

103^D CONGRESS
1ST SESSION

H. R. 1960

To amend the Internal Revenue Code of 1986 to provide training and investment incentives and to provide additional revenues for deficit reduction purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 4, 1993

Mr. ROSTENKOWSKI (by request) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide training and investment incentives and to provide additional revenues for deficit reduction purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Revenue Reconciliation Act of 1993”.

1 (b) AMENDMENT TO 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) SECTION 15 NOT TO APPLY.—Except in the case
 8 of the amendments made by section 2201 (relating to cor-
 9 porate rate increase), no amendment made by this Act
 10 shall be treated as a change in a rate of tax for purposes
 11 of section 15 of the Internal Revenue Code of 1986.

12 (d) WAIVER OF ESTIMATED TAX PENALTIES.—No
 13 addition to tax shall be made under section 6654 or 6655
 14 of the Internal Revenue Code of 1986 for any period be-
 15 fore April 16, 1994 (March 16, 1994, in the case of a
 16 corporation), with respect to any underpayment to the ex-
 17 tent such underpayment was created or increased by any
 18 provision of this Act.

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Sec. 1201. Permanent investment tax credit for small business.

Sec. 1202. Temporary incremental investment tax credit.

PART II—RESEARCH CREDIT

- Sec. 1211. Permanent extension of research credit.
- Sec. 1212. Modification of fixed base percentage for startup companies.

PART III—INCENTIVE FOR INVESTMENT IN SMALL BUSINESS STOCK

- Sec. 1221. 50-percent exclusion for gain from certain small business stock.

PART IV—MODIFICATIONS TO MINIMUM TAX DEPRECIATION RULES

- Sec. 1231. Modification to minimum tax depreciation rules.

Subtitle C—Tax-Exempt Bond Provisions

- Sec. 1301. High-speed intercity rail facility bonds exempt from State volume cap.
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Subtitle D—Expansion And Simplification Of Earned Income Tax Credit

- Sec. 1401. Expansion and simplification of earned income tax credit.

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- Sec. 2401. Imposition of energy tax based on Btu content.
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- Sec. 2501. Reporting required for certain payments to corporations.
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- Sec. 2602. Disclosure related to quid pro quo contributions.
- Sec. 2603. Disallowance of interest on certain overpayments of tax.
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TITLE III—EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

- Sec. 3101. Designation and treatment of empowerment zones and enterprise communities.
- Sec. 3102. Expansion of targeted jobs credit.
- Sec. 3103. Technical and conforming amendments.
- Sec. 3104. Effective date.

1 **TITLE I—TRAINING AND**
 2 **INVESTMENT INCENTIVES**
 3 **Subtitle A—Provisions Relating To**
 4 **Education And Training**

5 **SEC. 1101. EMPLOYER-PROVIDED EDUCATIONAL ASSIST-**
 6 **ANCE.**

7 (a) PERMANENT EXTENSION OF EXCLUSION.—

8 (1) IN GENERAL.—Section 127 (relating to edu-
 9 cational assistance programs) is amended by striking

1 subsection (d) and by redesignating subsection (e) as
2 subsection (d).

3 (2) CONFORMING AMENDMENT.—Paragraph (2)
4 of section 103(a) of the Tax Extension Act of 1991
5 is hereby repealed.

6 (b) COORDINATION WITH SECTION 132.—Paragraph
7 (8) of section 132(i) is amended to read as follows:

8 “(8) APPLICATION OF SECTION TO OTHERWISE
9 TAXABLE EDUCATIONAL OR TRAINING BENEFITS.—
10 Amounts paid or expenses incurred by the employer
11 for education or training provided to the employee
12 which are not excludable from gross income under
13 section 127 shall be excluded from gross income
14 under this section if (and only if) such amounts or
15 expenses are a working condition fringe.”

16 (c) EFFECTIVE DATES.—

17 (1) SUBSECTION (a).—The amendments made
18 by subsection (a) shall apply to taxable years ending
19 after June 30, 1992.

20 (2) SUBSECTION (b).—The amendment made
21 by subsection (b) shall apply to taxable years begin-
22 ning after December 31, 1988.

23 (d) TRANSITION RULES.—

24 (1) WAIVER OF INTEREST AND PENALTIES.—
25 No interest, penalty, or addition to tax shall be im-

1 posed or required to be paid solely by reason of a
2 failure, before the date of the enactment of this Act,
3 to treat educational assistance in a manner consist-
4 ent with the provisions of section 103(a) of the Tax
5 Extension Act of 1991 (as in effect before the
6 amendments made by subsection (a)).

7 (2) SPECIAL RULES FOR 1992.—

8 (A) EMPLOYMENT TAXES.—If—

9 (i) an employer provided an employee
10 with educational assistance during the pe-
11 riod beginning on July 1, 1992, and end-
12 ing on December 31, 1992,

13 (ii) consistent with the provisions of
14 section 103(a) of the Tax Extension Act of
15 1991 (as so in effect), such employer treat-
16 ed such assistance as taxable for purposes
17 of any employment tax and as a result of
18 such treatment there was an increase in
19 taxable wages for purposes of such tax,

20 (iii) on or after the date of the enact-
21 ment of this Act and before January 1,
22 1994, such employer pays such employee
23 amounts which are taxable wages for pur-
24 poses of such tax and which equal or ex-

1 ceed the increase referred to in clause (ii),
2 and

3 (iv) such employee did not treat such
4 assistance for purposes of such employ-
5 ment tax (or for purposes of chapter 1 of
6 the Internal Revenue Code of 1986 in the
7 case of employment tax imposed by chap-
8 ter 24 of such Code) in a manner incon-
9 sistent with the employer's treatment of
10 such assistance,

11 the amendments made by subsection (a) shall
12 not apply to such educational assistance for
13 purposes of such employment tax, but, for pur-
14 poses of applying such employment tax (and for
15 purposes of the reporting requirements imposed
16 by chapter 61 of such Code), the taxable wages
17 of the employee referred to in clause (iii) shall
18 be reduced by the amount of the increase re-
19 ferred to in clause (ii). For purposes of clause
20 (iv), an employer may assume that the em-
21 ployee treated the assistance in a manner con-
22 sistent with the employer's treatment unless
23 such employer has actual knowledge to the con-
24 trary.

1 (B) REPORTING REQUIREMENT.—An em-
2 ployer shall separately report the amounts of
3 any reduction under subparagraph (A) as non-
4 taxable income on any returns or receipts re-
5 quired under chapter 61 of such Code for cal-
6 endar year 1993.

7 (C) DEFINITIONS.—For purposes of this
8 paragraph—

9 (i) EMPLOYMENT TAX.—The term
10 “employment tax” means any tax imposed
11 by subtitle C of such Code.

12 (ii) TAXABLE WAGES.—The term
13 “taxable wages” means—

14 (I) wages (as defined in section
15 3121(a) of such Code) in the case of
16 the taxes imposed by chapter 21 of
17 such Code,

18 (II) compensation (as defined in
19 section 3231(e) of such Code) in the
20 case of the taxes imposed by chapter
21 22 of such Code,

22 (III) wages (as defined in section
23 3306(b) of such Code) in the case of
24 the taxes imposed by chapter 23 of
25 such Code, and

1 (IV) wages (as defined in section
2 3401(a) of such Code) in the case of
3 the taxes imposed by chapter 24 of
4 such Code.

5 (3) INCOME TAX TREATMENT.—If—

6 (A) subparagraph (A) of paragraph (2) ap-
7 plies to any educational assistance referred to
8 in such paragraph provided to any employee,
9 and

10 (B) such employee included such assistance
11 in his taxable income for purposes of the tax
12 imposed by chapter 1 of such Code,

13 the amendments made by subsection (a) shall not
14 apply to such assistance for purposes of such chap-
15 ter 1, but the amount included in the gross income
16 of such employee by reason of wages received from
17 the employer referred to in subparagraph (A) of
18 paragraph (2) during 1993 shall be reduced in the
19 manner provided in such subparagraph (A).

20 **SEC. 1102. TARGETED JOBS CREDIT.**

21 (a) PERMANENT EXTENSION OF CREDIT.—

22 (1) IN GENERAL.—Subsection (c) of section 51
23 (relating to amount of targeted jobs credit) is
24 amended by striking paragraph (4).

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall apply to individuals who
3 begin work for the employer after June 30, 1992.

4 (b) CREDIT FOR PARTICIPANTS IN APPROVED
5 SCHOOL-TO-WORK PROGRAMS.—

6 (1) IN GENERAL.—Subparagraph (I) of section
7 51(d)(1) (defining members of targeted group) is
8 amended to read as follows:

9 “(I) a qualified participant in an
10 approved school-to-work program, or”.

11 (2) QUALIFIED PARTICIPANT IN AN APPROVED
12 SCHOOL-TO-WORK PROGRAM.—Paragraph (10) of
13 section 51(d) is amended to read as follows:

14 “(10) QUALIFIED PARTICIPANT IN AN AP-
15 PROVED SCHOOL-TO-WORK PROGRAM DEFINED.—

16 “(A) IN GENERAL.—Except as otherwise
17 provided in this paragraph, the term ‘qualified
18 participant in an approved school-to-work pro-
19 gram’ means any individual who is certified
20 under an approved school-to-work program as—

21 “(i) having attained age 16 but not
22 having attained age 21, and

23 “(ii) being enrolled in and making
24 satisfactory progress in completing such
25 approved school-to-work program.

1 “(B) LIMITATION ON NUMBER OF PARTICI-
2 PANTS.—

3 “(i) IN GENERAL.—Any individual
4 who begins work for the employer during
5 any calendar year shall not be treated as
6 a qualified participant in an approved
7 school-to-work program unless the individ-
8 ual is certified under such program as an
9 eligible participant with respect to such
10 calendar year.

