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109TH CONGRESS
1ST SESSION

H. R. 4297

IN THE SENATE OF THE UNITED STATES

DECEMBER 12, 2005

Received; read twice and placed on the calendar

AN ACT

To provide for reconciliation pursuant to section 201(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,*

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

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Tax Relief Extension Reconciliation Act of 2005”.

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

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

Sec. 1. Short title, etc.

TITLE I—EXTENSIONS OF CERTAIN PROVISIONS THROUGH 2006

- Sec. 101. Allowance of nonrefundable personal credits against regular and minimum tax liability.
- Sec. 102. Tax incentives for business activities on Indian reservations.
- Sec. 103. Work opportunity credit.
- Sec. 104. Welfare-to-work credit.
- Sec. 105. Deduction for corporate donations of computer technology and equipment.
- Sec. 106. Availability of medical savings accounts.
- Sec. 107. 15-year cost recovery for leasehold improvements.
- Sec. 108. 15-year cost recovery for restaurant improvements.
- Sec. 109. Taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.
- Sec. 110. District of Columbia Enterprise Zone.
- Sec. 111. Possession tax credit with respect to American Samoa.
- Sec. 112. Parity in the application of certain limits to mental health benefits.
- Sec. 113. Research credit.
- Sec. 114. Qualified Zone Academy Bonds.
- Sec. 115. Certain expenses of elementary and secondary school teachers.
- Sec. 116. Qualified tuition and related expenses.
- Sec. 117. State and local general sales taxes.

**TITLE II—EXTENSIONS OF CERTAIN PROVISIONS FOR 2
ADDITIONAL YEARS AND OTHER MODIFICATIONS**

- Sec. 201. Expensing of environmental remediation costs.
- Sec. 202. Controlled foreign corporations.
- Sec. 203. Capital gains and dividends rates.
- Sec. 204. Saver’s credit.

Sec. 205. Increased expensing for small business.

TITLE III—OTHER PROVISIONS

Sec. 301. Clarification of taxation of certain settlement funds.

Sec. 302. Modification of active business definition under section 355.

Sec. 303. Veterans' mortgage bonds.

Sec. 304. Capital gains treatment for certain self-created musical works.

Sec. 305. Vessel tonnage limit.

Sec. 306. Modification of special arbitrage rule for certain funds.

1 **TITLE I—EXTENSIONS OF CER-**
 2 **TAIN PROVISIONS THROUGH**
 3 **2006**

4 **SEC. 101. ALLOWANCE OF NONREFUNDABLE PERSONAL**
 5 **CREDITS AGAINST REGULAR AND MINIMUM**
 6 **TAX LIABILITY.**

7 (a) IN GENERAL.—Paragraph (2) of section 26(a)
 8 (relating to special rule for taxable years 2000 through
 9 2005) is amended—

10 (1) in the text by striking “or 2005” and in-
 11 serting “2005, or 2006”, and

12 (2) in the heading by striking “2005” and in-
 13 serting “2006”.

14 (b) CONFORMING PROVISIONS.—

15 (1) Subsection (i) of section 904 (relating to co-
 16 ordination with nonrefundable personal credits) is
 17 amended by striking “or 2005” and inserting “2005,
 18 or 2006”.

19 (2) The amendments made by sections 201(b),
 20 202(f), and 618(b) of the Economic Growth and Tax

1 Relief Reconciliation Act of 2001 shall not apply to
2 taxable years beginning during 2006.

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

6 **SEC. 102. TAX INCENTIVES FOR BUSINESS ACTIVITIES ON**
7 **INDIAN RESERVATIONS.**

8 (a) INDIAN EMPLOYMENT TAX CREDIT.—

9 (1) IN GENERAL.—Subsection (f) of section
10 45A (relating to termination) is amended by striking
11 “December 31, 2005” and inserting “December 31,
12 2006”.

13 (2) EFFECTIVE DATE.—The amendment made
14 by paragraph (1) shall apply to taxable years begin-
15 ning after December 31, 2005.

