 ally liable for the amount of such tax,
21 and

22 “(II) any other beneficiary of the
23 trust shall be entitled to recover from
24 the distributee the amount of such tax
25 imposed on the other beneficiary.

1 “(F) DISPOSITION.—If a trust ceases to be
2 a qualified trust at any time, a covered expa-
3 triate disposes of an interest in a qualified
4 trust, or a covered expatriate holding an inter-
5 est in a qualified trust dies, then, in lieu of the
6 tax imposed by subparagraph (A)(ii), there is
7 hereby imposed a tax equal to the lesser of—

8 “(i) the tax determined under para-
9 graph (1) as if the day before the expatria-
10 tion date were the date of such cessation,
11 disposition, or death, whichever is applica-
12 ble, or

13 “(ii) the balance in the tax deferred
14 account immediately before such date.

15 Such tax shall be imposed on the trust and
16 each trustee shall be personally liable for the
17 amount of such tax and any other beneficiary
18 of the trust shall be entitled to recover from the
19 covered expatriate or the estate the amount of
20 such tax imposed on the other beneficiary.

21 “(G) DEFINITIONS AND SPECIAL RULES.—

22 For purposes of this paragraph—

23 “(i) QUALIFIED TRUST.—The term
24 ‘qualified trust’ means a trust which is de-
25 scribed in section 7701(a)(30)(E).

1 “(ii) VESTED INTEREST.—The term
2 ‘vested interest’ means any interest which,
3 as of the day before the expatriation date,
4 is vested in the beneficiary.

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

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

20 “(v) COORDINATION WITH RETIRE-
21 MENT PLAN RULES.—This subsection shall
22 not apply to an interest in a trust which
23 is part of a retirement plan to which sub-
24 section (d)(2) applies.

1 “(3) DETERMINATION OF BENEFICIARIES’ IN-
2 TEREST IN TRUST.—

3 “(A) DETERMINATIONS UNDER PARA-
4 GRAPH (1).—For purposes of paragraph (1), a
5 beneficiary’s interest in a trust shall be based
6 upon all relevant facts and circumstances, in-
7 cluding the terms of the trust instrument and
8 any letter of wishes or similar document, histor-
9 ical patterns of trust distributions, and the ex-
10 istence of and functions performed by a trust
11 protector or any similar adviser.

12 “(B) OTHER DETERMINATIONS.—For pur-
13 poses of this section—

14 “(i) CONSTRUCTIVE OWNERSHIP.—If
15 a beneficiary of a trust is a corporation,
16 partnership, trust, or estate, the share-
17 holders, partners, or beneficiaries shall be
18 deemed to be the trust beneficiaries for
19 purposes of this section.

20 “(ii) TAXPAYER RETURN POSITION.—
21 A taxpayer shall clearly indicate on its in-
22 come tax return—

23 “(I) the methodology used to de-
24 termine that taxpayer’s trust interest
25 under this section, and

1 “(II) if the taxpayer knows (or
2 has reason to know) that any other
3 beneficiary of such trust is using a
4 different methodology to determine
5 such beneficiary’s trust interest under
6 this section.

7 “(g) TERMINATION OF DEFERRALS, ETC.—In the
8 case of any covered expatriate, notwithstanding any other
9 provision of this title—

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

13 “(2) any extension of time for payment of tax
14 shall cease to apply on the day before the expatria-
15 tion date and the unpaid portion of such tax shall
16 be due and payable at the time and in the manner
17 prescribed by the Secretary.

18 “(h) IMPOSITION OF TENTATIVE TAX.—

19 “(1) IN GENERAL.—If an individual is required
20 to include any amount in gross income under sub-
21 section (a) for any taxable year, there is hereby im-
22 posed, immediately before the expatriation date, a
23 tax in an amount equal to the amount of tax which
24 would be imposed if the taxable year were a short
25 taxable year ending on the expatriation date.

1 “(2) DUE DATE.—The due date for any tax im-
2 posed by paragraph (1) shall be the 90th day after
3 the expatriation date.

4 “(3) TREATMENT OF TAX.—Any tax paid under
5 paragraph (1) shall be treated as a payment of the
6 tax imposed by this chapter for the taxable year to
7 which subsection (a) applies.

8 “(4) DEFERRAL OF TAX.—The provisions of
9 subsection (b) shall apply to the tax imposed by this
10 subsection to the extent attributable to gain includ-
11 ible in gross income by reason of this section.

12 “(i) SPECIAL LIENS FOR DEFERRED TAX
13 AMOUNTS.—

14 “(1) IMPOSITION OF LIEN.—

15 “(A) IN GENERAL.—If a covered expatriate
16 makes an election under subsection (a)(4) or
17 (b) which results in the deferral of any tax im-
18 posed by reason of subsection (a), the deferred
19 amount (including any interest, additional
20 amount, addition to tax, assessable penalty, and
21 costs attributable to the deferred amount) shall
22 be a lien in favor of the United States on all
23 property of the expatriate located in the United
24 States (without regard to whether this section
25 applies to the property).

1 “(B) DEFERRED AMOUNT.—For purposes
2 of this subsection, the deferred amount is the
3 amount of the increase in the covered expatri-
4 ate’s income tax which, but for the election
5 under subsection (a)(4) or (b), would have oc-
6 curred by reason of this section for the taxable
7 year including the expatriation date.

8 “(2) PERIOD OF LIEN.—The lien imposed by
9 this subsection shall arise on the expatriation date
10 and continue until—

11 “(A) the liability for tax by reason of this
12 section is satisfied or has become unenforceable
13 by reason of lapse of time, or

14 “(B) it is established to the satisfaction of
15 the Secretary that no further tax liability may
16 arise by reason of this section.

17 “(3) CERTAIN RULES APPLY.—The rules set
18 forth in paragraphs (1), (3), and (4) of section
19 6324A(d) shall apply with respect to the lien im-
20 posed by this subsection as if it were a lien imposed
21 by section 6324A.

22 “(j) REGULATIONS.—The Secretary shall prescribe
23 such regulations as may be necessary or appropriate to
24 carry out the purposes of this section.”.

1 (b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS
2 RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS
3 FROM EXPATRIATES.—Section 102 (relating to gifts, etc.
4 not included in gross income) is amended by adding at
5 the end the following new subsection:

6 “(d) GIFTS AND INHERITANCES FROM COVERED EX-
7 PATRIATES.—

8 “(1) IN GENERAL.—Subsection (a) shall not ex-
9 clude from gross income the value of any property
10 acquired by gift, bequest, devise, or inheritance from
11 a covered expatriate after the expatriation date. For
12 purposes of this subsection, any term used in this
13 subsection which is also used in section 877A shall
14 have the same meaning as when used in section
15 877A.

16 “(2) EXCEPTIONS FOR TRANSFERS OTHERWISE
17 SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1)
18 shall not apply to any property if either—

19 “(A) the gift, bequest, devise, or inherit-
20 ance is—

21 “(i) shown on a timely filed return of
22 tax imposed by chapter 12 as a taxable gift
23 by the covered expatriate, or

24 “(ii) included in the gross estate of
25 the covered expatriate for purposes of

1 chapter 11 and shown on a timely filed re-
2 turn of tax imposed by chapter 11 of the
3 estate of the covered expatriate, or

4 “(B) no such return was timely filed but
5 no such return would have been required to be
6 filed even if the covered expatriate were a cit-
7 izen or long-term resident of the United
8 States.”.

9 (c) DEFINITION OF TERMINATION OF UNITED
10 STATES CITIZENSHIP.—Section 7701(a) is amended by
11 adding at the end the following new paragraph:

12 “(49) TERMINATION OF UNITED STATES CITI-
13 ZENSHIP.—

14 “(A) IN GENERAL.—An individual shall
15 not cease to be treated as a United States cit-
16 izen before the date on which the individual’s
17 citizenship is treated as relinquished under sec-
18 tion 877A(e)(3).

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

24 (d) INELIGIBILITY FOR VISA OR ADMISSION TO
25 UNITED STATES.—

1 (1) IN GENERAL.—Section 212(a)(10)(E) of the
2 Immigration and Nationality Act (8 U.S.C.
3 1182(a)(10)(E)) is amended to read as follows:

4 “(E) FORMER CITIZENS NOT IN COMPLI-
5 ANCE WITH EXPATRIATION REVENUE PROVI-
6 SIONS.—Any alien who is a former citizen of
7 the United States who relinquishes United
8 States citizenship (within the meaning of sec-
9 tion 877A(e)(3) of the Internal Revenue Code
10 of 1986) and who is not in compliance with sec-
11 tion 877A of such Code (relating to expatria-
12 tion) is inadmissible.”.

13 (2) AVAILABILITY OF INFORMATION.—

14 (A) IN GENERAL.—Section 6103(l) (relat-
15 ing to disclosure of returns and return informa-
16 tion for purposes other than tax administration)
17 is amended by adding at the end the following
18 new paragraph:

19 “(21) DISCLOSURE TO DENY VISA OR ADMIS-
20 SION TO CERTAIN EXPATRIATES.—Upon written re-
21 quest of the Attorney General or the Attorney Gen-
22 eral’s delegate, the Secretary shall disclose whether
23 an individual is in compliance with section 877A
24 (and if not in compliance, any items of noncompli-
25 ance) to officers and employees of the Federal agen-

1 cy responsible for administering section
2 212(a)(10)(E) of the Immigration and Nationality
3 Act solely for the purpose of, and to the extent nec-
4 essary in, administering such section
5 212(a)(10)(E).”.