11 “(ii) LIMITATION ON CERTIFI-
12 CATIONS.—The aggregate number of indi-
13 viduals certified under an approved school-
14 to-work program as eligible participants
15 with respect to any calendar year shall not
16 exceed the portion of the national school-
17 to-work program limitation for such cal-
18 endar year allocated under subsection (l)
19 to such program.

20 “(C) APPROVED SCHOOL-TO-WORK PRO-
21 GRAM.—The term ‘approved school-to-work pro-
22 gram’ means any program which—

23 “(i) is a planned program of struc-
24 tured job training designed to integrate
25 academic instruction provided by an edu-

1 cational institution and work-based learn-
2 ing provided by an employer, and

3 “(ii) is approved by the Secretaries of
4 Labor and Education.

5 “(D) LIMITATION ON AMOUNT OF WAGES
6 TAKEN INTO ACCOUNT.—For purposes of apply-
7 ing this subpart to wages paid or incurred to
8 any qualified participant in an approved school-
9 to-work program, subsection (b)(3) shall be ap-
10 plied by substituting ‘\$3,000’ for ‘\$6,000’.

11 “(E) WAGES.—In the case of remunera-
12 tion attributable to services performed while the
13 individual meets the requirements of subpara-
14 graph (A), wages, and unemployment insurance
15 wages, shall be determined without regard to
16 section 3306(c)(10)(C).”

17 (3) OVERALL LIMITATIONS.—Section 51 is
18 amended by adding at the end thereof the following
19 new subsection:

20 “(I) OVERALL LIMITATION ON APPROVED SCHOOL-
21 TO-WORK PROGRAM PARTICIPANTS.—

22 “(1) IN GENERAL.—For purposes of subsection
23 (d)(10), the national school-to-work program limita-
24 tion—

25 “(A) for calendar year 1994 is 125,000,

1 “(B) for calendar year 1995 is 140,000,

2 “(C) for calendar year 1996 is 160,000,

3 “(D) for calendar year 1997 is 180,000,

4 and

5 “(E) for calendar year 1998 and any sub-
6 sequent calendar year is 200,000.

7 “(2) ALLOCATION TO STATES.—The national
8 school-to-work program limitation for any calendar
9 year shall be allocated among the States in propor-
10 tion to the number of their eligible participants that
11 are estimated to be served in approved school-to-
12 work programs for that year. Such estimates shall
13 be published by the Secretaries of Labor and Edu-
14 cation before the beginning of the calendar year to
15 which the allocation applies.

16 “(3) ALLOCATION TO APPROVED SCHOOL-TO-
17 WORK PROGRAMS.—The portion of the national
18 school-to-work program limitation for any calendar
19 year which is allocated to any State shall be allo-
20 cated among the approved school-to-work programs
21 in such State in such manner as the Secretaries of
22 Labor and Education shall prescribe.”

23 “(4) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply in the case of individ-

1 uals who begin work for the employer after Decem-
2 ber 31, 1993.

3 **Subtitle B—Investment Incentives**

4 **PART I—INVESTMENT TAX CREDIT**

5 **SEC. 1201. PERMANENT INVESTMENT TAX CREDIT FOR** 6 **SMALL BUSINESS.**

7 (a) ALLOWANCE OF CREDIT.—Section 46 (relating to
8 amount of investment credit) is amended by redesignating
9 paragraphs (1), (2), and (3) as paragraphs (2), (3), and
10 (4) and by inserting before paragraph (2) (as so redesi-
11 gnated) the following new paragraph:

12 “(1) in the case of an eligible small business (as
13 defined in section 46A(b)), the small business regu-
14 lar credit,”

15 (b) SMALL BUSINESS REGULAR CREDIT.—Subpart
16 E of part IV of subchapter A of chapter 1 (relating to
17 rules for computing the investment credit) is amended by
18 inserting after section 46 the following new section:

19 **“SEC. 46A. SMALL BUSINESS REGULAR CREDIT.**

20 “(a) DETERMINATION OF CREDIT.—For purposes of
21 section 46—

22 “(1) IN GENERAL.—In the case of an eligible
23 small business, the small business regular credit for
24 any taxable year is an amount equal to 5 percent of

1 the taxpayer's qualified investment in regular credit
2 property.

3 “(2) SPECIAL RULE FOR PROPERTY PLACED IN
4 SERVICE BEFORE 1995.—In the case of regular credit
5 property placed in service before January 1, 1995,
6 paragraph (1) shall be applied by substituting ‘7
7 percent’ for ‘5 percent’.

8 “(b) ELIGIBLE SMALL BUSINESS.—For purposes of
9 this section—

10 “(1) IN GENERAL.—The term ‘eligible small
11 business’ means, with respect to any taxable year, a
12 taxpayer the average annual gross receipts of which
13 for the 3-taxable-year period ending with the preced-
14 ing taxable year does not exceed \$5,000,000.

15 “(2) APPLICABLE RULES.—

16 “(A) AGGREGATION RULES.—All persons
17 treated as a single employer under subsection
18 (a) or (b) of section 52 shall be treated as 1
19 person for purposes of paragraph (1).

20 “(B) SPECIAL RULES.—The rules of sub-
21 sections (c)(3) and (d)(8) of section 448 shall
22 apply for purposes of this subsection.

23 “(c) REGULAR CREDIT PROPERTY.—For purposes of
24 this subpart—

1 “(1) IN GENERAL.—The term ‘regular credit
2 property’ means any eligible property—

3 “(A) which is property to which section
4 168 applies,

5 “(B) which is placed in service after De-
6 cember 3, 1992, and

7 “(C)(i) the construction, reconstruction, or
8 erection of which is completed by the taxpayer,
9 or

10 “(ii) which is acquired by the taxpayer if
11 the original use of such property commences
12 with the taxpayer.

13 “(2) ELIGIBLE PROPERTY.—For purposes of
14 this subsection—

15 “(A) IN GENERAL.—The term ‘eligible
16 property’ means—

17 “(i) tangible personal property,

18 “(ii) other tangible property (not in-
19 cluding a building or its structural compo-
20 nents), but only if such property—

21 “(I) is used as an integral part of
22 manufacturing, production, or extrac-
23 tion, or of furnishing transportation,
24 communications, electrical energy,

1 gas, water, or sewage disposal serv-
2 ices,

3 “(II) constitutes a research facil-
4 ity used in connection with any of the
5 activities referred to in subclause (I),
6 or

7 “(III) constitutes a facility used
8 in connection with any of the activities
9 referred to in subclause (I) for the
10 bulk storage of fungible commodities
11 (including commodities in a liquid or
12 gaseous state),

13 “(iii) an elevator or escalator,

14 “(iv) a storage facility used in connec-
15 tion with the distribution of petroleum or
16 any primary product of petroleum, or

17 “(v) a single purpose agricultural or
18 horticultural structure (as defined in sec-
19 tion 168(i)(13)).

20 “(B) PROPERTY RECEIVING OTHER CRED-
21 ITS.—The term ‘eligible property’ shall not in-
22 clude—

23 “(i) any property to the extent the
24 basis of such property is attributable to

1 qualified rehabilitation expenditures (as de-
2 fined in section 47(c)(2)),

3 “(ii) any energy property,

4 “(iii) any property to the extent the
5 basis of such property is attributable to
6 qualified enhanced oil recovery costs (as
7 defined in section 43(c)(1)), or

8 “(iv) any qualified electric vehicle (as
9 defined in section 30(c)).

10 “(C) SPECIAL RULES RELATING TO EXCEP-
11 TIONS.—

12 “(i) AIR AND HEATING UNITS.—The
13 term ‘eligible property’ does not include an
14 air conditioning or heating unit.

15 “(ii) STRUCTURAL COMPONENTS.—
16 For purposes of subparagraph (A)(ii), the
17 term ‘structural component’ includes, with
18 respect to any building, property which—

19 “(I) relates (in whole or in part)
20 to the operation, maintenance, or ap-
21 pearance of the building, and

22 “(II) is attached to the building
23 (whether or not permanently at-
24 tached).

1 “(D) LIVESTOCK.—The term ‘eligible
2 property’ shall include livestock acquired by the
3 taxpayer, except—

4 “(i) such term shall not include
5 horses, and

6 “(ii) the qualified investment in such
7 livestock shall be reduced by the amount
8 realized on the sale or other disposition
9 (other than in an involuntary conversion
10 within the meaning of section 1033) of
11 substantially identical livestock during the
12 1-year period beginning 6 months before
13 such acquisition.

14 “(E) PROPERTY COMPLETED ABROAD
15 WHERE FOREIGN COUNTRY ENGAGED IN DIS-
16 CRIMINATORY ACTS.—The term ‘eligible prop-
17 erty’ shall not include property described in sec-
18 tion 168(g)(1)(D).

19 “(d) QUALIFIED INVESTMENT.—For purposes of this
20 section—

21 “(1) IN GENERAL.—The term ‘qualified invest-
22 ment’ means the applicable percentage of the basis
23 of each regular credit property placed in service by
24 the taxpayer during the taxable year.

25 “(2) ANNUAL LIMITATION.—

1 “(A) IN GENERAL.—The aggregate bases
2 of regular credit property taken into account in
3 computing the qualified investment of a tax-
4 payer for any taxable year shall not exceed
5 \$250,000.

6 “(B) PRO RATA ALLOCATION WHERE
7 BASES EXCEED LIMIT.—If subparagraph (A)
8 applies to a taxpayer for any taxable year, the
9 bases taken into account in computing qualified
10 investment shall be allocated among regular
11 credit properties placed in service during the
12 taxable year in proportion to their cost.

13 “(C) SPECIAL RULES.—For purposes of
14 subparagraph (A)—

15 “(i) all persons treated as 1 person
16 under subsection (a) or (b) of section 52
17 shall be treated as 1 person for purposes
18 of this paragraph, and

19 “(ii) in the case of—

20 “(I) a taxable year beginning
21 January 1, 1993, subparagraph (A)
22 shall be applied by substituting
23 ‘\$270,000’ for ‘\$250,000’, and

24 “(II) a taxable year which is less
25 than 12 months or which includes any

1 period before December 4, 1992, the
2 \$250,000 amount shall be ratably re-
3 duced to reflect the shorter taxable
4 year or such period.