16 (b) ACCELERATED DEPRECIATION FOR BUSINESS
17 PROPERTY ON INDIAN RESERVATIONS.—

18 (1) IN GENERAL.—Paragraph (8) of section
19 168(j) (relating to termination) is amended by strik-
20 ing “December 31, 2005” and inserting “December
21 31, 2006”.

22 (2) EFFECTIVE DATE.—The amendment made
23 by paragraph (1) shall apply with respect to prop-
24 erty placed in service after December 31, 2005.

1 **SEC. 103. WORK OPPORTUNITY CREDIT.**

2 (a) IN GENERAL.—Subparagraph (B) of section
3 51(c)(4) (relating to termination) is amended by striking
4 “December 31, 2005” and inserting “December 31,
5 2006”.

6 (b) INCREASE IN AGE LIMIT FOR FOOD STAMP RE-
7 CIPIENTS.—Clause (i) of section 51(d)(8)(A) (relating to
8 qualified food stamp recipient) is amended by striking
9 “25” and inserting “35”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to individuals who begin work for
12 the employer after December 31, 2005.

13 **SEC. 104. WELFARE-TO-WORK CREDIT.**

14 (a) IN GENERAL.—Subsection (f) of section 51A (re-
15 lating to termination) is amended by striking “December
16 31, 2005” and inserting “December 31, 2006”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall apply to individuals who begin work
19 for the employer after December 31, 2005.

20 **SEC. 105. DEDUCTION FOR CORPORATE DONATIONS OF**
21 **COMPUTER TECHNOLOGY AND EQUIPMENT.**

22 (a) IN GENERAL.—Subparagraph (G) of section
23 170(e)(6) (relating to termination) is amended by striking
24 “December 31, 2005” and inserting “December 31,
25 2006”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to contributions made in taxable
3 years beginning after December 31, 2005.

4 **SEC. 106. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.**

5 (a) IN GENERAL.—Paragraphs (2) and (3)(B) of sec-
6 tion 220(i) (defining cut-off year) are each amended by
7 striking “2005” each place it appears in the text and
8 headings and inserting “2006”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Paragraph (2) of section 220(j) is amend-
11 ed—

12 (A) in the text by striking “or 2004” each
13 place it appears and inserting “2004, or 2005”,
14 and

15 (B) in the heading by striking “OR 2004”
16 and inserting “2004, OR 2005”.

17 (2) Subparagraph (A) of section 220(j)(4) is
18 amended by striking “and 2004” and inserting
19 “2004, and 2005”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect on the date of the enactment
22 of this Act.

23 (d) TIME FOR FILING REPORTS, ETC.—

24 (1) The report required by section 220(j)(4) of
25 the Internal Revenue Code of 1986 to be made on

1 August 1, 2005, shall be treated as timely if made
2 before the close of the 90-day period beginning on
3 the date of the enactment of this Act.

4 (2) The determination and publication required
5 by section 220(j)(5) of such Code with respect to
6 calendar year 2005 shall be treated as timely if
7 made before the close of the 120-day period begin-
8 ning on the date of the enactment of this Act. If the
9 determination under the preceding sentence is that
10 2005 is a cut-off year under section 220(i) of such
11 Code, the cut-off date under such section 220(i)
12 shall be the last day of such 120-day period.

13 **SEC. 107. 15-YEAR COST RECOVERY FOR LEASEHOLD IM-**
14 **PROVEMENTS.**

15 (a) IN GENERAL.—Clause (iv) of section
16 168(e)(3)(E) (relating to 15-year property) is amended by
17 striking “January 1, 2006” and inserting “January 1,
18 2007”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall apply to property placed in service
21 after December 31, 2005.