6 (B) SAFEGUARDS.—Section 6103(p)(4)
7 (relating to safeguards) is amended by striking
8 “or (20)” each place it appears and inserting
9 “(20), or (21)”.

10 (3) EFFECTIVE DATES.—The amendments
11 made by this subsection shall apply to individuals
12 who relinquish United States citizenship on or after
13 the date of the enactment of this Act.

14 (e) CONFORMING AMENDMENTS.—

15 (1) Section 877 is amended by adding at the
16 end the following new subsection:

17 “(h) APPLICATION.—This section shall not apply to
18 an expatriate (as defined in section 877A(e)) whose expa-
19 triation date (as so defined) occurs on or after the date
20 of the enactment of this subsection.”.

21 (2) Section 2107 is amended by adding at the
22 end the following new subsection:

23 “(f) APPLICATION.—This section shall not apply to
24 any expatriate subject to section 877A.”.

1 (3) Section 2501(a)(3) is amended by adding at
2 the end the following new subparagraph:

3 “(C) APPLICATION.—This paragraph shall
4 not apply to any expatriate subject to section
5 877A.”.

6 (4) Section 6039G(a) is amended by inserting
7 “or 877A” after “section 877(b)”.

8 (5) The second sentence of section 6039G(d) is
9 amended by inserting “or who relinquishes United
10 States citizenship (within the meaning of section
11 877A(e)(3))” after “section 877(a)”.

12 (f) CLERICAL AMENDMENT.—The table of sections
13 for subpart A of part II of subchapter N of chapter 1
14 is amended by inserting after the item relating to section
15 877 the following new item:

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

16 (g) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as provided in this
18 subsection, the amendments made by this section
19 shall apply to expatriates (within the meaning of
20 section 877A(e) of the Internal Revenue Code of
21 1986, as added by this section) whose expatriation
22 date (as so defined) occurs on or after the date of
23 the enactment of this Act.

24 (2) GIFTS AND BEQUESTS.—Section 102(d) of
25 the Internal Revenue Code of 1986 (as added by

1 subsection (b)) shall apply to gifts and bequests re-
 2 ceived on or after the date of the enactment of this
 3 Act, from an individual or the estate of an individual
 4 whose expatriation date (as so defined) occurs after
 5 such date.

6 (3) DUE DATE FOR TENTATIVE TAX.—The due
 7 date under section 877A(h)(2) of the Internal Rev-
 8 enue Code of 1986, as added by this section, shall
 9 in no event occur before the 90th day after the date
 10 of the enactment of this Act.

11 **Subtitle F—Miscellaneous**

12 **Provisions**

13 **SEC. 551. TREATMENT OF CONTINGENT PAYMENT CON-** 14 **VERTIBLE DEBT INSTRUMENTS.**

15 (a) IN GENERAL.—Section 1275(d) (relating to regu-
 16 lation authority) is amended—

17 (1) by striking “The Secretary” and inserting
 18 the following:

19 “(1) IN GENERAL.—The Secretary”, and

20 (2) by adding at the end the following new
 21 paragraph:

22 “(2) TREATMENT OF CONTINGENT PAYMENT
 23 CONVERTIBLE DEBT.—

24 “(A) IN GENERAL.—In the case of a debt
 25 instrument which—

1 “(i) is convertible into stock of the
2 issuing corporation, into stock or debt of a
3 related party (within the meaning of sec-
4 tion 267(b) or 707(b)(1)), or into cash or
5 other property in an amount equal to the
6 approximate value of such stock or debt,
7 and

8 “(ii) provides for contingent pay-
9 ments,

10 any regulations which require original issue dis-
11 count to be determined by reference to the com-
12 parable yield of a noncontingent fixed-rate debt
13 instrument shall be applied as if the regulations
14 require that such comparable yield be deter-
15 mined by reference to a noncontingent fixed-
16 rate debt instrument which is convertible into
17 stock.

18 “(B) SPECIAL RULE.—For purposes of
19 subparagraph (A), the comparable yield shall be
20 determined without taking into account the
21 yield resulting from the conversion of a debt in-
22 strument into stock.”.

23 (b) CROSS REFERENCE.—Section 163(e)(6) (relating
24 to cross references) is amended by adding at the end the
25 following:

1 “For the treatment of contingent payment
2 convertible debt, see section 1275(d)(2).”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to debt instruments issued on or
5 after the date of the enactment of this Act.

6 **SEC. 552. GRANT OF TREASURY REGULATORY AUTHORITY**
7 **TO ADDRESS FOREIGN TAX CREDIT TRANS-**
8 **ACTIONS INVOLVING INAPPROPRIATE SEPA-**
9 **RATION OF FOREIGN TAXES FROM RELATED**
10 **FOREIGN INCOME.**

11 (a) IN GENERAL.—Section 901 (relating to taxes of
12 foreign countries and of possessions of United States) is
13 amended by redesignating subsection (m) as subsection
14 (n) and by inserting after subsection (l) the following new
15 subsection:

16 “(m) REGULATIONS.—The Secretary may prescribe
17 regulations disallowing a credit under subsection (a) for
18 all or a portion of any foreign tax, or allocating a foreign
19 tax among 2 or more persons, in cases where the foreign
20 tax is imposed on any person in respect of income of an-
21 other person or in other cases involving the inappropriate
22 separation of the foreign tax from the related foreign in-
23 come.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to transactions entered into after
3 the date of the enactment of this Act.

4 **SEC. 553. REPEAL OF SPECIAL PROPERTY EXCEPTION TO**
5 **LEASING PROVISIONS OF THE AMERICAN**
6 **JOBS CREATION ACT OF 2004.**

7 (a) IN GENERAL.—Section 849(b) of the American
8 Jobs Creation Act of 2004 is amended by striking para-
9 graphs (1) and (2), by redesignating paragraphs (3) and
10 (4) as paragraphs (1) and (2), respectively.

11 (b) LEASES TO FOREIGN ENTITIES.—Section 849(b)
12 of the American Jobs Creation Act of 2004, as amended
13 by subsection (a), is amended by adding at the end the
14 following new paragraph:

15 “(3) LEASES TO FOREIGN ENTITIES.—In the
16 case of tax-exempt use property leased to a tax-ex-
17 empt entity which is a foreign person or entity, the
18 amendments made by this part shall apply to taxable
19 years beginning after December 31, 2005, with re-
20 spect to leases entered into on or before March 12,
21 2004.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect as if included in the enact-
24 ment of the American Jobs Creation Act of 2004.

1 **SEC. 554. APPLICATION OF EARNINGS STRIPPING RULES**
2 **TO PARTNERS WHICH ARE CORPORATIONS.**

3 (a) IN GENERAL.—Section 163(j) (relating to limita-
4 tion on deduction for interest on certain indebtedness) is
5 amended by redesignating paragraph (8) as paragraph (9)
6 and by inserting after paragraph (7) the following new
7 paragraph:

8 “(8) TREATMENT OF CORPORATE PARTNERS.—
9 Except to the extent provided by regulations, in ap-
10 plying this subsection to a corporation which owns
11 (directly or indirectly) an interest in a partnership—

12 “(A) such corporation’s distributive share
13 of interest income paid or accrued to such part-
14 nership shall be treated as interest income paid
15 or accrued to such corporation,

16 “(B) such corporation’s distributive share
17 of interest paid or accrued by such partnership
18 shall be treated as interest paid or accrued by
19 such corporation, and

20 “(C) such corporation’s share of the liabil-
21 ities of such partnership shall be treated as li-
22 abilities of such corporation.”.

23 (b) ADDITIONAL REGULATORY AUTHORITY.—Section
24 163(j)(9) (relating to regulations), as redesignated by sub-
25 section (a), is amended by striking “and” at the end of
26 subparagraph (B), by striking the period at the end of

1 subparagraph (C) and inserting “, and”, and by adding
2 at the end the following new subparagraph:

3 “(D) regulations providing for the realloca-
4 tion of shares of partnership indebtedness, or
5 distributive shares of the partnership’s interest
6 income or interest expense, as may be appro-
7 priate to carry out the purposes of this sub-
8 section.”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning on or
11 after the date of the enactment of this Act.

12 **SEC. 555. LIMITATION OF EMPLOYER DEDUCTION FOR CER-**
13 **TAIN ENTERTAINMENT EXPENSES.**

14 (a) IN GENERAL.—Paragraph (2) of section 274(e)
15 (relating to expenses treated as compensation) is amended
16 to read as follows:

17 “(2) EXPENSES TREATED AS COMPENSATION.—
18 Expenses for goods, services, and facilities, to the
19 extent that the expenses do not exceed the amount
20 of the expenses which are treated by the taxpayer,
21 with respect to the recipient of the entertainment,
22 amusement, or recreation, as compensation to an
23 employee on the taxpayer’s return of tax under this
24 chapter and as wages to such employee for purposes

1 of chapter 24 (relating to withholding of income tax
2 at source on wages).”.

3 (b) **PERSONS NOT EMPLOYEES.**—Paragraph (9) of
4 section 274(e) is amended by striking “to the extent that
5 the expenses are includible in the gross income” and in-
6 serting “to the extent that the expenses do not exceed the
7 amount of the expenses which are includible in the gross
8 income”.

9 (c) **EFFECTIVE DATE.**—The amendments made by
10 this section shall apply to expenses incurred after the date
11 of the enactment of this Act.