5 “(3) APPLICABLE PERCENTAGE.—For purposes
6 of paragraph (1), the applicable percentage shall be
7 determined under the following table:

“In the case of property which is:	The applicable percentage is:
3-year property	33 percent
5-year property	67 percent
7-year property	80 percent
All other property	100 percent.

8 For purposes of this paragraph, the terms ‘3-year
9 property’, ‘5-year property’, and ‘7-year property’
10 have the meanings given such terms by section
11 168(e).

12 “(4) RECONSTRUCTION.—In the case of regular
13 credit property the reconstruction of which is com-
14 pleted by the taxpayer, qualified investment shall
15 only include that portion of the basis which is prop-
16 erly attributable to the reconstruction by the tax-
17 payer.

18 “(5) SPECIAL RULE FOR CERTAIN VESSELS.—
19 For purposes of paragraph (1), the basis of any reg-
20 ular credit property shall not include any portion of
21 the basis which is attributable to a qualified with-
22 drawal from any ordinary income or capital gain ac-

1 count (within the meaning of section 7518) of a
2 fund established under section 607 of the Merchant
3 Marine Act, 1936.

4 “(e) SPECIAL RULES RELATING TO LEASED PROP-
5 ERTY.—

6 “(1) IN GENERAL.—Except as provided in this
7 subsection, regular credit property shall not include
8 property subject to a lease.

9 “(2) EXCEPTION FOR QUALIFIED SHORT-TERM
10 LEASES.—

11 “(A) IN GENERAL.—Paragraph (1) shall
12 not apply to regular credit property of a lessor
13 subject to a qualified short-term lease.

14 “(B) QUALIFIED SHORT-TERM LEASE.—
15 For purposes of this subsection, the term
16 ‘qualified short-term lease’ means any lease—

17 “(i) the term of which is less than 1
18 year, and

19 “(ii) which is made in connection with
20 the active conduct by the lessor of a quali-
21 fied leasing trade or business.

22 “(C) QUALIFIED LEASING TRADE OR BUSI-
23 NESS.—For purposes of this subsection, the
24 term ‘qualified leasing trade or business’ means
25 any trade or business which normally derives at

1 least 80 percent of its gross receipts from leases
2 of tangible personal property with terms of less
3 than 30 days.

4 “(D) LEASE TERMS.—The rules of section
5 168(i)(3) shall apply for purposes of this para-
6 graph.

7 “(3) EXCEPTION FOR LONGER TERM LEASES.—

8 “(A) IN GENERAL.—If regular credit prop-
9 erty is subject to a lease with a term of 3 years
10 or more and the original use of the property be-
11 gins with the lessee—

12 “(i) paragraph (1) shall not apply to
13 such property,

14 “(ii) the lessee shall be treated for
15 purposes of this section as having acquired
16 such property with a basis equal to the fair
17 market value of the property as of the be-
18 ginning of the lease, and

19 “(iii) if the lease term is shorter than
20 the applicable recovery period for the prop-
21 erty determined under section 168, the ap-
22 plicable percentage under subsection (d)(3)
23 shall be determined as if the recovery pe-
24 riod were equal to the longest such recov-

1 ery period which does not exceed the lease
2 term.

3 “(B) LEASE TERM.—For purposes of this
4 paragraph, in determining any lease term—

5 “(i) options to renew shall not be
6 taken into account, and

7 “(ii) 2 or more successive leases de-
8 scribed in section 168(i)(3)(A)(ii) shall not
9 be treated as 1 lease.

10 “(C) SPECIAL RULE FOR PERSONS UNDER
11 COMMON CONTROL.—For purposes of subpara-
12 graph (A)(ii), if any property is leased by a per-
13 son to another person which is under common
14 control with such person (as determined under
15 subsection (a) or (b) of section 52), the basis of
16 the property shall be substituted for its fair
17 market value.

18 “(4) RECAPTURE RULES TO APPLY.—For pur-
19 poses of section 50(a), if a lessee of regular credit
20 property—

21 “(A) terminates the lease before the expi-
22 ration of its term (other than by acquiring the
23 property), or

24 “(B) sublets the property,

1 the lessee shall be treated as having disposed of the
2 property on the date of the termination or sublease.

3 “(5) PRIOR LEASE RULES NOT TO APPLY.—The
4 provisions of section 50(d)(5) shall not apply for
5 purposes of this section.

6 “(f) OTHER SPECIAL RULES.—For purposes of this
7 section—

8 “(1) PARTNERSHIPS AND S CORPORATIONS.—

9 “(A) IN GENERAL.—In the case of a part-
10 nership or S corporation—

11 “(i) the limitation on the application
12 of this section to eligible small businesses,
13 and

14 “(ii) the limitation under subsection
15 (d)(2),

16 shall be applied at both the partnership and S
17 corporation level and at the partner and share-
18 holder level.

19 “(B) REPORTING REQUIREMENTS.—A
20 partnership or S corporation shall include in
21 any return or statement it is otherwise required
22 to provide to a partner or shareholder such in-
23 formation as the Secretary may prescribe as
24 necessary to carry out the provisions of this
25 section.

1 “(2) CERTAIN ENTITIES INELIGIBLE.—Not-
2 withstanding paragraphs (1) and (6) of section
3 50(d), no credit shall be determined under this sec-
4 tion with respect to regular credit property of—

5 “(A) an estate or trust, or

6 “(B) a regulated investment company, real
7 estate investment trust, REMIC, or common
8 trust fund described in section 584.

9 “(3) NORMALIZATION RULES.—The provisions
10 of section 50(d)(2) shall apply, except that—

11 “(A) no election shall be allowed under the
12 last sentence of section 46(f)(1) or under sec-
13 tion 46(f)(3) (as such provisions were in effect
14 on the day before the date of the enactment of
15 the Revenue Reconciliation Act of 1990), and

16 “(B) the election under section 46(f)(2)
17 (as so in effect) shall be made by including it
18 on the taxpayer’s first return to which this sec-
19 tion applies.

20 “(4) TRANSITION RULES.—

21 “(A) PRE-1993 PROPERTY.—In the case of
22 a taxpayer whose taxable year is the calendar
23 year, any property placed in service after De-
24 cember 3, 1992, and before January 1, 1993,

1 shall be treated as placed in service on January
2 1, 1993.

3 “(B) AMOUNTS ALLOCABLE TO PERIODS
4 BEFORE DECEMBER 4, 1992.—The basis of any
5 property with an actual construction period of
6 more than 2 years shall not include any amount
7 attributable to construction, reconstruction, or
8 erection by or for the taxpayer before December
9 4, 1992.

10 “(g) REGULATIONS.—The Secretary shall prescribe
11 such regulations as may be necessary to carry out the pro-
12 visions of this section and section 50A, including regula-
13 tions providing for the determination of lease terms.”

14 (c) CREDIT MAY OFFSET 25 PERCENT OF MINIMUM
15 TAX.—

16 (1) IN GENERAL.—Section 38(c) (relating to
17 limitation based on amount of tax) is amended by
18 redesignating paragraph (2) as paragraph (3) and
19 by inserting after paragraph (1) the following new
20 paragraph:

21 “(2) REGULAR INVESTMENT CREDIT MAY OFF-
22 SET 25 PERCENT OF MINIMUM TAX.—

23 “(A) IN GENERAL.—In the case of the reg-
24 ular investment tax credit—

1 “(i) this section and section 39 shall
2 be applied separately with respect to such
3 credit, and

4 “(ii) for purposes of applying para-
5 graph (1) to such credit—

6 “(I) 75 percent of the tentative
7 minimum tax shall be substituted for
8 the tentative minimum tax under sub-
9 paragraph (A) thereof, and

10 “(II) the limitation under para-
11 graph (1) (as modified by subclause
12 (I)) shall be reduced by the credit al-
13 lowed under subsection (a) for the
14 taxable year (other than the regular
15 investment tax credit).

16 “(B) REGULAR INVESTMENT TAX CRED-
17 IT.—For purposes of this paragraph, the term
18 ‘regular investment tax credit’ means the por-
19 tion of the credit under subsection (a) which is
20 attributable to the credit determined under sec-
21 tion 46A. In the case of taxable years beginning
22 after December 31, 1992, the regular invest-
23 ment tax credit shall include any credit to
24 which section 38(c)(2) (as in effect on the day
25 before the date of the enactment of the Revenue

1 Reconciliation Act of 1990) applies, and such
2 section shall not apply to such taxable years.”

3 (2) CONFORMING AMENDMENT.—Section 38(d)
4 (relating to components of investment credit) is
5 amended by adding at the end the following new
6 paragraph:

7 “(4) SPECIAL RULE FOR SMALL BUSINESS
8 CREDIT.—Notwithstanding paragraphs (1) and (2),
9 the small business regular credit described in sub-
10 section (b)(1) shall be treated as used last.”

11 (d) APPLICATION OF OTHER RULES.—

12 (1) AT-RISK RULES.—Clause (ii) of section
13 49(a)(1)(C) (defining credit base) is amended by in-
14 sserting “or regular credit property” after “energy
15 property”.

16 (2) RECAPTURE RULES.—Subparagraph (B) of
17 section 50(a)(1) (defining recapture percentage) is
18 amended by adding at the end the following new
19 sentence:

20 “In the case of regular credit property which is
21 3-year property, the recapture percentage under
22 clause (ii) shall be 67 percent, under clause (iii)
23 shall be 33 percent, and under clauses (iv) and
24 (v) shall be zero.”

25 (3) AUTOMOBILES.—

1 (A) IN GENERAL.—Section 280F(a) is
2 amended by redesignating paragraph (2) as
3 paragraph (3) and by inserting after paragraph
4 (1) the following new paragraph:

5 “(2) INVESTMENT TAX CREDIT.—The amount
6 of the credit determined under section 46A with re-
7 spect to any passenger automobile shall not exceed
8 \$675.”