1 **SEC. 108. 15-YEAR COST RECOVERY FOR RESTAURANT IM-**
2 **PROVEMENTS.**

3 (a) IN GENERAL.—Clause (v) of section 168(e)(3)(E)
4 (relating to 15-year property) is amended by striking
5 “January 1, 2006” and inserting “January 1, 2007”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 subsection (a) shall apply to property placed in service
8 after December 31, 2005.

9 **SEC. 109. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLE-**
10 **TION FOR OIL AND NATURAL GAS PRODUCED**
11 **FROM MARGINAL PROPERTIES.**

12 (a) IN GENERAL.—Subparagraph (H) of section
13 613A(c)(6) (relating to oil and natural gas produced from
14 marginal properties) is amended by striking “January 1,
15 2006” and inserting “January 1, 2007”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply to taxable years beginning after
18 December 31, 2005.

19 **SEC. 110. DISTRICT OF COLUMBIA ENTERPRISE ZONE.**

20 (a) PERIOD FOR WHICH DESIGNATION APPLICA-
21 BLE.—Subsection (f) of section 1400 (relating to time for
22 which designation applicable) is amended by striking “De-
23 cember 31, 2005” both places it appears and inserting
24 “December 31, 2006”.

25 (b) TAX-EXEMPT ECONOMIC DEVELOPMENT
26 BONDS.—Subsection (b) of section 1400A (relating to pe-

1 riod of applicability) is amended by striking “December
2 31, 2005” and inserting “December 31, 2006”.

3 (c) ZERO PERCENT CAPITAL GAINS RATE.—

4 (1) IN GENERAL.—Subsection (b) of section
5 1400B (relating to DC Zone Asset) is amended by
6 striking “January 1, 2006” each place it appears
7 and inserting “January 1, 2007”.

8 (2) CONFORMING AMENDMENTS.—

9 (A) Paragraph (2) of section 1400B(e) (re-
10 lating to gain before 1998 and after 2010 not
11 qualified) is amended—

12 (i) by striking “December 31, 2010”
13 and inserting “December 31, 2011”, and

14 (ii) by striking “2010” in the heading
15 and inserting “2011”.

16 (B) Paragraph (2) of section 1400B(g)
17 (relating to sales and exchanges of interests in
18 partnerships and S corporations which are DC
19 Zone businesses) is amended by striking “De-
20 cember 31, 2010” and inserting “December 31,
21 2011”.

22 (C) Subsection (d) of section 1400F (relat-
23 ing to certain rules to apply) is amended by
24 striking “December 31, 2010” and inserting
25 “December 31, 2011”.

1 (d) FIRST-TIME HOMEBUYER CREDIT FOR DISTRICT
2 OF COLUMBIA.—Subsection (i) of section 1400C (relating
3 to application of section) is amended by striking “January
4 1, 2006” and inserting “January 1, 2007”.

5 (e) EFFECTIVE DATES.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), the amendments made by this section
8 shall take effect on January 1, 2006.

9 (2) TAX-EXEMPT ECONOMIC DEVELOPMENT
10 BONDS.—The amendment made by subsection (b)
11 shall apply to obligations issued after the date of the
12 enactment of this Act.

13 **SEC. 111. POSSESSION TAX CREDIT WITH RESPECT TO**
14 **AMERICAN SAMOA.**

15 (a) IN GENERAL.—Subparagraph (A) of section
16 936(j)(8) (relating to special rules for certain possessions)
17 is amended by inserting before the period at the end the
18 following: “(before January 1, 2007, in the case of Amer-
19 ican Samoa)”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall apply to taxable years beginning after
22 December 31, 2005.

1 **SEC. 112. PARITY IN THE APPLICATION OF CERTAIN LIMITS**
2 **TO MENTAL HEALTH BENEFITS.**

3 (a) **IN GENERAL.**—Paragraph (3) of section 9812(f)
4 (relating to application of section) is amended by striking
5 “December 31, 2005” and inserting “December 31,
6 2006”.

7 (b) **EFFECTIVE DATES.**—The amendment made by
8 subsection (a) shall take effect on the date of the enact-
9 ment of this Act.