12 **SEC. 556. INCREASE IN AGE OF MINOR CHILDREN WHOSE**
13 **UNEARNED INCOME IS TAXED AS IF PAR-**
14 **ENT’S INCOME.**

15 (a) **IN GENERAL.**—Section 1(g)(2)(A) (relating to
16 child to whom subsection applies) is amended by striking
17 “age 14” and inserting “age 18”.

18 (b) **TREATMENT OF DISTRIBUTIONS FROM QUALI-**
19 **FIED DISABILITY TRUSTS.**—Section 1(g)(4) (relating to
20 net unearned income) is amended by adding at the end
21 the following new subparagraph:

22 “(C) **TREATMENT OF DISTRIBUTIONS**
23 **FROM QUALIFIED DISABILITY TRUSTS.**—For
24 purposes of this subsection, in the case of any
25 child who is a beneficiary of a qualified dis-

1 ability trust (as defined in section
2 642(b)(2)(C)(ii)), any amount included in the
3 income of such child under sections 652 and
4 662 during a taxable year shall be considered
5 earned income of such child for such taxable
6 year.”.

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

10 **SEC. 557. LOAN AND REDEMPTION REQUIREMENTS ON**
11 **POOLED FINANCING REQUIREMENTS.**

12 (a) STRENGTHENED REASONABLE EXPECTATION
13 REQUIREMENT.—Subparagraph (A) of section 149(f)(2)
14 (relating to reasonable expectation requirement) is amend-
15 ed to read as follows:

16 “(A) IN GENERAL.—The requirements of
17 this paragraph are met with respect to an issue
18 if the issuer reasonably expects that—

19 “(i) as of the close of the 1-year pe-
20 riod beginning on the date of issuance of
21 the issue, at least 50 percent of the net
22 proceeds of the issue (as of the close of
23 such period) will have been used directly or
24 indirectly to make or finance loans to ulti-
25 mate borrowers, and

1 “(ii) as of the close of the 3-year pe-
2 riod beginning on such date of issuance, at
3 least 95 percent of the net proceeds of the
4 issue (as of the close of such period) will
5 have been so used.”.

6 (b) WRITTEN LOAN COMMITMENT AND REDEMPTION
7 REQUIREMENTS.—Section 149(f) (relating to treatment
8 of certain pooled financing bonds) is amended by redesi-
9 gnating paragraphs (4) and (5) as paragraphs (6) and (7),
10 respectively, and by inserting after paragraph (3) the fol-
11 lowing new paragraphs:

12 “(4) WRITTEN LOAN COMMITMENT REQUIRE-
13 MENT.—

14 “(A) IN GENERAL.—The requirement of
15 this paragraph is met with respect to an issue
16 if the issuer receives prior to issuance written
17 loan commitments identifying the ultimate po-
18 tential borrowers of at least 50 percent of the
19 net proceeds of such issue.

20 “(B) EXCEPTION.—Subparagraph (A)
21 shall not apply with respect to any issuer which
22 is a State (or an integral part of a State)
23 issuing pooled financing bonds to make or fi-
24 nance loans to subordinate governmental units
25 of such State or to State-created entities pro-

1 viding financing for water-infrastructure
2 projects through the federally-sponsored State
3 revolving fund program.

4 “(5) REDEMPTION REQUIREMENT.—The re-
5 quirement of this paragraph is met if to the extent
6 that less than the percentage of the proceeds of an
7 issue required to be used under clause (i) or (ii) of
8 paragraph (2)(A) is used by the close of the period
9 identified in such clause, the issuer uses an amount
10 of proceeds equal to the excess of—

11 “(A) the amount required to be used under
12 such clause, over

13 “(B) the amount actually used by the close
14 of such period,
15 to redeem outstanding bonds within 90 days after
16 the end of such period.”.

17 (c) ELIMINATION OF DISREGARD OF POOLED BONDS
18 IN DETERMINING ELIGIBILITY FOR SMALL ISSUER EX-
19 CEPTION TO ARBITRAGE REBATE.—Section
20 148(f)(4)(D)(ii) (relating to aggregation of issuers) is
21 amended by striking subclause (II) and by redesignating
22 subclauses (III) and (IV) as subclauses (II) and (III), re-
23 spectively.

24 (d) CONFORMING AMENDMENTS.—

1 (1) Section 149(f)(1) is amended by striking
2 “paragraphs (2) and (3)” and inserting “paragraphs
3 (2), (3), (4), and (5)”.

4 (2) Section 149(f)(7)(B), as redesignated by
5 subsection (b), is amended by striking “paragraph
6 (4)(A)” and inserting “paragraph (6)(A)”.

7 (3) Section 54(l)(2) is amended by striking
8 “section 149(f)(4)(A)” and inserting “section
9 149(f)(6)(A)”.

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

13 **SEC. 558. REPORTING OF INTEREST ON TAX-EXEMPT**
14 **BONDS.**

15 (a) IN GENERAL.—Section 6049(b)(2) (relating to
16 exceptions) is amended by striking subparagraph (B) and
17 by redesignating subparagraphs (C) and (D) as subpara-
18 graphs (B) and (C), respectively.

19 (b) CONFORMING AMENDMENT.—Section
20 6049(b)(2)(C), as redesignated by subsection (a), is
21 amended by striking “subparagraph (C)” and inserting
22 “subparagraph (B)”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to interest earned after December
25 31, 2005.

1 **SEC. 559. MODIFICATION OF CREDIT FOR PRODUCING**
2 **FUEL FROM A NONCONVENTIONAL SOURCE.**

3 (a) TAXABLE YEARS ENDING BEFORE 2006.—

4 (1) MODIFICATION OF PHASEOUT.—

5 (A) IN GENERAL.—Section 29(b)(1)(A) is
6 amended by inserting “the calendar year pre-
7 ceding” before “the calendar year”.

8 (B) CONFORMING AMENDMENTS.—Section
9 29(b)((2) is amended—

10 (i) by striking “The” and inserting
11 “With respect to any calendar year, the”,
12 and

13 (ii) by striking “for the calendar year
14 in which the sale occurs” and inserting
15 “for such calendar year”.

16 (2) NO INFLATION ADJUSTMENT FOR THE
17 CREDIT AMOUNT IN 2005.—Section 29(b)(2), as
18 amended by paragraph (1), is amended by adding at
19 the end the following new sentence: “This paragraph
20 shall not apply with respect to the \$3 amount in
21 subsection (a) for calendar year 2005 and the
22 amount in effect under subsection (a) for sales in
23 such calendar year shall be the amount which was
24 in effect for sales in calendar year 2004.”.

25 (b) TAXABLE YEARS ENDING AFTER 2005.—

26 (1) MODIFICATION OF PHASEOUT.—

1 (A) IN GENERAL.—Section 45K(b)(1)(A)
2 is amended by inserting “the calendar year pre-
3 ceding” before “the calendar year”.

4 (B) CONFORMING AMENDMENTS.—Section
5 45K(b)(2) is amended—

6 (i) by striking “The” and inserting
7 “With respect to any calendar year, the”,
8 and

9 (ii) by striking “for the calendar year
10 in which the sale occurs” and inserting
11 “for such calendar year”.

12 (2) NO INFLATION ADJUSTMENT FOR THE
13 CREDIT AMOUNT IN 2005, 2006, AND 2007.—Section
14 45K(b)(2), as amended by paragraph (1), is amend-
15 ed by adding at the end the following new sentence:
16 “This paragraph shall not apply with respect to the
17 \$3 amount in subsection (a) for calendar years
18 2005, 2006, and 2007 and the amount in effect
19 under subsection (a) for sales in each such calendar
20 year shall be the amount which was in effect for
21 sales in calendar year 2004.”.

22 (3) TREATMENT OF COKE AND COKE GAS.—

23 (A) NONAPPLICATION OF PHASEOUT.—
24 Section 45K(g)(2) is amended by adding at the
25 end the following new subparagraph:

1 **SEC. 561. REVALUATION OF LIFO INVENTORIES OF LARGE**
2 **INTEGRATED OIL COMPANIES.**

3 (a) **GENERAL RULE.**—Notwithstanding any other
4 provision of law, if a taxpayer is an applicable integrated
5 oil company for its last taxable year ending in calendar
6 year 2005, the taxpayer shall—

7 (1) increase, effective as of the close of such
8 taxable year, the value of each historic LIFO layer
9 of inventories of crude oil, natural gas, or any other
10 petroleum product (within the meaning of section
11 4611) by the layer adjustment amount, and

12 (2) decrease its cost of goods sold for such tax-
13 able year by the aggregate amount of the increases
14 under paragraph (1).

15 If the aggregate amount of the increases under paragraph
16 (1) exceed the taxpayer's cost of goods sold for such tax-
17 able year, the taxpayer's gross income for such taxable
18 year shall be increased by the amount of such excess.

19 (b) **LAYER ADJUSTMENT AMOUNT.**—For purposes of
20 this section—

21 (1) **IN GENERAL.**—The term “layer adjustment
22 amount” means, with respect to any historic LIFO
23 layer, the product of—

24 (A) \$18.75, and

25 (B) the number of barrels of crude oil (or
26 in the case of natural gas or other petroleum

1 products, the number of barrel-of-oil equiva-
2 lents) represented by the layer.

3 (2) BARREL-OF-OIL EQUIVALENT.—The term
4 “barrel-of-oil equivalent” has the meaning given
5 such term by section 29(d)(5) (as in effect before its
6 redesignation by the Energy Tax Incentives Act of
7 2005).

8 (c) APPLICATION OF REQUIREMENT.—

9 (1) NO CHANGE IN METHOD OF ACCOUNTING.—
10 Any adjustment required by this section shall not be
11 treated as a change in method of accounting.