9 (B) CONFORMING AMENDMENTS.—

10 (i) Section 280F(b)(1) is amended—

11 (I) by inserting “and such prop-
12 erty shall not be treated as regular
13 credit property for purposes of section
14 46A for such taxable year” before the
15 period, and

16 (II) by inserting “OR CREDIT”
17 after “DEPRECIATION” in the heading.

18 (ii) Section 280F(c)(1) is amended by
19 inserting “(other than subsection (a)(2))”
20 after “section”.

21 (iii) Section 280F(d) is amended—

22 (I) by inserting “the amount of
23 any credit allowable under section 38
24 to the employee or” after “determin-
25 ing” in paragraph (3)(A),

1 (II) by striking “subsection (a)”
2 in paragraph (7)(A) and inserting
3 “subsection (a)(1)”, and

4 (III) by striking “subsection
5 (a)(2)” in paragraphs (8) and (10)
6 and inserting “subsection (a)(3)”.

7 (iv)(I) The heading for section 280F
8 is amended by inserting “**AND CREDIT**”
9 after “**DEPRECIATION**”.

10 (II) The item relating to section 280F
11 in the table of contents for part IX of sub-
12 chapter B of chapter 1 is amended by in-
13 serting “and credit” after “depreciation”.

14 (e) CONFORMING AMENDMENTS.—

15 (1) Section 38(d)(3)(B)(i) is amended by strik-
16 ing “paragraph (1)” and inserting “paragraph (2)”.

17 (2) Section 39(d) is amended by adding at the
18 end the following new paragraph:

19 “(4) INVESTMENT TAX CREDIT.—No portion of
20 the unused business credit which is attributable to
21 the credit determined under section 46A (relating to
22 the small business regular investment credit) may be
23 carried to any taxable year ending before January 1,
24 1993.”

1 (3) Section 1033(g)(3)(A) is amended by insert-
 2 ing “with respect to which the regular credit deter-
 3 mined under section 46A is or has been claimed or,”
 4 before “with respect to which”.

5 (4) The table of sections for subpart E of part
 6 IV of subchapter A of chapter 1 is amended by add-
 7 ing after the item relating to section 46 the follow-
 8 ing new item:

“Sec. 46A. Small business regular credit.”

9 (f) EFFECTIVE DATE.—

10 (1) IN GENERAL.—The amendments made by
 11 this section shall apply to property placed in service
 12 after December 3, 1992.

13 (2) TRANSITION PROPERTY.—The amendments
 14 made by this section shall not apply to any transi-
 15 tion property (as defined in section 49(e) of the In-
 16 ternal Revenue Code of 1986, as in effect on the day
 17 before the date of the enactment of the Revenue
 18 Reconciliation Act of 1990).

19 **SEC. 1202. TEMPORARY INCREMENTAL INVESTMENT TAX**
 20 **CREDIT.**

21 (a) IN GENERAL.—Subpart E of part IV of sub-
 22 chapter A of chapter 1 (relating to rules for computing
 23 investment tax credit) is amended by inserting after sec-
 24 tion 50 the following new section:

1 **“SEC. 50A. TEMPORARY INCREMENTAL INVESTMENT TAX**
2 **CREDIT.**

3 “(a) DETERMINATION OF CREDIT.—In the case of
4 any taxable year which includes December 31 of calendar
5 year 1993 or 1994, the amount of the credit determined
6 under section 46 for such taxable year shall be increased
7 by an amount equal to 7 percent of the excess (if any)
8 of—

9 “(1) the taxpayer’s qualified net investment for
10 such calendar year, over

11 “(2) the base amount for such calendar year.

12 “(b) QUALIFIED NET INVESTMENT.—For purposes
13 of this section—

14 “(1) IN GENERAL.—The qualified net invest-
15 ment for any calendar year is the excess (if any)
16 of—

17 “(A) qualified investment, over

18 “(B) the sum of the amounts determined
19 by multiplying—

20 “(i) the amount realized from each
21 regular credit property—

22 “(I) the basis of which was taken
23 into account in computing qualified
24 investment under this section, and

25 “(II) which was disposed of (or
26 otherwise ceased to be regular credit

1 property) during the calendar year,
2 and

3 “(ii) the applicable percentage for the
4 property.

5 “(2) QUALIFIED INVESTMENT.—

6 “(A) IN GENERAL.—The term ‘qualified
7 investment’ has the meaning given such term
8 by section 46A(d) (without regard to the
9 \$250,000 limitation of paragraph (2) thereof
10 and by treating the calendar year as the tax-
11 payer’s taxable year).

12 “(B) COORDINATION WITH PROGRESS EX-
13 PENDITURES.—The amount which (but for this
14 subparagraph) would be taken into account
15 with respect to any regular credit property shall
16 be reduced by the excess (if any) of—

17 “(i) the qualified investment taken
18 into account under subsection (f)(2) by the
19 taxpayer or a predecessor of the taxpayer,
20 over

21 “(ii) any portion of the qualified in-
22 vestment described in clause (i) taken into
23 account under paragraph (1)(B).

24 “(C) SPECIAL RULE WHERE INSUFFICIENT
25 NET INVESTMENT IN 1993.—If, in calendar year

1 1993, the taxpayer's base amount exceeds
2 qualified net investment, the taxpayer's quali-
3 fied net investment for calendar year 1994 shall
4 be reduced by the amount of such excess.

5 “(D) AUTOMOBILES.—The qualified in-
6 vestment taken into account with respect to any
7 passenger automobile (as defined in section
8 280F(d)(5)) shall not exceed \$9,600.

9 “(E) INTERNATIONAL INTERMODAL CARGO
10 CONTAINERS.—

11 “(i) IN GENERAL.—In the case of any
12 international intermodal cargo container of
13 a United States person, section 50(b)(1)
14 shall not apply and 50 percent of the basis
15 of the container shall be taken into ac-
16 count in computing qualified investment.

17 “(ii) INTERNATIONAL INTERMODAL
18 CARGO CONTAINER.—For purposes of
19 clause (i), the term ‘international inter-
20 modal cargo container’ means any inter-
21 modal cargo container which is leased to,
22 or owned by, a container user that has one
23 or more trade routes that contact outside
24 the United States.

1 “(iii) TRADE ROUTES.—For purposes
2 of clause (ii), a container user shall be
3 treated as having one or more trade routes
4 that contact outside the United States if,
5 at any time during the taxable year, such
6 user—

7 “(I) owns, operates, or charters
8 any vessel that receives or delivers any
9 intermodal cargo container outside the
10 United States, or

11 “(II) uses any intermodal cargo
12 container to ship cargo to or from the
13 United States.

14 “(c) BASE AMOUNT.—For purposes of this section—

15 “(1) IN GENERAL.—The term ‘base amount’
16 means, with respect to any computation year, an
17 amount equal to 80 percent (70 percent in the case
18 of calendar year 1993) of the average of the indexed
19 base investment for each of the base period years.

20 “(2) MINIMUM BASE AMOUNT.—In no event
21 shall the base amount for calendar year 1993 or
22 1994 be less than 50 percent of the qualified net
23 investment for the year.

24 “(3) INDEXED BASE INVESTMENT.—For pur-
25 poses of paragraph (1)—

1 “(A) IN GENERAL.—The indexed base in-
2 vestment for any base period year—

3 “(i) shall be computed separately with
4 respect to each computation year, and

5 “(ii) shall be equal to the product
6 of—

7 “(I) the base investment for the
8 base period year, and

9 “(II) the applicable inflation
10 ratio for that computation year and
11 that base period year.

12 “(B) BASE INVESTMENT.—For purposes
13 of this paragraph, the base investment for any
14 base period year is an amount equal to the sum
15 of the amounts determined by applying the ap-
16 plicable percentage to each regular credit prop-
17 erty placed in service during such base period
18 year.

19 “(C) APPLICABLE INFLATION RATIO.—The
20 applicable inflation ratio for any computation
21 year and any base period year is the percentage
22 arrived at by dividing—

23 “(i) the GDP implicit price deflator
24 for the calendar year preceding the com-
25 putation year, by

1 “(ii) such deflator for the calendar
2 year preceding the calendar year in which
3 occurs the 1st day of the base period year.

4 For purposes of this subparagraph, the term
5 ‘GDP implicit price deflator’ for each of the
6 years described in clauses (i) and (ii) is the
7 most recent revision of the implicit price
8 deflator for the gross domestic product, as com-
9 puted and published by the Department of
10 Commerce before March 15 of the computation
11 year.

12 “(4) BASE PERIOD YEAR.—For purposes of this
13 subsection, the term ‘base period year’ means any
14 taxable year—

15 “(A) beginning after December 31, 1988,
16 and before January 1, 1992, or

17 “(B) at the election of the taxpayer, begin-
18 ning after December 31, 1986, and before Jan-
19 uary 1, 1992.

20 “(5) COMPUTATION YEAR.—The term ‘com-
21 putation year’ means the calendar year for which the
22 excess described in subsection (a) is being deter-
23 mined.

24 “(6) SPECIAL RULES.—For purposes of this
25 subsection—

1 “(A) REGULAR CREDIT PROPERTY DE-
2 FINED.—The term ‘regular credit property’ has
3 the meaning given such term by section 46A(c),
4 without regard to paragraphs (1) (B) and (C)
5 thereof (relating to requirements for original
6 use and date of placement in service) or para-
7 graph (2)(B) (relating to certain ineligible prop-
8 erty).

9 “(B) LEASES.—

10 “(i) LESSORS.—A lessor of any regu-
11 lar credit property placed in service during
12 any taxable year in the base period shall
13 take into account the adjusted basis of
14 such property unless the property was sub-
15 ject to a lease the term of which was at
16 least 3 years and the lessor did not use
17 such property during the base period other
18 than as a lessor.