10 **SEC. 113. RESEARCH CREDIT.**

11 (a) **EXTENSION.**—

12 (1) **IN GENERAL.**—Subparagraph (B) of section
13 41(h)(1) (relating to termination) is amended by
14 striking “December 31, 2005” and inserting “De-
15 cember 31, 2006”.

16 (2) **CONFORMING AMENDMENT.**—Subparagraph
17 (D) of section 45C(b)(1) (relating to special rule) is
18 amended by striking “December 31, 2005” and in-
19 serting “December 31, 2006”.

20 (3) **EFFECTIVE DATE.**—The amendments made
21 by this subsection shall apply to amounts paid or in-
22 curred after December 31, 2005.

23 (b) **INCREASE IN RATES OF ALTERNATIVE INCRE-**
24 **MENTAL CREDIT.**—

1 (1) IN GENERAL.—Subparagraph (A) of section
2 41(c)(4) (relating to election of alternative incre-
3 mental credit) is amended—

4 (A) by striking “2.65 percent” and insert-
5 ing “3 percent”,

6 (B) by striking “3.2 percent” and inserting
7 “4 percent”, and

8 (C) by striking “3.75 percent” and insert-
9 ing “5 percent”.

10 (2) EFFECTIVE DATE.—The amendments made
11 by this subsection shall apply to taxable years end-
12 ing after the date of the enactment of this Act.

13 (c) ALTERNATIVE SIMPLIFIED CREDIT FOR QUALI-
14 FIED RESEARCH EXPENSES.—

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

20 “(5) ELECTION OF ALTERNATIVE SIMPLIFIED
21 CREDIT.—

22 “(A) IN GENERAL.—At the election of the
23 taxpayer, the credit determined under sub-
24 section (a)(1) shall be equal to 12 percent of so
25 much of the qualified research expenses for the

1 taxable year as exceeds 50 percent of the aver-
2 age qualified research expenses for the 3 tax-
3 able years preceding the taxable year for which
4 the credit is being determined.

5 “(B) SPECIAL RULE IN CASE OF NO
6 QUALIFIED RESEARCH EXPENSES IN ANY OF 3
7 PRECEDING TAXABLE YEARS.—

8 “(i) TAXPAYERS TO WHICH SUBPARA-
9 GRAPH APPLIES.—The credit under this
10 paragraph shall be determined under this
11 subparagraph if the taxpayer has no quali-
12 fied research expenses in any one of the 3
13 taxable years preceding the taxable year
14 for which the credit is being determined.

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

19 “(C) ELECTION.—An election under this
20 paragraph shall apply to the taxable year for
21 which made and all succeeding taxable years
22 unless revoked with the consent of the Sec-
23 retary. An election under this paragraph may
24 not be made for any taxable year to which an
25 election under paragraph (4) applies.”.

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

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

9 (B) TRANSITION RULE.—In the case of an
10 election under section 41(c)(4) of the Internal
11 Revenue Code of 1986 which applies to the tax-
12 able year which includes the date of the enact-
13 ment of this Act, such election shall be treated
14 as revoked with the consent of the Secretary of
15 the Treasury if the taxpayer makes an election
16 under section 41(c)(5) of such Code (as added
17 by subsection (a)) for such year.

18 (3) EFFECTIVE DATE.—The amendments made
19 by this subsection shall apply to taxable years end-
20 ing after the date of the enactment of this Act.

21 **SEC. 114. QUALIFIED ZONE ACADEMY BONDS.**

22 (a) IN GENERAL.—Paragraph (1) of section
23 1397E(e) (relating to national limit) is amended by strik-
24 ing “and 2005” and inserting “2005, and 2006”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to obligations issued after De-
3 cember 31, 2005.