12 (2) UNDERPAYMENTS OF ESTIMATED TAX.—o
13 addition to the tax shall be made under section 6655
14 of the Internal Revenue Code of 1986 (relating to
15 failure by corporation to pay estimated tax) with re-
16 spect to any underpayment of an installment re-
17 quired to be paid with respect to the taxable year
18 described in subsection (a) to the extent such under-
19 payment was created or increased by this section.

20 (d) APPLICABLE INTEGRATED OIL COMPANY.—For
21 purposes of this section, the term “applicable integrated
22 oil company” means an integrated oil company (as defined
23 in section 291(b)(4) of the Internal Revenue Code of
24 1986) which has an average daily worldwide production
25 of crude oil of at least 500,000 barrels for the taxable year

1 and which had gross receipts in excess of \$1,000,000,000
2 for its last taxable year ending during calendar year 2005.
3 For purposes of this subsection all persons treated as a
4 single employer under subsections (a) and (b) of section
5 52 of the Internal Revenue Code of 1986 shall be treated
6 as 1 person and, in the case of a short taxable year, the
7 rule under section 448(c)(3)(B) shall apply.

8 **SEC. 562. ELIMINATION OF AMORTIZATION OF GEOLOGI-**
9 **CAL AND GEOPHYSICAL EXPENDITURES FOR**
10 **MAJOR INTEGRATED OIL COMPANIES.**

11 (a) IN GENERAL.—Section 167(h) is amended by
12 adding at the end the following new paragraph:

13 “(5) NONAPPLICATION TO MAJOR INTEGRATED
14 OIL COMPANIES.—This subsection shall not apply
15 with respect to any expenses paid or incurred for
16 any taxable year by any integrated oil company (as
17 defined in section 291(b)(4)) which has an average
18 daily worldwide production of crude oil of at least
19 500,000 barrels for such taxable year.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall take effect as if included in the amend-
22 ment made by section 1329(a) of the Energy Policy Act
23 of 2005.

1 **SEC. 563. VALUATION OF EMPLOYEE PERSONAL USE OF**
2 **NONCOMMERCIAL AIRCRAFT.**

3 (a) IN GENERAL.—For purposes of Federal income
4 tax inclusion, the value of any employee personal use of
5 noncommercial aircraft shall equal the excess (if any) of—

6 (1) greater of—

7 (A) the fair market value of such use, or

8 (B) the actual cost of such use (including
9 all fixed and variable costs), over

10 (2) any amount paid by or on behalf of such
11 employee for such use.

12 (b) EFFECTIVE DATE.—Subsection (a) shall apply to
13 use after the date of the enactment of this Act.

14 **SEC. 564. APPLICATION OF FIRPTA TO REGULATED INVEST-**
15 **MENT COMPANIES.**

16 (a) IN GENERAL.—Subclause (II) of section
17 897(h)(4)(A)(i) (defining qualified investment entity) is
18 amended by inserting “which is a United States real prop-
19 erty holding corporation or which would be a United
20 States real property holding corporation if the exceptions
21 provided in subsections (c)(3) and (h)(2) did not apply to
22 interests in any real estate investment trust or regulated
23 investment company” after “regulated investment com-
24 pany”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to distributions with respect to tax-
3 able years beginning after December 31, 2004.

4 **SEC. 565. TREATMENT OF DISTRIBUTIONS ATTRIBUTABLE**
5 **TO FIRPTA GAINS.**

6 (a) QUALIFIED INVESTMENT ENTITY.—

7 (1) IN GENERAL.—Section 897(h)(1) is
8 amended—

9 (A) by striking “a nonresident alien indi-
10 vidual or a foreign corporation” in the first sen-
11 tence and inserting “a nonresident alien indi-
12 vidual, a foreign corporation, or other qualified
13 investment entity”,

14 (B) by striking “such nonresident alien in-
15 dividual or foreign corporation” in the first sen-
16 tence and inserting “such nonresident alien in-
17 dividual, foreign corporation, or other qualified
18 investment entity”, and

19 (C) by striking the second sentence and in-
20 serting the following new sentence: “Notwith-
21 standing the preceding sentence, any distribu-
22 tion by a qualified investment entity to a non-
23 resident alien, a foreign corporation, or other
24 qualified investment entity with respect to any
25 class of stock which is regularly traded on an

1 established securities market located in the
2 United States shall not be treated as gain rec-
3 ognized from the sale or exchange of a United
4 States real property interest if the shareholder
5 did not own more than 5 percent of such class
6 of stock at any time during the 1 year period
7 ending on the date of such distribution.”.

8 (2) APPLICATION AFTER 2007.—Clause (ii) of
9 section 897(h)(4)(A) is amended by adding at the
10 end the following new sentence: “Notwithstanding
11 the preceding sentence, an entity described in clause
12 (i)(II) shall be treated as a qualified investment en-
13 tity for purposes of applying paragraph (1) in any
14 case in which a real estate investment trust makes
15 a distribution to an entity described in clause
16 (i)(II).”.

17 (b) TREATMENT OF CERTAIN DISTRIBUTIONS AS
18 DIVIDENDS.—

19 (1) IN GENERAL.—Section 852(b)(3) (relating
20 to capital gains) is amended by adding at the end
21 the following new subparagraph:

22 “(E) CERTAIN DISTRIBUTIONS.—In the
23 case of a distribution to which section 897 does
24 not apply by reason of the second sentence of
25 section 897(h)(1), the amount of such distribu-

1 tion which would be included in computing
2 long-term capital gains for the shareholder
3 under subparagraph (B) or (D) (without regard
4 to this subparagraph)—

5 “(i) shall not be included in com-
6 puting such shareholder’s long-term capital
7 gains, and

8 “(ii) shall be included in such share-
9 holder’s gross income as a dividend from
10 the regulated investment company.”.

11 (2) CONFORMING AMENDMENT.—Section
12 871(k)(2) (relating to short-term capital gain divi-
13 dends) is amended by adding at the end the fol-
14 lowing new subparagraph:

15 “(E) CERTAIN DISTRIBUTIONS.—In the
16 case of a distribution to which section 897 does
17 not apply by reason of the second sentence of
18 section 897(h)(1), the amount which would be
19 treated as a short-term capital gain dividend to
20 the shareholder (without regard to this sub-
21 paragraph)—

22 “(i) shall not be treated as a short-
23 term capital gain dividend, and

1 “(ii) shall be included in such share-
2 holder’s gross income as a dividend from
3 the regulated investment company.”.

4 (c) EFFECTIVE DATES.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), the amendments made by this section
7 shall apply to taxable years of qualified investment
8 entities beginning after the date of the enactment of
9 this Act.

10 (2) DIVIDENDS.—The amendments made by
11 subsection (b) shall apply to dividends with respect
12 to taxable years of regulated investment companies
13 beginning after December 31, 2004.

14 **SEC. 566. PREVENTION OF AVOIDANCE OF TAX ON INVEST-**
15 **MENTS OF FOREIGN PERSONS IN UNITED**
16 **STATES REAL PROPERTY THROUGH WASH**
17 **SALE TRANSACTIONS.**

18 (a) IN GENERAL.—Section 897(h) of the Internal
19 Revenue Code of 1986 (relating to special rules in certain
20 investment entities) is amended by redesignating para-
21 graph (4) as paragraph (5) and by inserting after para-
22 graph (3) the following new paragraph:

23 “(4) TREATMENT OF CERTAIN WASH SALE
24 TRANSACTIONS.—

1 “(A) IN GENERAL.—If an interest in a do-
2 mestically controlled qualified investment entity
3 is disposed of in an applicable wash sale trans-
4 action, the taxpayer shall, for purposes of this
5 section, be treated as having gain from the sale
6 or exchange of a United States real property in-
7 terest in an amount equal to the portion of the
8 distribution described in subparagraph (B) with
9 respect to such interest which, but for the dis-
10 position, would have been treated by the tax-
11 payer as gain from the sale or exchange of a
12 United States real property interest under
13 paragraph (1).

14 “(B) APPLICABLE WASH SALES TRANS-
15 ACTION.—For purposes of this paragraph—

16 “(i) IN GENERAL.—The term ‘applica-
17 ble wash sales transaction’ means any
18 transaction (or series of transactions)
19 under which a nonresident alien individual
20 or foreign corporation—

21 “(I) disposes of an interest in a
22 domestically controlled qualified in-
23 vestment entity during the 30-day pe-
24 riod preceding a distribution which is
25 to be made with respect to the inter-

1 est and any portion of which, but for
2 the disposition, would have been treat-
3 ed by the taxpayer as gain from the
4 sale or exchange of a United States
5 real property interest under para-
6 graph (1), and

7 “(II) acquires an identical inter-
8 est in such entity during the 60-day
9 period beginning with the 1st day of
10 the 30-day period described in sub-
11 clause (I).

12 For purposes of subclause (II), a non-
13 resident alien individual or foreign corpora-
14 tion shall be treated as having acquired
15 any interest acquired by a person related
16 (within the meaning of section
17 465(b)(3)(C)) to the individual or corpora-
18 tion.

19 “(ii) EXCEPTION WHERE DISTRIBUTION ACTUALLY RECEIVED.—A transaction
20 shall not be treated as an applicable wash
21 sales transaction if the nonresident alien
22 individual or foreign corporation receives
23 the distribution described in clause (i)(I)
24 with respect to either the interest which
25

1 was disposed of, or acquired, in the trans-
2 action.