19 “(ii) LESSEES.—A lessee shall not
20 take into account regular credit property
21 the use of which by the lessee began dur-
22 ing the base period unless the value of the
23 property as of the beginning of the lease
24 exceeded \$1,000,000.

25 “(d) RECAPTURE RULES.—

1 “(1) IN GENERAL.—If, for calendar year 1994,
2 1995, 1996, or 1997, the base amount exceeds the
3 qualified net investment of the taxpayer, then the
4 tax under this chapter for the taxable year in which
5 the last day of the calendar year occurs shall be in-
6 creased by the least of—

7 “(A) 7 percent of such excess,

8 “(B) the balance in the credit recapture
9 account as of the close of the taxable year, or

10 “(C) the aggregate increase in the credits
11 allowed under section 38 by reason of the credit
12 determined under this section (reduced by prior
13 amounts taken into account under this subpara-
14 graph).

15 “(2) SPECIAL RULE FOR BASE AMOUNT.—For
16 purposes of paragraph (1), if the limitation of sub-
17 section (c)(2) applied for 1993 or 1994, the base
18 amount shall be determined as if the base invest-
19 ment for each of the taxable years in the base period
20 were equal to the greater of—

21 “(A) the amount determined without re-
22 gard to this paragraph, or

23 “(B) in the case of a taxpayer for which a
24 base amount was determined under subsection
25 (c)(2)—

1 “(i) if the taxpayer’s base amount for
2 both calendar years 1993 and 1994 was so
3 determined, the lesser of such base
4 amounts, or

5 “(ii) if the taxpayer’s base amount for
6 only one of such calendar years was so de-
7 termined, the base amount for that year.

8 “(3) CREDIT RECAPTURE ACCOUNT.—

9 “(A) OPENING BALANCE.—The opening
10 balance of the credit recapture account shall be
11 zero.

12 “(B) ACCOUNT INCREASED BY CREDIT AL-
13 LOWED.—The credit recapture account shall be
14 increased as of the close of any calendar year
15 by the credit determined under this section for
16 the calendar year.

17 “(C) VESTING OF CREDIT.—

18 “(i) IN GENERAL.—If the credit re-
19 capture account is increased under sub-
20 paragraph (B) for any calendar year, the
21 account shall be reduced—

22 “(I) in the case of the credit de-
23 termined for 1993, as of the close of
24 each of the 4 succeeding calendar

1 years by an amount equal to 25 per-
2 cent of such increase, and

3 “(II) in the case of the credit de-
4 termined for 1994, as of the close of
5 each of the 3 succeeding years by an
6 amount equal to $33\frac{1}{3}$ percent of such
7 increase.

8 “(ii) CREDIT STOPS BEING VESTED
9 WHEN RECAPTURED.—If an increase in tax
10 under paragraph (1) for any calendar year
11 is properly allocable to any portion of the
12 credit to which clause (i) applies, no reduc-
13 tion shall be made under clause (i) with re-
14 spect to such portion for any succeeding
15 calendar year. Any such increase shall be
16 allocated to credits on a first-in first-out
17 basis.

18 “(D) REDUCTION FOR TAX INCREASE.—
19 The credit recapture account as of the begin-
20 ning of any calendar year shall be equal to the
21 balance as of the close of the preceding cal-
22 endar year, reduced by any increase in tax for
23 the preceding calendar year under paragraph
24 (1).

1 “(4) CARRYBACKS AND CARRYOVERS AD-
2 JUSTED.—If subparagraph (C) of paragraph (1) ap-
3 plies for any taxable year, the carrybacks and
4 carryovers under section 39 shall be adjusted by rea-
5 son of any increase in tax under paragraph (1)
6 which would have occurred but for such subpara-
7 graph.

8 “(5) TAX.—Any increase in tax under para-
9 graph (1) shall not be treated as tax imposed by this
10 chapter for purposes of determining the amount of
11 any credit allowable under subpart A, B, D, or G or
12 the amount of the regular tax for purposes of
13 section 55.

14 “(e) DISPOSITIONS.—For purposes of this section—

15 “(1) CERTAIN EVENTS TREATED AS DISPOSI-
16 TIONS.—

17 “(A) IN GENERAL.—If, during any cal-
18 endar year—

19 “(i) regular credit property ceases to
20 be regular credit property with respect to
21 the taxpayer, or

22 “(ii) any property to which subsection
23 (f)(2) applied ceases (by reason of sale or
24 other disposition, cancellation or abandon-
25 ment of contract, or otherwise) to be, with

1 respect to the taxpayer, property which will
2 be regular credit property when placed in
3 service,

4 such property shall be treated as having been
5 disposed of during the calendar year.

6 “(B) SPECIAL RULES FOR LEASES.—

7 “(i) LESSOR.—A lessor of regular
8 credit property with respect to which a
9 credit is determined under this section by
10 reason of subsection (e)(2) of section 46A
11 shall be treated as having disposed of regu-
12 lar credit property if the taxpayer leases
13 such property in a lease other than a quali-
14 fied short-term lease (as defined in sub-
15 section (e)(2)(B) of section 46A).

16 “(ii) LESSEES.—If a credit is allowed
17 to a lessee with respect to any property by
18 reason of subsection (e)(3) of section 46A,
19 the rules of section 46A(e)(4) shall apply
20 in determining when the lessee disposed of
21 the property.

22 “(2) AMOUNT REALIZED.—The amount realized
23 in the case of any disposition under paragraph (1)
24 shall be equal to—

1 “(A) in the case described in paragraph
2 (1) (A)(i) or (B)(i), the fair market value of the
3 property as of the time of cessation or lease,

4 “(B) in the case described in paragraph
5 (1)(A)(ii), the increase in qualified investment
6 with respect to the property for preceding tax-
7 able years under subsection (f)(2), or

8 “(C) in the case described in paragraph
9 (1)(B)(ii), the fair market value of the property
10 as of the time of the disposition.

11 “(3) EXCEPTIONS FOR CERTAIN CASES.—

12 “(A) IN GENERAL.—The following shall
13 not be treated as a disposition:

14 “(i) A transfer by reason of death.

15 “(ii) A transaction to which section
16 381(a) applies.

17 “(iii) A disposition with respect to
18 which gain is not recognized under section
19 1031 or 1033, but only to the extent of an
20 amount which bears the same ratio to the
21 amount realized as the gain not recognized
22 bears to the gain realized.

23 “(iv) A transfer described in section
24 1041(a).

1 “(B) CHANGES IN FORM OF BUSINESS.—
2 Property shall not be treated as ceasing to be
3 regular credit property with respect to the tax-
4 payer by reason of a mere change in the form
5 of conducting the trade or business so long as
6 the property is retained in such trade or busi-
7 ness as regular credit property and the tax-
8 payer retains a substantial interest in such
9 trade or business.

10 “(f) DEFINITIONS AND SPECIAL RULES.—For pur-
11 poses of this section—

12 “(1) DEFINITIONS.—Except as otherwise pro-
13 vided, the terms ‘applicable percentage’ and ‘regular
14 credit property’ have the meanings given such terms
15 by section 46A.

16 “(2) QUALIFIED PROGRESS EXPENDITURES.—

17 “(A) IN GENERAL.—In the case of any
18 progress expenditure property which is regular
19 credit property, qualified progress expenditures
20 shall be taken into account in computing quali-
21 fied investment but only to the extent attrib-
22 utable to periods after December 3, 1992.

23 “(B) TERMS.—For purposes of subpara-
24 graph (A), the terms ‘progress expenditure
25 property’ and ‘qualified progress expenditures’

1 shall be determined under rules similar to the
2 rules of section 47(d), except that—

3 “(i) paragraph (5) thereof shall not
4 apply, and

5 “(ii) in the case of non-self-con-
6 structed property, amounts chargeable to
7 capital account before December 4, 1992,
8 with respect to the property shall be treat-
9 ed as qualified progress expenditures made
10 before such date (whether or not paid be-
11 fore such date).

12 “(3) PRE-1993 PROPERTY AND EXPENDI-
13 TURES.—Any property placed in service (or any
14 qualified progress expenditures described in para-
15 graph (2) made) during the period beginning De-
16 cember 4, 1992, and ending December 31, 1992,
17 shall be treated as placed in service (or made) on
18 January 1, 1993.

19 “(4) COORDINATION WITH SECTION 46A.—

20 “(A) LEASING RULES.—The rules of sec-
21 tion 46A(e) shall apply.

22 “(B) REPORTING REQUIREMENTS.—The
23 rules of section 46A(f)(1)(B) shall apply.

24 “(C) CERTAIN ENTITIES INELIGIBLE.—
25 The rule of section 46A(f)(2) shall apply.

1 “(D) NORMALIZATION RULES APPLY.—

2 The rules of section 46A(f)(3) shall apply.

3 “(5) RESEARCH CREDIT RULES APPLICABLE.—

4 Rules similar to the rules of section 41 (f) and (g)
5 shall apply.

6 “(6) CERTAIN LEASING RULES NOT TO
7 APPLY.—Section 50(d)(5) shall not apply.

8 “(g) CREDIT ELECTIVE.—Subsection (a) shall apply
9 to a taxpayer for a taxable year only if the taxpayer elects
10 to have subsection (a) apply and in the case of an eligible
11 small business (as defined in section 46A(b)), elects not
12 to have section 46A apply.”

13 (b) INCREASE IN INCOME TO REFLECT CREDIT.—

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

18 **“SEC. 91. INCOME INCLUSION RELATING TO TEMPORARY**

19 **INVESTMENT TAX CREDIT.**

20 “(a) GENERAL RULE.—The amount of the current
21 year business credit under section 38 for any taxable year
22 which is determined under section 50A shall be included
23 in gross income ratably—

24 “(1) in the case of the credit determined for
25 1993, over the 4-taxable-year period beginning with

1 the taxable year following the taxable year for which
2 the credit was determined, and

3 “(2) in the case of the credit determined for
4 1994, over the 3-taxable-year period beginning with
5 the taxable year following the taxable year for which
6 the credit was determined.