4 **SEC. 115. CERTAIN EXPENSES OF ELEMENTARY AND SEC-**
5 **ONDARY SCHOOL TEACHERS.**

6 (a) IN GENERAL.—Subparagraph (D) of section
7 62(a)(2) (relating to certain expenses of elementary and
8 secondary school teachers) is amended by striking “or
9 2005” and inserting “2005, or 2006”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall apply to expenses paid or incurred in
12 taxable years beginning after December 31, 2005.

13 **SEC. 116. QUALIFIED TUITION AND RELATED EXPENSES.**

14 (a) IN GENERAL.—Subsection (e) of section 222 (re-
15 lating to termination) is amended by striking “December
16 31, 2005” and inserting “December 31, 2006”.

17 (b) LIMITATIONS.—Paragraph (2) of section 222(b)
18 (relating to applicable dollar limit) is amended by striking
19 subparagraphs (A) and (B), by redesignating subpara-
20 graph (C) as subparagraph (B), and by inserting before
21 subparagraph (B) (as so redesignated) the following:

22 “(A) 2006.—In the case of a taxable year
23 beginning in 2006, the applicable dollar amount
24 shall be equal to—

1 “(i) in the case of a taxpayer whose
2 adjusted gross income for the taxable year
3 does not exceed \$65,000 (\$130,000 in the
4 case of a joint return), \$4,000,

5 “(ii) in the case of a taxpayer not de-
6 scribed in clause (i) whose adjusted gross
7 income for the taxable year does not ex-
8 ceed \$80,000 (\$160,000 in the case of a
9 joint return), \$2,000, and

10 “(iii) in the case of any other tax-
11 payer, zero.”.

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

15 **SEC. 117. STATE AND LOCAL GENERAL SALES TAXES.**

16 (a) **IN GENERAL.**—Subparagraph (I) of section
17 164(b)(5) (relating to application of paragraph) is amend-
18 ed by striking “January 1, 2006” and inserting “January
19 1, 2007”.

20 (b) **EFFECTIVE DATE.**—The amendment made by
21 subsection (a) shall apply to taxable years beginning after
22 December 31, 2005.

1 **TITLE II—EXTENSIONS OF CER-**
2 **TAIN PROVISIONS FOR 2 AD-**
3 **DITIONAL YEARS AND OTHER**
4 **MODIFICATIONS**

5 **SEC. 201. EXPENSING OF ENVIRONMENTAL REMEDIATION**
6 **COSTS.**

7 (a) EXTENSION OF TERMINATION DATE.—Sub-
8 section (h) of section 198 (relating to termination) is
9 amended by striking “December 31, 2005” and inserting
10 “December 31, 2007”.

11 (b) PETROLEUM PRODUCTS TREATED AS HAZ-
12 ARDOUS SUBSTANCE.—Paragraph (1) of section 198(d)
13 (relating to hazardous substance) is amended by striking
14 “and” at the end of subparagraph (A), by striking the
15 period at the end of subparagraph (B) and inserting “,
16 and”, and by adding at the end the following new subpara-
17 graph:

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

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to expenditures paid or incurred
22 after December 31, 2005.

23 **SEC. 202. CONTROLLED FOREIGN CORPORATIONS.**

24 (a) SUBPART F EXCEPTION FOR ACTIVE FINANC-
25 ING.—

1 (1) EXEMPT INSURANCE INCOME.—Paragraph
2 (10) of section 953(e) (relating to application) is
3 amended—

4 (A) by striking “January 1, 2007” and in-
5 serting “January 1, 2009”, and

6 (B) by striking “December 31, 2006” and
7 inserting “December 31, 2008”.

8 (2) EXCEPTION TO TREATMENT AS FOREIGN
9 PERSONAL HOLDING COMPANY INCOME.—Paragraph
10 (9) of section 954(h) (relating to application) is
11 amended by striking “January 1, 2007” and insert-
12 ing “January 1, 2009”.