3 “(iii) EXCEPTION FOR CERTAIN PUB-
4 LICLY TRADED STOCK.—A transaction
5 shall not be treated as an applicable wash
6 sales transaction if it involves the disposi-
7 tion of any class of stock in a qualified in-
8 vestment entity which is regularly traded
9 on an established securities market within
10 the United States but only if the non-
11 resident alien individual or foreign corpora-
12 tion did not own more than 5 percent of
13 such class of stock at any time during the
14 1-year period ending on the date of the
15 distribution described in clause (i)(I).”.

16 (b) NO WITHHOLDING REQUIRED.—Section 1445(b)
17 of the Internal Revenue Code of 1986 (relating to exemp-
18 tions) is amended by adding at the end the following new
19 paragraph:

20 “(8) APPLICABLE WASH SALES TRANS-
21 ACTIONS.—No person shall be required to deduct
22 and withhold any amount under subsection (a) with
23 respect to a disposition which is treated as a disposi-
24 tion of a United States real property interest solely
25 by reason of section 897(h)(4).”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to dispositions after December 31,
3 2005, in taxable years ending after such date.

4 **SEC. 567. MODIFICATIONS TO RULES RELATING TO TAX-**
5 **ATION OF DISTRIBUTIONS OF STOCK AND SE-**
6 **CURITIES OF A CONTROLLED CORPORATION.**

7 (a) MODIFICATION OF ACTIVE BUSINESS DEFINI-
8 TION UNDER SECTION 355.—

9 (1) IN GENERAL.—Section 355(b) (defining ac-
10 tive conduct of a trade or business) is amended by
11 adding at the end the following new paragraph:

12 “(3) SPECIAL RULES RELATING TO ACTIVE
13 BUSINESS REQUIREMENT.—

14 “(A) IN GENERAL.—For purposes of deter-
15 mining whether a corporation meets the re-
16 quirement of paragraph (2)(A), all members of
17 such corporation’s separate affiliated group
18 shall be treated as 1 corporation. For purposes
19 of the preceding sentence, the term ‘separate
20 affiliated group’ means, with respect to any cor-
21 poration, the affiliated group which would be
22 determined under section 1504(a) if such cor-
23 poration were the common parent and section
24 1504(b) did not apply.

1 “(B) CONTROL.—For purposes of para-
2 graph (2)(D), all distributee corporations which
3 are members of the same affiliated group (as
4 defined in section 1504(a) without regard to
5 section 1504(b)) shall be treated as 1 dis-
6 tributee corporation.”.

7 (2) CONFORMING AMENDMENTS.—

8 (A) Subparagraph (A) of section 355(b)(2)
9 is amended to read as follows:

10 “(A) it is engaged in the active conduct of
11 a trade or business,”.

12 (B) Section 355(b)(2) of such Code is
13 amended by striking the last sentence.

14 (3) EFFECTIVE DATES.—

15 (A) IN GENERAL.—The amendments made
16 by this subsection shall apply—

17 (i) to distributions after the date of
18 the enactment of this Act, and before Jan-
19 uary 1, 2010, and

20 (ii) for purposes of determining the
21 continued qualification under section
22 355(b)(2)(A) of the Internal Revenue Code
23 of 1986 (as amended by paragraph (2)(A))
24 of distributions made before such date, as
25 a result of an acquisition, disposition, or

1 other restructuring after such date and be-
2 fore January 1, 2010.

3 (B) TRANSITION RULE.—The amendments
4 made by this subsection shall not apply to any
5 distribution pursuant to a transaction which
6 is—

7 (i) made pursuant to an agreement
8 which was binding on such date of enact-
9 ment and at all times thereafter,

10 (ii) described in a ruling request sub-
11 mitted to the Internal Revenue Service on
12 or before such date, or

13 (iii) described on or before such date
14 in a public announcement or in a filing
15 with the Securities and Exchange Commis-
16 sion.

17 (C) ELECTIONS.—

18 (i) OUT OF TRANSITION RELIEF.—
19 Subparagraph (B) shall not apply if the
20 distributing corporation elects not to have
21 such subparagraph apply to distributions
22 of such corporation. Any such election,
23 once made, shall be irrevocable.

24 (ii) APPLICATION TO PRIOR DISTRIBU-
25 TIONS.—Subparagraph (A)(ii) shall not

1 apply to a distributing or controlled cor-
2 poration if the corporation elects not to
3 have such subparagraph apply to such cor-
4 poration. Any such election, once made,
5 shall be irrevocable.

6 (b) SECTION 355 NOT TO APPLY TO DISTRIBUTIONS
7 IF THE DISTRIBUTING OR CONTROLLED CORPORATION IS
8 A DISQUALIFIED INVESTMENT CORPORATION.—

9 (1) IN GENERAL.—Section 355 (relating to dis-
10 tributions of stock and securities of a controlled cor-
11 poration) is amended by adding at the end the fol-
12 lowing new subsection:

13 “(g) SECTION NOT TO APPLY TO DISTRIBUTIONS IN-
14 VOLVING DISQUALIFIED INVESTMENT CORPORATIONS.—

15 “(1) IN GENERAL.—This section (and so much
16 of section 356 as relates to this section) shall not
17 apply to any distribution which is part of a trans-
18 action if—

19 “(A) either the distributing corporation or
20 controlled corporation is, immediately after the
21 transaction, a disqualified investment corpora-
22 tion, and

23 “(B) any person holds, immediately after
24 the transaction, a 50-percent or greater interest
25 in any disqualified investment corporation, but

1 only if such person did not hold such an inter-
2 est in such corporation immediately before the
3 transaction.

4 “(2) DISQUALIFIED INVESTMENT CORPORA-
5 TION.—For purposes of this subsection—

6 “(A) IN GENERAL.—The term ‘disqualified
7 investment corporation’ means any distributing
8 or controlled corporation if the fair market
9 value of the investment assets of the corpora-
10 tion is 75 percent or more of the fair market
11 value of all assets of the corporation.

12 “(B) INVESTMENT ASSETS.—

13 “(i) IN GENERAL.—Except as other-
14 wise provided in this subparagraph, the
15 term ‘investment assets’ means—

16 “(I) cash,

17 “(II) any stock or securities in a
18 corporation,

19 “(III) any interest in a partner-
20 ship,

21 “(IV) any debt instrument or
22 other evidence of indebtedness,

23 “(V) any option, forward or fu-
24 tures contract, notional principal con-
25 tract, or derivative,

1 “(VI) foreign currency, or

2 “(VII) any similar asset.

3 “(ii) EXCEPTION FOR ASSETS USED
4 IN ACTIVE CONDUCT OF CERTAIN FINAN-
5 CIAL TRADES OR BUSINESSES.—Such term
6 shall not include any asset which is held
7 for use in the active and regular conduct
8 of—

9 “(I) a lending or finance business
10 (within the meaning of section
11 954(h)(4)),

12 “(II) a banking business through
13 a bank (as defined in section 581), a
14 domestic building and loan association
15 (within the meaning of section
16 7701(a)(19)), or any similar institu-
17 tion specified by the Secretary, or

18 “(III) an insurance business if
19 the conduct of the business is li-
20 censed, authorized, or regulated by an
21 applicable insurance regulatory body.

22 This clause shall only apply with respect to
23 any business if substantially all of the in-
24 come of the business is derived from per-
25 sons who are not related (within the mean-

1 ing of section 267(b) or 707(b)(1)) to the
2 person conducting the business.

3 “(iii) EXCEPTION FOR SECURITIES
4 MARKED TO MARKET.—Such term shall
5 not include any security (as defined in sec-
6 tion 475(c)(2)) which is held by a dealer in
7 securities and to which section 475(a) ap-
8 plies.

9 “(iv) STOCK OR SECURITIES IN A 25-
10 PERCENT CONTROLLED ENTITY.—

11 “(I) IN GENERAL.—Such term
12 shall not include any stock and securi-
13 ties in, or any asset described in sub-
14 clause (IV) or (V) of clause (i) issued
15 by, a corporation which is a 25-per-
16 cent controlled entity with respect to
17 the distributing or controlled corpora-
18 tion.

19 “(II) LOOK-THRU RULE.—The
20 distributing or controlled corporation
21 shall, for purposes of applying this
22 subsection, be treated as owning its
23 ratable share of the assets of any 25-
24 percent controlled entity.

1 “(III) 25-PERCENT CONTROLLED
2 ENTITY.—For purposes of this clause,
3 the term ‘25-percent controlled entity’
4 means, with respect to any distrib-
5 uting or controlled corporation, any
6 corporation with respect to which the
7 distributing or controlled corporation
8 owns directly or indirectly stock meet-
9 ing the requirements of section
10 1504(a)(2), except that such section
11 shall be applied by substituting ‘25
12 percent’ for ‘80 percent’ and without
13 regard to stock described in section
14 1504(a)(4).

15 “(V) INTERESTS IN CERTAIN PART-
16 NERSHIPS.—

17 “(I) IN GENERAL.—Such term
18 shall not include any interest in a
19 partnership, or any debt instrument
20 or other evidence of indebtedness,
21 issued by the partnership, if 1 or
22 more of the trades or businesses of
23 the partnership are (or, without re-
24 gard to the 5-year requirement under
25 subsection (b)(2)(B), would be) taken

1 into account by the distributing or
2 controlled corporation, as the case
3 may be, in determining whether the
4 requirements of subsection (b) are
5 met with respect to the distribution.

6 “(II) LOOK-THRU RULE.—The
7 distributing or controlled corporation
8 shall, for purposes of applying this
9 subsection, be treated as owning its
10 ratable share of the assets of any
11 partnership described in subclause (I).