7 “(b) RECAPTURED AMOUNTS.—If any increase in tax
8 under section 50A(d)(1) is properly allocable (as deter-
9 mined under section 50A(d)(3)(C)(ii)) to any portion of
10 any credit described in subsection (a) for any taxable year,
11 subsection (a) shall cease to apply to such portion for the
12 taxable year of recapture and for any succeeding taxable
13 year.”

14 (2) CONFORMING AMENDMENT.—Paragraph (1)
15 of section 50(c) (relating to basis adjustment) is
16 amended by inserting “(other than regular credit
17 property to which section 50A applies)” after “any
18 property”.

19 (c) CREDIT ALLOWED AGAINST MINIMUM TAX.—
20 Subparagraph (B) of section 38(c)(2) (relating to regular
21 investment credit may offset minimum tax), as added by
22 section 1201(c)(1), is amended by inserting “or 50A”
23 after “section 46A”.

24 (d) APPLICATION OF OTHER RULES.—

25 (1) AT-RISK RULES.—

1 (A) Clause (ii) of section 49(a)(1)(C) (de-
2 fining credit base), as amended by section
3 1201(d)(1), is amended by inserting “to which
4 section 46A or 50A applies” after “regular
5 credit property”.

6 (B) Section 49(b)(1) is amended by adding
7 at the end the following new sentence: “For
8 purposes of section 50A(b)(1)(B), any increase
9 during any taxable year in nonqualified
10 nonrecourse financing with respect to any regu-
11 lar credit property shall be treated as an
12 amount realized during such taxable year with
13 respect to the disposition of such property.”.

14 (2) RECAPTURE RULES.—Subparagraph (A) of
15 section 50(a)(5) (defining investment credit prop-
16 erty) is amended by adding at the end the following
17 new sentence: “Such term does not include regular
18 credit property to which section 50A applies.”.

19 (e) CONFORMING AMENDMENTS.—

20 (1) Section 39(d)(4), as added by section
21 1201(e)(2), is amended by inserting “or 50A (relat-
22 ing to incremental investment credit)” after “cred-
23 it”).

24 (2) Section 55(c)(1) is amended by striking
25 “49(b)” and inserting “50A(d), 49(b),”.

1 (3) Section 1033(g)(3)(A), as amended by sec-
2 tion 1201(e)(3), is amended by inserting “or 50A”
3 after “section 46A”.

4 (4) Section 1371(d)(3) is amended by striking
5 “49(b)” and inserting “50A(d), 49(b),”.

6 (5) The table of sections for subpart E of part
7 IV of subchapter A of chapter 1 is amended by add-
8 ing after the item relating to section 50 the follow-
9 ing new item:

 “Sec. 50A. Temporary incremental investment tax credit.”

10 (6) The table of sections for part II of sub-
11 chapter B of chapter 1 is amended by adding at the
12 end the following new item:

 “Sec. 91. Income inclusion relating to temporary investment tax
 credit.”

13 (f) EFFECTIVE DATE.—

14 (1) IN GENERAL.—The amendments made by
15 this section shall apply to property placed in service
16 after December 3, 1992.

17 (2) TRANSITION PROPERTY.—The amendments
18 made by this section shall not apply to any transi-
19 tion property (as defined in section 49(e) of the In-
20 ternal Revenue Code of 1986, as in effect on the day
21 before the date of the enactment of the Revenue
22 Reconciliation Act of 1990). This paragraph shall

1 not apply for purposes of section 50A(c) of the In-
2 ternal Revenue Code of 1986.

3 **PART II—RESEARCH CREDIT**

4 **SEC. 1211. PERMANENT EXTENSION OF RESEARCH CREDIT.**

5 (a) IN GENERAL.—Section 41 (relating to credit for
6 increasing research activities) is amended by striking sub-
7 section (h).

8 (b) CONFORMING AMENDMENT.—Paragraph (1) of
9 section 28(b) is amended by striking subparagraph (D).

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years ending after June
12 30, 1992.

13 **SEC. 1212. MODIFICATION OF FIXED BASE PERCENTAGE**
14 **FOR STARTUP COMPANIES.**

15 (a) GENERAL RULE.—Clause (ii) of section
16 41(c)(3)(B) is amended to read as follows:

17 “(ii) FIXED-BASE PERCENTAGE.—In a
18 case to which this subparagraph applies,
19 the fixed-base percentage is—

20 “(I) 3 percent for each of the
21 taxpayer’s 1st 5 taxable years begin-
22 ning after December 31, 1993, for
23 which the taxpayer has qualified re-
24 search expenses,

1 “(II) in the case of the tax-
2 payer’s 6th such taxable year, $\frac{1}{6}$ of
3 the percentage which the aggregate
4 qualified research expenses of the tax-
5 payer for the 4th and 5th such tax-
6 able years is of the aggregate gross
7 receipts of the taxpayer for such
8 years,

9 “(III) in the case of the tax-
10 payer’s 7th such taxable year, $\frac{1}{3}$ of
11 the percentage which the aggregate
12 qualified research expenses of the tax-
13 payer for the 5th and 6th such tax-
14 able years is of the aggregate gross
15 receipts of the taxpayer for such
16 years,

17 “(IV) in the case of the tax-
18 payer’s 8th such taxable year, $\frac{1}{2}$ of
19 the percentage which the aggregate
20 qualified research expenses of the tax-
21 payer for the 5th, 6th, and 7th such
22 taxable years is of the aggregate gross
23 receipts of the taxpayer for such
24 years,

1 “(V) in the case of the taxpayer’s
2 9th such taxable year, $\frac{2}{3}$ of the per-
3 centage which the aggregate qualified
4 research expenses of the taxpayer for
5 the 5th, 6th, 7th, and 8th such tax-
6 able years is of the aggregate gross
7 receipts of the taxpayer for such
8 years,

9 “(VI) in the case of the tax-
10 payer’s 10th such taxable year, $\frac{5}{6}$ of
11 the percentage which the aggregate
12 qualified research expenses of the tax-
13 payer for the 5th, 6th, 7th, 8th, and
14 9th such taxable years is of the aggre-
15 gate gross receipts of the taxpayer for
16 such years, and

17 “(VII) for taxable years there-
18 after, the percentage which the aggre-
19 gate qualified research expenses for
20 any 5 taxable years selected by the
21 taxpayer from among the 5th through
22 the 10th such taxable years is of the
23 aggregate gross receipts of the tax-
24 payer for such selected years.”

25 (b) CONFORMING AMENDMENTS.—

1 (1) Clause (iii) of section 41(c)(3)(B) is amend-
2 ed by striking “clause (i)” and inserting “clauses (i)
3 and (ii)”.

4 (2) Subparagraph (D) of section 41(c)(3) is
5 amended by striking “subparagraph (A)” and insert-
6 ing “subparagraphs (A) and (B)(ii)”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 1993.

10 **PART III—INCENTIVE FOR INVESTMENT IN**
11 **SMALL BUSINESS STOCK**

12 **SEC. 1221. 50-PERCENT EXCLUSION FOR GAIN FROM CER-**
13 **TAIN SMALL BUSINESS STOCK.**

14 (a) GENERAL RULE.—Part I of subchapter P of
15 chapter 1 (relating to capital gains and losses) is amended
16 by adding at the end thereof the following new section:

17 **“SEC. 1202. 50-PERCENT EXCLUSION FOR GAIN FROM CER-**
18 **TAIN SMALL BUSINESS STOCK.**

19 “(a) 50-PERCENT EXCLUSION.—In the case of a tax-
20 payer other than a corporation, gross income shall not in-
21 clude 50 percent of any gain from the sale or exchange
22 of qualified small business stock held for more than 5
23 years.

24 “(b) PER-ISSUER LIMITATION ON TAXPAYER’S ELI-
25 GIBLE GAIN.—

1 “(1) IN GENERAL.—If the taxpayer has eligible
2 gain for the taxable year from 1 or more dispositions
3 of stock issued by any corporation, the aggregate
4 amount of such gain from dispositions of stock is-
5 sued by such corporation which may be taken into
6 account under subsection (a) for the taxable year
7 shall not exceed the greater of—

8 “(A) \$10,000,000 reduced by the aggre-
9 gate amount of eligible gain taken into account
10 under subsection (a) for prior taxable years and
11 attributable to dispositions of stock issued by
12 such corporation, or

13 “(B) 10 times the aggregate adjusted
14 bases of qualified small business stock issued by
15 such corporation and disposed of by the tax-
16 payer during the taxable year.

17 For purposes of subparagraph (B), the adjusted
18 basis of any stock shall be determined without re-
19 gard to any addition to basis after the date on which
20 such stock was originally issued.

21 “(2) ELIGIBLE GAIN.—For purposes of this
22 subsection, the term ‘eligible gain’ means any gain
23 from the sale or exchange of qualified small business
24 stock held for more than 5 years.

25 “(3) TREATMENT OF MARRIED INDIVIDUALS.—

1 “(A) SEPARATE RETURNS.—In the case of
2 a separate return by a married individual, para-
3 graph (1)(A) shall be applied by substituting
4 ‘\$5,000,000’ for ‘\$10,000,000’.

5 “(B) ALLOCATION OF EXCLUSION.—In the
6 case of any joint return, the amount of gain
7 taken into account under subsection (a) shall be
8 allocated equally between the spouses for pur-
9 poses of applying this subsection to subsequent
10 taxable years.

11 “(C) MARITAL STATUS.—For purposes of
12 this subsection, marital status shall be deter-
13 mined under section 7703.