13 (b) LOOK-THROUGH TREATMENT OF PAYMENTS BE-
14 TWEEN RELATED CONTROLLED FOREIGN CORPORATIONS
15 UNDER THE FOREIGN PERSONAL HOLDING COMPANY
16 RULES.—Subsection (e) of section 954 (relating to foreign
17 personal holding company income) is amended by adding
18 at the end the following new paragraph:

19 “(6) LOOK-THRU RULE FOR RELATED CON-
20 TROLLED FOREIGN CORPORATIONS.—

21 “(A) IN GENERAL.—For purposes of this
22 subsection, dividends, interest, rents, and roy-
23 alties received or accrued from a controlled for-
24 eign corporation which is a related person shall
25 not be treated as foreign personal holding com-

1 pany income to the extent attributable or prop-
2 erly allocable (determined under rules similar to
3 the rules of subparagraphs (C) and (D) of sec-
4 tion 904(d)(3)) to income of the related person
5 which is not subpart F income. For purposes of
6 this subparagraph, interest shall include fac-
7 toring income which is treated as income equiv-
8 alent to interest for purposes of paragraph
9 (1)(E). The Secretary shall prescribe such regu-
10 lations as may be appropriate to prevent the
11 abuse of the purposes of this paragraph.

12 “(B) APPLICATION.—Subparagraph (A)
13 shall apply to taxable years of foreign corpora-
14 tions beginning after December 31, 2005, and
15 before January 1, 2009, and to taxable years of
16 United States shareholders with or within which
17 such taxable years of foreign corporations
18 end.”.

19 **SEC. 203. CAPITAL GAINS AND DIVIDENDS RATES.**

20 Section 303 of the Jobs and Growth Tax Relief Rec-
21 onciliation Act of 2003 is amended by striking “December
22 31, 2008” and inserting “December 31, 2010”.

23 **SEC. 204. SAVER’S CREDIT.**

24 Subsection (h) of section 25B (relating to elective de-
25 ferrals and IRA contributions by certain individuals) is

1 amended by striking “December 31, 2006” and inserting
2 “December 31, 2008”.

3 **SEC. 205. INCREASED EXPENSING FOR SMALL BUSINESS.**

4 Subsections (b)(1), (b)(2), (b)(5), (c)(2), and
5 (d)(1)(A)(ii) of section 179(b) (relating to election to ex-
6 pense certain depreciable business assets) are each amend-
7 ed by striking “2008” and inserting “2010”.

8 **TITLE III—OTHER PROVISIONS**

9 **SEC. 301. CLARIFICATION OF TAXATION OF CERTAIN SET-**
10 **TLEMENT FUNDS.**

11 (a) IN GENERAL.—Subsection (g) of section 468B
12 (relating to clarification of taxation of certain funds) is
13 amended to read as follows:

14 “(g) CLARIFICATION OF TAXATION OF CERTAIN
15 FUNDS.—

16 “(1) IN GENERAL.—Except as provided in para-
17 graph (2), nothing in any provision of law shall be
18 construed as providing that an escrow account, set-
19 tlement fund, or similar fund is not subject to cur-
20 rent income tax. The Secretary shall prescribe regu-
21 lations providing for the taxation of any such ac-
22 count or fund whether as a grantor trust or other-
23 wise.

24 “(2) EXEMPTION FROM TAX FOR CERTAIN SET-
25 TLEMENT FUNDS.—An escrow account, settlement

1 fund, or similar fund shall be treated as beneficially
2 owned by the United States and shall be exempt
3 from taxation under this subtitle if—

4 “(A) it is established pursuant to a con-
5 sent decree entered by a judge of a United
6 States District Court,

7 “(B) it is created for the receipt of settle-
8 ment payments as directed by a government en-
9 tity for the sole purpose of resolving or satis-
10 fying one or more claims asserting liability
11 under the Comprehensive Environmental Re-
12 sponse, Compensation, and Liability Act of
13 1980,

14 “(C) the authority and control over the ex-
15 penditure of funds therein (including the ex-
16 penditure of contributions thereto and any net
17 earnings thereon) is with such government enti-
18 ty, and

19 “(D) upon termination, any remaining
20 funds will be disbursed to such government en-
21 tity for use in accordance with applicable law.