12 “(3) 50-PERCENT OR GREATER INTEREST.—
13 For purposes of this subsection—

14 “(A) IN GENERAL.—The term ‘50-percent
15 or greater interest’ has the meaning given such
16 term by subsection (d)(4).

17 “(B) ATTRIBUTION RULES.—The rules of
18 section 318 shall apply for purposes of deter-
19 mining ownership of stock for purposes of this
20 paragraph.

21 “(4) TRANSACTION.—For purposes of this sub-
22 section, the term ‘transaction’ includes a series of
23 transactions.

24 “(5) REGULATIONS.—The Secretary shall pre-
25 scribe such regulations as may be necessary to carry

1 out, or prevent the avoidance of, the purposes of this
2 subsection, including regulations—

3 “(A) to carry out, or prevent the avoidance
4 of, the purposes of this subsection in cases
5 involving—

6 “(i) the use of related persons, inter-
7 mediaries, pass-thru entities, options, or
8 other arrangements, and

9 “(ii) the treatment of assets unrelated
10 to the trade or business of a corporation as
11 investment assets if, prior to the distribu-
12 tion, investment assets were used to ac-
13 quire such unrelated assets,

14 “(B) which in appropriate cases exclude
15 from the application of this subsection a dis-
16 tribution which does not have the character of
17 a redemption which would be treated as a sale
18 or exchange under section 302, and

19 “(C) which modify the application of the
20 attribution rules applied for purposes of this
21 subsection.”.

22 (2) EFFECTIVE DATES.—

23 (A) IN GENERAL.—The amendments made
24 by this subsection shall apply to distributions
25 after the date of the enactment of this Act.

1 (B) TRANSITION RULE.—The amendments
 2 made by this subsection shall not apply to any
 3 distribution pursuant to a transaction which
 4 is—

5 (i) made pursuant to an agreement
 6 which was binding on such date of enact-
 7 ment and at all times thereafter,

8 (ii) described in a ruling request sub-
 9 mitted to the Internal Revenue Service on
 10 or before such date, or

11 (iii) described on or before such date
 12 in a public announcement or in a filing
 13 with the Securities and Exchange Commis-
 14 sion.

15 **SEC. 568. AMORTIZATION OF EXPENSES INCURRED IN CRE-**
 16 **ATING OR ACQUIRING MUSIC OR MUSIC**
 17 **COPYRIGHTS.**

18 (a) IN GENERAL.—Section 263A (relating to capital-
 19 ization and inclusion in inventory costs of certain ex-
 20 penses) is amended by redesignating subsection (i) as sub-
 21 section (j) and by adding after subsection (h) the following
 22 new subsection:

23 “(i) SPECIAL RULES FOR CERTAIN MUSICAL WORKS
 24 AND COPYRIGHTS.—

25 “(1) IN GENERAL.—If—

1 “(A) any expense is paid or incurred by
2 the taxpayer in creating or acquiring any musi-
3 cal composition (including any accompanying
4 words) or any copyright with respect to a musi-
5 cal composition, and

6 “(B) such expense is required to be cap-
7 italized under this section,

8 then, notwithstanding section 167(g), the amount
9 capitalized shall be amortized ratably over the 5-year
10 period beginning with the month in which the com-
11 position or copyright was acquired (or, in the case
12 of expenses paid or incurred in connection with the
13 creation of a musical composition, the 5-taxable-year
14 period beginning with the taxable year in which the
15 expenses were paid or incurred).

16 “(2) EXCEPTIONS.—Paragraph (1) shall not
17 apply to any expense—

18 “(A) which is a qualified creative expense
19 under subsection (h),

20 “(B) to which a simplified procedure estab-
21 lished under subsection (j)(2) applies,

22 “(C) which is an amortizable section 197
23 intangible (as defined in section 197(e)), or

24 “(D) which, without regard to this section,
25 would not be allowable as a deduction.”

1 (b) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to expenses paid or incurred after
 3 December 31, 2005, in taxable years ending after such
 4 date.

5 **SEC. 569. CREDIT TO HOLDERS OF RURAL RENAISSANCE**
 6 **BONDS.**

7 (a) IN GENERAL.—Subpart H of part IV of sub-
 8 chapter A of chapter 1 (relating to credits against tax)
 9 is amended by adding at the end the following new section:
 10 **“SEC. 54A. CREDIT TO HOLDERS OF RURAL RENAISSANCE**
 11 **BONDS.**

12 “(a) ALLOWANCE OF CREDIT.—In the case of a tax-
 13 payer who holds a rural renaissance bond on a credit al-
 14 lowance date of such bond, which occurs during the tax-
 15 able year, there shall be allowed as a credit against the
 16 tax imposed by this chapter for such taxable year an
 17 amount equal to the sum of the credits determined under
 18 subsection (b) with respect to credit allowance dates dur-
 19 ing such year on which the taxpayer holds such bond.

20 “(b) AMOUNT OF CREDIT.—

21 “(1) IN GENERAL.—The amount of the credit
 22 determined under this subsection with respect to any
 23 credit allowance date for a rural renaissance bond is
 24 25 percent of the annual credit determined with re-
 25 spect to such bond.

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

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

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

9 “(3) DETERMINATION.—For purposes of para-
10 graph (2), with respect to any rural renaissance
11 bond, the Secretary shall determine daily or caused
12 to be determined daily a credit rate which shall
13 apply to the first day on which there is a binding,
14 written contract for the sale or exchange of the
15 bond. The credit rate for any day is the credit rate
16 which the Secretary or the Secretary’s designee esti-
17 mates will permit the issuance of rural renaissance
18 bonds with a specified maturity or redemption date
19 without discount and without interest cost to the
20 qualified issuer.

21 “(4) CREDIT ALLOWANCE DATE.—For purposes
22 of this section, the term ‘credit allowance date’
23 means—

24 “(A) March 15,

25 “(B) June 15,

1 “(C) September 15, and

2 “(D) December 15.

3 Such term also includes the last day on which the
4 bond is outstanding.

5 “(5) SPECIAL RULE FOR ISSUANCE AND RE-
6 DEMPTION.—In the case of a bond which is issued
7 during the 3-month period ending on a credit allow-
8 ance date, the amount of the credit determined
9 under this subsection with respect to such credit al-
10 lowance date shall be a ratable portion of the credit
11 otherwise determined based on the portion of the 3-
12 month period during which the bond is outstanding.
13 A similar rule shall apply when the bond is redeemed
14 or matures.

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

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

21 “(2) the sum of the credits allowable under this
22 part (other than subpart C thereof, relating to re-
23 fundable credits).

24 “(d) RURAL RENAISSANCE BOND.—For purposes of
25 this section—

1 “(1) IN GENERAL.—The term ‘rural renaiss-
2 sance bond’ means any bond issued as part of an
3 issue if—

4 “(A) the bond is issued by a qualified
5 issuer,

6 “(B) 95 percent or more of the proceeds
7 from the sale of such issue are to be used for
8 capital expenditures incurred for 1 or more
9 qualified projects,

10 “(C) the qualified issuer designates such
11 bond for purposes of this section and the bond
12 is in registered form, and

13 “(D) the issue meets the requirements of
14 subsections (e) and (h).

15 “(2) QUALIFIED PROJECT; SPECIAL USE
16 RULES.—

17 “(A) IN GENERAL.—The term ‘qualified
18 project’ means 1 or more projects described in
19 subparagraph (B) located in a rural area.

20 “(B) PROJECTS DESCRIBED.—A project
21 described in this subparagraph is—

22 “(i) a water or waste treatment
23 project,

24 “(ii) an affordable housing project,

1 “(iii) a community facility project, in-
2 cluding hospitals, fire and police stations,
3 and nursing and assisted-living facilities,

4 “(iv) a value-added agriculture or re-
5 newable energy facility project for agricul-
6 tural producers or farmer-owned entities,
7 including any project to promote the pro-
8 duction, processing, or retail sale of eth-
9 anol (including fuel at least 85 percent of
10 the volume of which consists of ethanol),
11 biodiesel, animal waste, biomass, raw com-
12 modities, or wind as a fuel,

13 “(v) a distance learning or telemedi-
14 cine project,

15 “(vi) a rural utility infrastructure
16 project, including any electric or telephone
17 system,

18 “(vii) a project to expand broadband
19 technology,

20 “(viii) a rural teleworks project, and

21 “(ix) any project described in any pre-
22 ceding clause carried out by the Delta Re-
23 gional Authority.

24 “(C) SPECIAL RULES.—For purposes of
25 this paragraph—

1 “(i) any project described in subpara-
2 graph (B)(iv) for a farmer-owned entity
3 may be considered a qualified project if
4 such entity is located in a rural area, or in
5 the case of a farmer-owned entity the
6 headquarters of which are located in a
7 nonrural area, if the project is located in
8 a rural area, and

9 “(ii) any project for a farmer-owned
10 entity which is a facility described in sub-
11 paragraph (B)(iv) for agricultural pro-
12 ducers may be considered a qualified
13 project regardless of whether the facility is
14 located in a rural or nonrural area.

15 “(3) SPECIAL USE RULES.—

16 “(A) REFINANCING RULES.—For purposes
17 of paragraph (1)(B), a qualified project may be
18 refinanced with proceeds of a rural renaissance
19 bond only if the indebtedness being refinanced
20 (including any obligation directly or indirectly
21 refinanced by such indebtedness) was originally
22 incurred after the date of the enactment of this
23 section.