14 “(c) QUALIFIED SMALL BUSINESS STOCK.—For pur-
15 poses of this section—

16 “(1) IN GENERAL.—Except as otherwise pro-
17 vided in this section, the term ‘qualified small busi-
18 ness stock’ means any stock in a C corporation
19 which is originally issued after December 31, 1992,
20 if—

21 “(A) as of the date of issuance, such cor-
22 poration is a qualified small business, and

23 “(B) except as provided in subsections (f)
24 and (h), such stock is acquired by the taxpayer

1 at its original issue (directly or through an un-
2 derwriter)—

3 “(i) in exchange for money or other
4 property (not including stock), or

5 “(ii) as compensation for services pro-
6 vided to such corporation (other than serv-
7 ices performed as an underwriter of such
8 stock).

9 “(2) ACTIVE BUSINESS REQUIREMENT; ETC.—
10 Stock in a corporation shall not be treated as quali-
11 fied small business stock unless, during substantially
12 all of the taxpayer’s holding period for such stock,
13 such corporation meets the active business require-
14 ments of subsection (e) and such corporation is a C
15 corporation.

16 “(3) CERTAIN PURCHASES BY CORPORATION OF
17 ITS OWN STOCK.—

18 “(A) REDEMPTIONS FROM TAXPAYER OR
19 RELATED PERSON.—Stock acquired by the tax-
20 payer shall not be treated as qualified small
21 business stock if, at any time during the 4-year
22 period beginning on the date 2 years before the
23 issuance of such stock, the corporation issuing
24 such stock purchased (directly or indirectly) any
25 of its stock from the taxpayer or from a person

1 related (within the meaning of section 267(b) or
2 707(b)) to the taxpayer.

3 “(B) SIGNIFICANT REDEMPTIONS.—Stock
4 issued by a corporation shall not be treated as
5 qualified business stock if, during the 2-year pe-
6 riod beginning on the date 1 year before the is-
7 suance of such stock, such corporation made 1
8 or more purchases of its stock with an aggre-
9 gate value (as of the time of the respective pur-
10 chases) exceeding 5 percent of the aggregate
11 value of all of its stock as of the beginning of
12 such 2-year period.

13 “(C) ACQUISITIONS BY RELATED PER-
14 SONS.—For purposes of this paragraph, the
15 purchase by any person related (within the
16 meaning of section 267(b) or 707(b)) to the is-
17 suing corporation of any stock in the issuing
18 corporation shall be treated as a purchase by
19 the issuing corporation.

20 “(d) QUALIFIED SMALL BUSINESS.—For purposes of
21 this section—

22 “(1) IN GENERAL.—The term ‘qualified small
23 business’ means any domestic corporation which is a
24 C corporation if—

1 “(A) the aggregate capitalization of such
2 corporation (or any predecessor thereof) at all
3 times on or after January 1, 1993, and before
4 the issuance did not exceed \$50,000,000,

5 “(B) the aggregate capitalization of such
6 corporation immediately after the issuance (de-
7 termined by taking into account amounts re-
8 ceived in the issuance) does not exceed
9 \$50,000,000, and

10 “(C) such corporation agrees to submit
11 such reports to the Secretary and to sharehold-
12 ers as the Secretary may require to carry out
13 the purposes of this section.

14 “(2) AGGREGATE CAPITALIZATION.—For pur-
15 poses of paragraph (1), the term ‘aggregate capital-
16 ization’ means the excess of—

17 “(A) the amount of cash and the aggregate
18 adjusted bases of other property held by the
19 corporation, over

20 “(B) the aggregate amount of the short-
21 term indebtedness of the corporation.

22 For purposes of the preceding sentence, the term
23 ‘short-term indebtedness’ means any indebtedness
24 which, when incurred, did not have a term in excess
25 of 1 year.

1 “(3) LOOK-THRU IN CASE OF SUBSIDIARIES.—
2 In determining whether a corporation meets the re-
3 quirements of this subsection—

4 “(A) stock and debt of any subsidiary (as
5 defined in subsection (e)(5)(C)) held by such
6 corporation shall be disregarded, and

7 “(B) such corporation shall be treated as
8 holding its ratable share of the assets of such
9 subsidiary and as being liable for its ratable
10 share of the indebtedness of such subsidiary.

11 “(e) ACTIVE BUSINESS REQUIREMENT.—

12 “(1) IN GENERAL.—For purposes of subsection
13 (c)(2), the requirements of this subsection are met
14 by a corporation for any period if during such pe-
15 riod—

16 “(A) at least 80 percent (by value) of the
17 assets of such corporation are used by such cor-
18 poration in the active conduct of a qualified
19 trade or business, and

20 “(B) such corporation is an eligible cor-
21 poration.

22 “(2) SPECIAL RULE FOR CERTAIN ACTIVI-
23 TIES.—For purposes of paragraph (1), if, in connec-
24 tion with any future qualified trade or business, a
25 corporation is engaged in—

1 “(A) start-up activities described in section
2 195(c)(1)(A),

3 “(B) activities resulting in the payment or
4 incurring of expenditures which may be treated
5 as research and experimental expenditures
6 under section 174, or

7 “(C) activities with respect to in-house re-
8 search expenses described in section 41(b)(4),
9 assets used in such activities shall be treated as used
10 in the active conduct of a qualified trade or busi-
11 ness. Any determination under this paragraph shall
12 be made without regard to whether a corporation
13 has any gross income from such activities at the
14 time of the determination.

15 “(3) QUALIFIED TRADE OR BUSINESS.—For
16 purposes of this subsection, the term ‘qualified trade
17 or business’ means any trade or business other
18 than—

19 “(A) any trade or business involving the
20 performance of services in the fields of health,
21 law, engineering, architecture, accounting, actu-
22 arial science, performing arts, consulting, ath-
23 letics, financial services, brokerage services, or
24 any other trade or business where the principal

1 asset of such trade or business is the reputation
2 or skill of 1 or more of its employees,

3 “(B) any banking, insurance, financing, in-
4 vesting, or similar business,

5 “(C) any farming business (including the
6 business of raising or harvesting trees),

7 “(D) any business involving the production
8 or extraction of products of a character with re-
9 spect to which a deduction is allowable under
10 section 613 or 613A, and

11 “(E) any business of operating a hotel,
12 motel, restaurant, or similar business.

13 “(4) ELIGIBLE CORPORATION.—For purposes
14 of this subsection, the term ‘eligible corporation’
15 means any domestic corporation; except that such
16 term shall not include—

17 “(A) a DISC or former DISC,

18 “(B) a corporation with respect to which
19 an election under section 936 is in effect,

20 “(C) a regulated investment company, real
21 estate investment trust, or REMIC, and

22 “(D) a cooperative.

23 “(5) STOCK IN OTHER CORPORATIONS.—

24 “(A) LOOK-THRU IN CASE OF SUBSIDI-
25 ARIES.—For purposes of this subsection, stock

1 and debt in any subsidiary corporation shall be
2 disregarded and the parent corporation shall be
3 deemed to own its ratable share of the subsidi-
4 ary's assets, and to conduct its ratable share of
5 the subsidiary's activities.

6 “(B) PORTFOLIO STOCK OR SECURITIES.—
7 A corporation shall be treated as failing to meet
8 the requirements of paragraph (1) for any pe-
9 riod during which more than 10 percent of the
10 value of its assets (in excess of liabilities) con-
11 sist of stock or securities in other corporations
12 which are not subsidiaries of such corporation
13 (other than assets described in paragraph (6)).

14 “(C) SUBSIDIARY.—For purposes of this
15 paragraph, a corporation shall be considered a
16 subsidiary if the parent owns more than 50 per-
17 cent of the combined voting power of all classes
18 of stock entitled to vote, or more than 50 per-
19 cent in value of all outstanding stock, of such
20 corporation.

21 “(6) WORKING CAPITAL.—For purposes of
22 paragraph (1)(A), any assets which—

23 “(A) are held as a part of the reasonably
24 required working capital needs of a qualified
25 trade or business of the corporation, or

1 “(B) are held for investment and are rea-
2 sonably expected to be used within 2 years to
3 finance future research and experimentation in
4 a qualified trade or business or increases in
5 working capital needs of a qualified trade or
6 business,

7 shall be treated as used in the active conduct of a
8 qualified trade or business. For periods after the
9 corporation has been in existence for at least 2
10 years, in no event may more than 50 percent of the
11 assets of the corporation qualify as used in the ac-
12 tive conduct of a qualified trade or business by rea-
13 son of this paragraph.

14 “(7) MAXIMUM REAL ESTATE HOLDINGS.—A
15 corporation shall not be treated as meeting the re-
16 quirements of paragraph (1) for any period during
17 which more than 10 percent of the total value of its
18 assets consists of real property which is not used in
19 the active conduct of a qualified trade or business.
20 For purposes of the preceding sentence, the owner-
21 ship of, dealing in, or renting of real property shall
22 not be treated as the active conduct of a qualified
23 trade or business.

24 “(8) COMPUTER SOFTWARE ROYALTIES.—For
25 purposes of paragraph (1), rights to computer soft-

1 ware which produces active business computer soft-
2 ware royalties (within the meaning of section
3 543(d)(1)) shall be treated as an asset used in the
4 active conduct of a trade or business.

5 “(f) STOCK ACQUIRED ON CONVERSION OF PRE-
6 FERRED STOCK.—If any stock in a corporation is acquired
7 solely through the conversion of other stock in such cor-
8 poration which is qualified small business stock in the
9 hands of the taxpayer—

10 “(1) the stock so acquired shall be treated as
11 qualified small business stock in the hands of the
12 taxpayer, and

13 “(2) the stock so acquired shall be treated as
14 having been held during the period during which the
15 converted stock was held.

16 “(g) TREATMENT OF PASS-THRU ENTITIES.—

17 “(1) IN GENERAL.—If any amount included in
18 gross income by reason of holding an interest in a
19 pass-thru entity meets the requirements of para-
20 graph (2)—

21 “(A) such amount shall be treated as gain
22 described in subsection (a), and

23 “(B) for purposes of applying subsection
24 (b), such amount shall be treated as gain from
25 a disposition of stock in the corporation issuing

1 the stock disposed of by the pass-thru entity
2 and the taxpayer's proportionate share of the
3 adjusted basis of the pass-thru entity in such
4 stock shall be taken into account.