22 For purposes of this paragraph, the term ‘govern-
23 ment entity’ means the United States, any State or
24 political subdivision thereof, the District of Colum-

1 bia, any possession of the United States, and any
2 agency or instrumentality of any of the foregoing.

3 “(3) TERMINATION.—Paragraph (2) shall not
4 apply to accounts and funds established after De-
5 cember 31, 2010.”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 subsection (a) shall apply to accounts and funds estab-
8 lished after the date of the enactment of this Act.

9 **SEC. 302. MODIFICATION OF ACTIVE BUSINESS DEFINITION**

10 **UNDER SECTION 355.**

11 Subsection (b) of section 355 (defining active conduct
12 of a trade or business) is amended by adding at the end
13 the following new paragraph:

14 “(3) SPECIAL RULE RELATING TO ACTIVE BUSI-
15 NESS REQUIREMENT.—

16 “(A) IN GENERAL.—In the case of any dis-
17 tribution made after the date of the enactment
18 of this paragraph and before December 31,
19 2010, a corporation shall be treated as meeting
20 the requirement of paragraph (2)(A) if and only
21 if such corporation is engaged in the active con-
22 duct of a trade or business.

23 “(B) AFFILIATED GROUP RULE.—For pur-
24 poses of subparagraph (A), all members of such
25 corporation’s separate affiliated group shall be

1 treated as one corporation. For purposes of the
2 preceding sentence, a corporation's separate af-
3 filiated group is the affiliated group which
4 would be determined under section 1504(a) if
5 such corporation were the common parent and
6 section 1504(b) did not apply.

7 “(C) TRANSITION RULE.—Subparagraph
8 (A) shall not apply to any distribution pursuant
9 to a transaction which is—

10 “(i) made pursuant to an agreement
11 which was binding on the date of the en-
12 actment of this paragraph and at all times
13 thereafter,

14 “(ii) described in a ruling request sub-
15 mitted to the Internal Revenue Service on
16 or before such date, or

17 “(iii) described on or before such date
18 in a public announcement or in a filing
19 with the Securities and Exchange Commis-
20 sion.

21 The preceding sentence shall not apply if the
22 distributing corporation elects not to have such
23 sentence apply to distributions of such corpora-
24 tion. Any such election, once made, shall be ir-
25 revocable.

1 “(D) SPECIAL RULE FOR CERTAIN PRE-
2 ENACTMENT DISTRIBUTIONS.—For purposes of
3 determining the continued qualification under
4 paragraph (2)(A) of distributions made before
5 the date of the enactment of this paragraph as
6 a result of an acquisition, disposition, or other
7 restructuring after such date and before De-
8 cember 31, 2010, such distribution shall be
9 treated as made after the date of the enactment
10 of this paragraph for purposes of applying sub-
11 paragraphs (A) through (C) of this para-
12 graph.”.

13 **SEC. 303. VETERANS’ MORTGAGE BONDS.**

14 (a) ALL VETERANS ELIGIBLE FOR STATE HOME
15 LOAN PROGRAMS FUNDED BY QUALIFIED VETERANS’
16 MORTGAGE BONDS.—

17 (1) IN GENERAL.—Paragraph (4) of section
18 143(l) (defining qualified veteran) is amended—

19 (A) by striking “at some time before Janu-
20 ary 1, 1977” in subparagraph (A), and

21 (B) by striking subparagraph (B) and in-
22 serting the following:

23 “(B) who applied for the financing before
24 the date 25 years after the last date on which
25 such veteran left active service.”.

1 (2) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to financing provided
3 after the date of the enactment of this Act.