24 “(B) REIMBURSEMENT.—For purposes of
25 paragraph (1)(B), a rural renaissance bond

1 may be issued to reimburse a borrower for
2 amounts paid after the date of the enactment
3 of this section with respect to a qualified
4 project, but only if—

5 “(i) prior to the payment of the origi-
6 nal expenditure, the borrower declared its
7 intent to reimburse such expenditure with
8 the proceeds of a rural renaissance bond,

9 “(ii) not later than 60 days after pay-
10 ment of the original expenditure, the quali-
11 fied issuer adopts an official intent to re-
12 imburse the original expenditure with such
13 proceeds, and

14 “(iii) the reimbursement is made not
15 later than 18 months after the date the
16 original expenditure is paid.

17 “(C) TREATMENT OF CHANGES IN USE.—

18 For purposes of paragraph (1)(B), the proceeds
19 of an issue shall not be treated as used for a
20 qualified project to the extent that a borrower
21 takes any action within its control which causes
22 such proceeds not to be used for a qualified
23 project. The Secretary shall prescribe regula-
24 tions specifying remedial actions that may be
25 taken (including conditions to taking such re-

1 medial actions) to prevent an action described
2 in the preceding sentence from causing a bond
3 to fail to be a rural renaissance bond.

4 “(e) MATURITY LIMITATIONS.—

5 “(1) DURATION OF TERM.—A bond shall not be
6 treated as a rural renaissance bond if the maturity
7 of such bond exceeds the maximum term determined
8 by the Secretary under paragraph (2) with respect
9 to such bond.

10 “(2) MAXIMUM TERM.—During each calendar
11 month, the Secretary shall determine the maximum
12 term permitted under this paragraph for bonds
13 issued during the following calendar month. Such
14 maximum term shall be the term which the Sec-
15 retary estimates will result in the present value of
16 the obligation to repay the principal on the bond
17 being equal to 50 percent of the face amount of such
18 bond. Such present value shall be determined with-
19 out regard to the requirements of subsection (f)(3)
20 and using as a discount rate the average annual in-
21 terest rate of tax-exempt obligations having a term
22 of 10 years or more which are issued during the
23 month. If the term as so determined is not a mul-
24 tiple of a whole year, such term shall be rounded to
25 the next highest whole year.

1 “(3) RATABLE PRINCIPAL AMORTIZATION RE-
2 QUIRED.—A bond shall not be treated as a rural
3 renaissance bond unless it is part of an issue which
4 provides for an equal amount of principal to be paid
5 by the qualified issuer during each calendar year
6 that the issue is outstanding.

7 “(f) LIMITATION ON AMOUNT OF BONDS DES-
8 IGNATED.—

9 “(1) NATIONAL LIMITATION.—There is a rural
10 renaissance bond limitation of \$200,000,000.

11 “(2) ALLOCATION BY SECRETARY.—The Sec-
12 retary shall allocate the amount described in para-
13 graph (1) among qualified projects in such manner
14 as the Secretary determines appropriate.

15 “(g) CREDIT INCLUDED IN GROSS INCOME.—Gross
16 income includes the amount of the credit allowed to the
17 taxpayer under this section (determined without regard to
18 subsection (e)) and the amount so included shall be treat-
19 ed as interest income.

20 “(h) SPECIAL RULES RELATING TO EXPENDI-
21 TURES.—

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

1 “(A) at least 95 percent of the proceeds
2 from the sale of the issue are to be spent for
3 1 or more qualified projects within the 5-year
4 period beginning on the date of issuance of the
5 rural renaissance bond,

6 “(B) a binding commitment with a third
7 party to spend at least 10 percent of the pro-
8 ceeds from the sale of the issue will be incurred
9 within the 6-month period beginning on the
10 date of issuance of the rural renaissance bond
11 or, in the case of a rural renaissance bond, the
12 proceeds of which are to be loaned to 2 or more
13 borrowers, such binding commitment will be in-
14 curred within the 6-month period beginning on
15 the date of the loan of such proceeds to a bor-
16 rower, and

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

20 “(2) EXTENSION OF PERIOD.—Upon submis-
21 sion of a request prior to the expiration of the period
22 described in paragraph (1)(A), the Secretary may
23 extend such period if the qualified issuer establishes
24 that the failure to satisfy the 5-year requirement is

1 due to reasonable cause and the related projects will
2 continue to proceed with due diligence.

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

15 “(i) SPECIAL RULES RELATING TO ARBITRAGE.—A
16 bond which is part of an issue shall not be treated as a
17 rural renaissance bond unless, with respect to the issue
18 of which the bond is a part, the qualified issuer satisfies
19 the arbitrage requirements of section 148 with respect to
20 proceeds of the issue.

21 “(j) QUALIFIED ISSUER.—For purposes of this
22 section—

23 “(1) IN GENERAL.—The term ‘qualified issuer’
24 means any not-for-profit cooperative lender which
25 has as of the date of the enactment of this section

1 received a guarantee under section 306 of the Rural
2 Electrification Act and which meets the requirement
3 of paragraph (2).

4 “(2) USER FEE REQUIREMENT.—The require-
5 ment of this paragraph is met if the issuer of any
6 rural renaissance bond makes grants for qualified
7 projects as defined under subsection (d)(2) on a
8 semi-annual basis every year that such bond is out-
9 standing in an annual amount equal to one-half of
10 the rate on United States Treasury Bills of the same
11 maturity multiplied by the outstanding principle bal-
12 ance of rural renaissance bonds issued by such
13 issuer.

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

19 “(l) OTHER DEFINITIONS AND SPECIAL RULES.—
20 For purposes of this section—

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

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

1 “(3) RURAL AREA.—The term ‘rural area’
2 means any area other than—

3 “(A) a city or town which has a population
4 of greater than 50,000 inhabitants, or

5 “(B) the urbanized area contiguous and
6 adjacent to such a city or town.

7 “(4) PARTNERSHIP; S CORPORATION; AND
8 OTHER PASS-THRU ENTITIES.—

9 “(A) IN GENERAL.—Under regulations
10 prescribed by the Secretary, in the case of a
11 partnership, trust, S corporation, or other pass-
12 thru entity, rules similar to the rules of section
13 41(g) shall apply with respect to the credit al-
14 lowable under subsection (a).

15 “(B) NO BASIS ADJUSTMENT.—In the case
16 of a bond held by a partnership or an S cor-
17 poration, rules similar to the rules under sec-
18 tion 1397E(i) shall apply.

19 “(5) BONDS HELD BY REGULATED INVEST-
20 MENT COMPANIES.—If any rural renaissance bond is
21 held by a regulated investment company, the credit
22 determined under subsection (a) shall be allowed to
23 shareholders of such company under procedures pre-
24 scribed by the Secretary.

1 “(6) REPORTING.—Issuers of rural renaissance
2 bonds shall submit reports similar to the reports re-
3 quired under section 149(e).”.

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

8 “(9) REPORTING OF CREDIT ON RURAL RENAISSANCE BONDS.—
9

10 “(A) IN GENERAL.—For purposes of sub-
11 section (a), the term ‘interest’ includes amounts
12 includible in gross income under section 54(f)
13 and such amounts shall be treated as paid on
14 the credit allowance date (as defined in section
15 54(b)(4)).

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

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

1 lender (or the lender's spouse) attains age 62 before
2 the close of such year.

3 “(2) CONTINUING CARE CONTRACT.—For pur-
4 poses of this section, the term ‘continuing care con-
5 tract’ means a written contract between an indi-
6 vidual and a qualified continuing care facility under
7 which—

8 “(A) the individual or individual's spouse
9 may use a qualified continuing care facility for
10 their life or lives,

11 “(B) the individual or individual's spouse
12 will be provided with housing in an independent
13 living unit (which has additional available facili-
14 ties outside such unit for the provision of meals
15 and other personal care), an assisted living fa-
16 cility or a nursing facility, as is available in the
17 continuing care facility, as appropriate for the
18 health of such individual or individual's spouse,
19 and

20 “(C) the individual or individual's spouse
21 will be provided assisted living or nursing care
22 as the health of such individual or individual's
23 spouse requires, and as is available in the con-
24 tinuing care facility.

1 “(3) QUALIFIED CONTINUING CARE FACIL-
2 ITY.—

3 “(A) IN GENERAL.—For purposes of this
4 section, the term ‘qualified continuing care fa-
5 cility’ means 1 or more facilities—

6 “(i) which are designed to provide
7 services under continuing care contracts,

8 “(ii) that include an independent liv-
9 ing unit, plus an assisted living or nursing
10 facility, or both, and

11 “(iii) substantially all of the inde-
12 pendent living unit residents of which are
13 covered by continuing care contracts.

14 “(B) NURSING HOMES EXCLUDED.—The
15 term ‘qualified continuing care facility’ shall not
16 include any facility which is of a type which is
17 traditionally considered a nursing home.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to loans made after December 31,
20 2005.

1 **SEC. 571. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**
2 **APPLICABLE TO LARGE INTEGRATED OIL**
3 **COMPANIES WHICH ARE DUAL CAPACITY**
4 **TAXPAYERS.**

5 (a) IN GENERAL.—Section 901 (relating to credit for
6 taxes of foreign countries and of possessions of the United
7 States), as amended by this Act, is amended by redesignig-
8 nating subsections (m) and (n) as subsections (n) and (o),
9 respectively, and by inserting after subsection (l) the fol-
10 lowing new subsection:

11 “(m) SPECIAL RULES RELATING TO LARGE INTE-
12 GRATED OIL COMPANIES WHICH ARE DUAL CAPACITY
13 TAXPAYERS.—

14 “(1) GENERAL RULE.—Notwithstanding any
15 other provision of this chapter, any amount paid or
16 accrued by a dual capacity taxpayer which is a large
17 integrated oil company to a foreign country or pos-
18 session of the United States for any period shall not
19 be considered a tax—

20 “(A) if, for such period, the foreign coun-
21 try or possession does not impose a generally
22 applicable income tax, or

23 “(B) to the extent such amount exceeds
24 the amount (determined in accordance with reg-
25 ulations) which—

1 “(i) is paid by such dual capacity tax-
2 payer pursuant to the generally applicable
3 income tax imposed by the country or pos-
4 session, or

5 “(ii) would be paid if the generally ap-
6 plicable income tax imposed by the country
7 or possession were applicable to such dual
8 capacity taxpayer.

9 Nothing in this paragraph shall be construed to
10 imply the proper treatment of any such amount
11 not in excess of the amount determined under
12 subparagraph (B).

13 “(2) DUAL CAPACITY TAXPAYER.—For pur-
14 poses of this subsection, the term ‘dual capacity tax-
15 payer’ means, with respect to any foreign country or
16 possession of the United States, a person who—

17 “(A) is subject to a levy of such country or
18 possession, and

19 “(B) receives (or will receive) directly or
20 indirectly a specific economic benefit (as deter-
21 mined in accordance with regulations) from
22 such country or possession.

23 “(3) GENERALLY APPLICABLE INCOME TAX.—
24 For purposes of this subsection—

1 “(A) IN GENERAL.—The term ‘generally
2 applicable income tax’ means an income tax (or
3 a series of income taxes) which is generally im-
4 posed under the laws of a foreign country or
5 possession on income derived from the conduct
6 of a trade or business within such country or
7 possession.

8 “(B) EXCEPTIONS.—Such term shall not
9 include a tax unless it has substantial applica-
10 tion, by its terms and in practice, to—

11 “(i) persons who are not dual capacity
12 taxpayers, and

13 “(ii) persons who are citizens or resi-
14 dents of the foreign country or possession.

15 “(4) LARGE INTEGRATED OIL COMPANY.—For
16 purposes of this subsection, the term ‘large inte-
17 grated oil company’ means, with respect to any tax-
18 able year, an integrated oil company (as defined in
19 section 291(b)(4)) which—

20 “(A) had gross receipts in excess of
21 \$1,000,000,000 for such taxable year, and

22 “(B) has an average daily worldwide pro-
23 duction of crude oil of at least 500,000 barrels
24 for such taxable year.”

25 (b) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to taxes paid or accrued in
3 taxable years beginning after the date of the enact-
4 ment of this Act.

5 (2) CONTRARY TREATY OBLIGATIONS
6 UPHELD.—The amendments made by this section
7 shall not apply to the extent contrary to any treaty
8 obligation of the United States.

9 **SEC. 572. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL**
10 **RESIDENCE BY CERTAIN EMPLOYEES OF THE**
11 **INTELLIGENCE COMMUNITY.**

12 (a) IN GENERAL.—Subparagraph (A) of section
13 121(d)(9) (relating to exclusion of gain from sale of prin-
14 cipal residence) is amended by striking “duty” and all that
15 follows and inserting “duty—

16 “(i) as a member of the uniformed
17 services,

18 “(ii) as a member of the Foreign
19 Service of the United States, or

20 “(iii) as an employee of the intel-
21 ligence community.”.

22 (b) EMPLOYEE OF INTELLIGENCE COMMUNITY DE-
23 FINED.—Subparagraph (C) of section 121(d)(9) is amend-
24 ed by redesignating clause (iv) as clause (v) and by insert-
25 ing after clause (iii) the following new clause:

1 “(iv) EMPLOYEE OF INTELLIGENCE
2 COMMUNITY.—The term ‘employee of the
3 intelligence community’ means an employee
4 (as defined by section 2105 of title 5,
5 United States Code) of—

6 “(I) the Office of the Director of
7 National Intelligence,

8 “(II) the Central Intelligence
9 Agency,

10 “(III) the National Security
11 Agency,

12 “(IV) the Defense Intelligence
13 Agency,

14 “(V) the National Geospatial-In-
15 telligence Agency,

16 “(VI) the National Reconnaissance
17 Office,

18 “(VII) any other office within the
19 Department of Defense for the collec-
20 tion of specialized national intelligence
21 through reconnaissance programs,

22 “(VIII) any of the intelligence
23 elements of the Army, the Navy, the
24 Air Force, the Marine Corps, the Fed-
25 eral Bureau of Investigation, the De-

1 department of Treasury, the Depart-
2 ment of Energy, and the Coast
3 Guard,

4 “(IX) the Bureau of Intelligence
5 and Research of the Department of
6 State, or

7 “(X) any of the elements of the
8 Department of Homeland Security
9 concerned with the analyses of foreign
10 intelligence information.”.

11 (c) SPECIAL RULE.—Subparagraph (C) of section
12 121(d)(9), as amended by subsection (b), is amended by
13 adding at the end the following new clause:

14 “(vi) SPECIAL RULE RELATING TO IN-
15 TELLIGENCE COMMUNITY.—An employee
16 of the intelligence community shall not be
17 treated as serving on qualified extended
18 duty unless—

19 “(I) for purposes of such duty
20 such employee has moved from 1 duty
21 station to another, and

22 “(II) at least 1 of such duty sta-
23 tions is located outside of the Wash-
24 ington, District of Columbia, and Bal-
25 timore metropolitan statistical areas

1 (as defined by the Secretary of Com-
2 merce).”.

3 (d) CONFORMING AMENDMENT.—The heading for
4 section 121(d)(9) is amended to read as follows: “UNI-
5 FORMED SERVICES, FOREIGN SERVICE, AND INTEL-
6 LIGENCE COMMUNITY”.

7 (e) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to sales or exchanges after the date
9 of the enactment of this Act.

10 **SEC. 573. DISABILITY PREFERENCE PROGRAM FOR TAX**
11 **COLLECTION CONTRACTS.**

12 (a) IN GENERAL.—The Secretary of the Treasury
13 shall not enter into any qualified tax collection contract
14 after April 1, 2006, until the Secretary implements a dis-
15 ability preference program that meets the requirements of
16 subsection (b).

17 (b) DISABILITY PREFERENCE PROGRAM REQUIRE-
18 MENTS.—

19 (1) IN GENERAL.—A disability preference pro-
20 gram meets the requirements of this subsection if
21 such program requires that not less than 10 percent
22 of the accounts of each dollar value category are
23 awarded to persons described in paragraph (2).

1 (2) PERSON DESCRIBED.—For purposes of
2 paragraph (1), a person is described in this para-
3 graph if—

4 (A) as of the date any qualified tax collec-
5 tion contract is awarded—

6 (i) such person employs not less than
7 50 severely disabled individuals within the
8 United States; or

9 (ii) not less than 30 percent of the
10 employees of such person within the
11 United States are severely disabled individ-
12 uals;

13 (B) such person agrees as a condition of
14 the qualified tax collection contract that not
15 more than 90 days after the date such contract
16 is awarded, not less than 35 percent of the em-
17 ployees of such person employed in connection
18 with providing services under such contract
19 shall—

20 (i) be hired after the date such con-
21 tract is awarded; and

22 (ii) be severely disabled individuals;
23 and

24 (C) such person is otherwise qualified to
25 perform the services required.

1 (c) DEFINITIONS.—For purposes of this section—

2 (1) QUALIFIED TAX COLLECTION CONTRACT.—

3 The term “qualified tax collection contract” shall
4 have the meaning given such term under section
5 6306(b) of the Internal Revenue Code of 1986.

6 (2) DOLLAR VALUE CATEGORY.—The term
7 “dollar value category” means the dollar ranges of
8 accounts for collection as determined and assigned
9 by the Secretary under section 6306(b)(1)(B) of the
10 Internal Revenue Code of 1986 with respect to a
11 qualified tax collection contract.

12 (3) SEVERELY DISABLED INDIVIDUAL.—The
13 term “severely disabled individual” means—

14 (A) a veteran of the United States armed
15 forces with a disability of 50 percent or
16 greater—

17 (i) determined by the Secretary of
18 Veterans Affairs to be service-connected; or

19 (ii) deemed by law to be service-con-
20 nected; or

21 (B) any individual who is a disabled bene-
22 ficiary (as defined in section 1148(k)(2) of the
23 Social Security Act (42 U.S.C. 1320b-
24 19(k)(2))) or who would be considered to be
25 such a disabled beneficiary but for having in-

1 come or resources in excess of the income or re-
2 sources eligibility limits established under title
3 XVI of the Social Security Act (42 U.S.C. 1381
4 et seq.), respectively.

5 **TITLE VI—COMPLIANCE WITH**
6 **CONGRESSIONAL BUDGET ACT**

7 **SEC. 601. SUNSET OF CERTAIN PROVISIONS AND AMEND-**
8 **MENTS.**

9 The provisions of, and amendments made by, title I,
10 title II, subtitle A of title III, and title IV shall not apply
11 to taxable years beginning after September 30, 2010, and
12 the Internal Revenue Code of 1986 shall be applied and
13 administered to such years as if such provisions and
14 amendments had never been enacted.

 Passed the Senate November 18 (legislative day, No-
 vember 17), 2005.

 Attest:

Secretary.

109TH CONGRESS
1ST SESSION

S. 2020

AN ACT

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