4 (b) REVISION OF STATE VETERANS LIMIT.—

5 (1) IN GENERAL.—Subparagraph (B) of section
6 143(l)(3) (relating to volume limitation) is amended
7 to read as follows:

8 “(B) STATE VETERANS LIMIT.—

9 “(i) IN GENERAL.—A State veterans
10 limit for any calendar year is the amount
11 equal to—

12 “(I) \$53,750,000 for the State of
13 Texas,

14 “(II) \$66,250,000 for the State
15 of California,

16 “(III) \$25,000,000 for the State
17 of Oregon,

18 “(IV) \$25,000,000 for the State
19 of Wisconsin, and

20 “(V) \$25,000,000 for the State
21 of Alaska.

22 “(ii) PHASEIN.—In the case of cal-
23 endar years beginning before 2010, clause
24 (i) shall be applied by substituting for each
25 of the dollar amounts therein by the appli-

1 cable percentage. For purposes of the pre-
 2 ceding sentence, the applicable percentage
 3 shall be determined in accordance with the
 4 following table:

“Calendar Year:	Applicable percentage is:
2006	20 percent
2007	40 percent
2008	60 percent
2009	80 percent.

5 “(iii) TERMINATION.—The State vet-
 6 erans limit for any calendar year after
 7 2010 is zero.”.

8 (2) EFFECTIVE DATE.—The amendment made
 9 by this subsection shall apply to bonds issued after
 10 December 31, 2005.

11 **SEC. 304. CAPITAL GAINS TREATMENT FOR CERTAIN SELF-**
 12 **CREATED MUSICAL WORKS.**

13 (a) IN GENERAL.—Subsection (b) of section 1221
 14 (relating to capital asset defined) is amended by redesignig-
 15 nating paragraph (3) as paragraph (4) and by inserting
 16 after paragraph (2) the following new paragraph:

17 “(3) SALE OR EXCHANGE OF SELF-CREATED
 18 MUSICAL WORKS.—At the election of the taxpayer,
 19 paragraphs (1) and (3) of subsection (a) shall not
 20 apply with respect to any sale or exchange before
 21 January 1, 2011, of musical compositions or copy-

1 rights in musical works by a taxpayer described in
2 subsection (a)(3).”.

3 (b) LIMITATION ON CHARITABLE CONTRIBUTIONS.—
4 Subparagraph (A) of section 170(e)(1) is amended by in-
5 serting “(determined without regard to section
6 1221(b)(3))” after “long-term capital gain”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to sales and exchanges in taxable
9 years beginning after the date of the enactment of this
10 Act.

11 **SEC. 305. VESSEL TONNAGE LIMIT.**

12 (a) IN GENERAL.—Paragraph (4) of section 1355(a)
13 (relating to qualifying vessel) is amended by inserting
14 “(6,000, in the case of taxable years beginning after De-
15 cember 31, 2005, and ending before January 1, 2011)”
16 after “10,000”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall apply to taxable years beginning after
19 December 31, 2005.

20 **SEC. 306. MODIFICATION OF SPECIAL ARBITRAGE RULE**
21 **FOR CERTAIN FUNDS.**

22 In the case of bonds issued after the date of the en-
23 actment of this Act and before August 31, 2009—

24 (1) the requirement of paragraph (1) of section
25 648 of the Deficit Reduction Act of 1984 (98 Stat.

1 941) shall be treated as met with respect to the se-
2 curities or obligations referred to in such section if
3 such securities or obligations are held in a fund the
4 annual distributions from which cannot exceed 7
5 percent of the average fair market value of the as-
6 sets held in such fund except to the extent distribu-
7 tions are necessary to pay debt service on the bond
8 issue, and

9 (2) paragraph (3) of such section shall be ap-
10 plied by substituting “distributions from” for “the
11 investment earnings of” both places it appears.

Passed the House of Representatives December 8,
2005.

Attest:

KAREN L. HAAS,

Clerk.

Calendar No. 325

109TH CONGRESS
1ST Session
H. R. 4297

AN ACT

To provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006.

DECEMBER 12, 2005

Received; read twice and placed on the calendar