5 “(2) REQUIREMENTS.—An amount meets the
6 requirements of this paragraph if—

7 “(A) such amount is attributable to gain
8 on the sale or exchange by the pass-thru entity
9 of stock which is qualified small business stock
10 in the hands of such entity (determined by
11 treating such entity as an individual) and which
12 was held by such entity for more than 5 years,
13 and

14 “(B) such amount is includible in the gross
15 income of the taxpayer by reason of the holding
16 of an interest in such entity which was held by
17 the taxpayer on the date on which such pass-
18 thru entity acquired such stock and at all times
19 thereafter before the disposition of such stock
20 by such pass-thru entity.

21 “(3) LIMITATION BASED ON INTEREST ORIGI-
22 NALLY HELD BY TAXPAYER.—Paragraph (1) shall
23 not apply to any amount to the extent such amount
24 exceeds the amount to which paragraph (1) would
25 have applied if such amount were determined by ref-

1 erence to the interest the taxpayer held in the pass-
2 thru entity on the date the qualified small business
3 stock was acquired.

4 “(4) PASS-THRU ENTITY.—For purposes of this
5 subsection, the term ‘pass-thru entity’ means—

6 “(A) any partnership,

7 “(B) any S corporation,

8 “(C) any regulated investment company,

9 and

10 “(D) any common trust fund.

11 “(h) CERTAIN TAX-FREE AND OTHER TRANS-
12 FERS.—For purposes of this section—

13 “(1) IN GENERAL.—In the case of a transfer
14 described in paragraph (2), the transferee shall be
15 treated as—

16 “(A) having acquired such stock in the
17 same manner as the transferor, and

18 “(B) having held such stock during any
19 continuous period immediately preceding the
20 transfer during which it was held (or treated as
21 held under this subsection) by the transferor.

22 “(2) DESCRIPTION OF TRANSFERS.—A transfer
23 is described in this subsection if such transfer is—

24 “(A) by gift,

25 “(B) at death, or

1 “(C) from a partnership to a partner of
2 stock with respect to which requirements simi-
3 lar to the requirements of subsection (g) are
4 met at the time of the transfer (without regard
5 to the 5-year holding period requirement).

6 “(3) CERTAIN RULES MADE APPLICABLE.—
7 Rules similar to the rules of section 1244(d)(2) shall
8 apply for purposes of this section.

9 “(4) INCORPORATIONS AND REORGANIZATIONS
10 INVOLVING NONQUALIFIED STOCK.—

11 “(A) IN GENERAL.—In the case of a trans-
12 action described in section 351 or a reorganiza-
13 tion described in section 368, if qualified small
14 business stock is exchanged for other stock
15 which would not qualify as qualified small busi-
16 ness stock but for this subparagraph, such
17 other stock shall be treated as qualified small
18 business stock acquired on the date on which
19 the exchanged stock was acquired.

20 “(B) LIMITATION.—This section shall
21 apply to gain from the sale or exchange of stock
22 treated as qualified small business stock by rea-
23 son of subparagraph (A) only to the extent of
24 the gain which would have been recognized at
25 the time of the transfer described in subpara-

1 graph (A) if section 351 or 368 had not applied
2 at such time.

3 “(C) SUCCESSIVE APPLICATION.—For pur-
4 poses of this paragraph, stock treated as quali-
5 fied small business stock under subparagraph
6 (A) shall be so treated for subsequent trans-
7 actions or reorganizations, except that the limi-
8 tation of subparagraph (B) shall be applied as
9 of the time of the first transfer to which sub-
10 subparagraph (A) applied.

11 “(D) CONTROL TEST.—Except in the case
12 of a transaction described in section 368, this
13 paragraph shall apply only if, immediately after
14 the transaction, the corporation issuing the
15 stock owns directly or indirectly stock rep-
16 resenting control (within the meaning of section
17 368(c)) of the corporation whose stock was ex-
18 changed.

19 “(i) BASIS RULES.—For purposes of this section—

20 “(1) STOCK EXCHANGED FOR PROPERTY.—In
21 the case where the taxpayer transfers property
22 (other than money or stock) to a corporation in ex-
23 change for stock in such corporation—

1 “(A) such stock shall be treated as having
2 been acquired by the taxpayer on the date of
3 such exchange, and

4 “(B) the basis of such stock in the hands
5 of the taxpayer shall in no event be less than
6 the fair market value of the property ex-
7 changed.

8 “(2) TREATMENT OF CONTRIBUTIONS TO CAP-
9 ITAL.—If the adjusted basis of any qualified small
10 business stock is adjusted by reason of any contribu-
11 tion to capital after the date on which such stock
12 was originally issued, in determining the amount of
13 the adjustment by reason of such contribution, the
14 basis of the contributed property shall in no event be
15 treated as less than its fair market value on the date
16 of the contribution.

17 “(j) TREATMENT OF CERTAIN SHORT POSITIONS.—

18 “(1) IN GENERAL.—If the taxpayer has an off-
19 setting short position with respect to any qualified
20 small business stock, subsection (a) shall not apply
21 to any gain from the sale or exchange of such stock
22 unless—

23 “(A) such stock was held by the taxpayer
24 for more than 5 years as of the first day on
25 which there was such a short position, and

1 “(B) the taxpayer elects to recognize gain
2 as if such stock were sold on such first day for
3 its fair market value.

4 “(2) OFFSETTING SHORT POSITION.—For pur-
5 poses of paragraph (1), the taxpayer shall be treated
6 as having an offsetting short position with respect to
7 any qualified small business stock if—

8 “(A) the taxpayer has made a short sale of
9 substantially identical property,

10 “(B) the taxpayer has acquired an option
11 to sell substantially identical property at a fixed
12 price, or

13 “(C) to the extent provided in regulations,
14 the taxpayer has entered into any other trans-
15 action which substantially reduces the risk of
16 loss from holding such qualified small business
17 stock.

18 For purposes of the preceding sentence, any ref-
19 erence to the taxpayer shall be treated as including
20 a reference to any person who is related (within the
21 meaning of section 267(b) or 707(b)) to the tax-
22 payer.

23 “(k) REGULATIONS.—The Secretary shall prescribe
24 such regulations as may be appropriate to carry out the
25 purposes of this section, including regulations to prevent

1 the avoidance of the purposes of this section through split-
2 ups, shell corporations, partnerships, or otherwise.”

3 (b) ONE-HALF OF EXCLUSION TREATED AS PREF-
4 ERENCE FOR MINIMUM TAX.—

5 (1) IN GENERAL.—Subsection (a) of section 57
6 (relating to items of tax preference) is amended by
7 adding at the end thereof the following new para-
8 graph:

9 “(8) EXCLUSION FOR GAINS ON SALE OF CER-
10 TAIN SMALL BUSINESS STOCK.—An amount equal to
11 one-half of the amount excluded from gross income
12 for the taxable year under section 1202.”

13 (2) CONFORMING AMENDMENT.—Subclause (II)
14 of section 53(d)(1)(B)(ii) is amended by striking
15 “and (6)” and inserting “(6), and (8)”.

16 (c) PENALTY FOR FAILURE TO COMPLY WITH RE-
17 PORTING REQUIREMENTS.—Section 6652 is amended by
18 inserting before the last subsection thereof the following
19 new subsection:

20 “(l) FAILURE TO MAKE REPORTS REQUIRED UNDER
21 SECTION 1202.—In the case of a failure to make a report
22 required under section 1202(d)(1)(C) which contains the
23 information required by such section on the date pre-
24 scribed therefor (determined with regard to any extension
25 of time for filing), there shall be paid (on notice and de-

1 mand by the Secretary and in the same manner as tax)
2 by the person failing to make such report, an amount
3 equal to \$50 for each report with respect to which there
4 was such a failure. In the case of any failure due to neg-
5 ligence or intentional disregard, the preceding sentence
6 shall be applied by substituting ‘\$100’ for ‘\$50’. In the
7 case of a report covering periods in 2 or more years, the
8 penalty determined under preceding provisions of this sub-
9 section shall be multiplied by the number of such years.”

10 (d) CONFORMING AMENDMENTS.—

11 (1)(A) Section 172(d)(2) (relating to modifica-
12 tions with respect to net operating loss deduction) is
13 amended to read as follows:

14 “(2) CAPITAL GAINS AND LOSSES OF TAX-
15 PAYERS OTHER THAN CORPORATIONS.—In the case
16 of a taxpayer other than a corporation—

17 “(A) the amount deductible on account of
18 losses from sales or exchanges of capital assets
19 shall not exceed the amount includable on ac-
20 count of gains from sales or exchanges of cap-
21 ital assets; and

22 “(B) the exclusion provided by section
23 1202 shall not be allowed.”

1 (B) Subparagraph (B) of section 172(d)(4) is
2 amended by inserting “, (2)(B),” after “paragraph
3 (1)”.

4 (2) Paragraph (4) of section 642(c) is amended
5 to read as follows:

6 “(4) ADJUSTMENTS.—To the extent that the
7 amount otherwise allowable as a deduction under
8 this subsection consists of gain described in section
9 1202(a), proper adjustment shall be made for any
10 exclusion allowable to the estate or trust under sec-
11 tion 1202. In the case of a trust, the deduction al-
12 lowed by this subsection shall be subject to section
13 681 (relating to unrelated business income).”

14 (3) Paragraph (3) of section 643(a) is amended
15 by adding at the end thereof the following new sen-
16 tence: “The exclusion under section 1202 shall not
17 be taken into account.”

18 (4) Paragraph (4) of section 691(c) is amended
19 by striking “1201, and 1211” and inserting “1201,
20 1202, and 1211”.

21 (5) The second sentence of paragraph (2) of
22 section 871(a) is amended by inserting “such gains
23 and losses shall be determined without regard to sec-
24 tion 1202 and” after “except that”.

1 “(I) the 120 percent declining
2 balance method switching to the
3 straight line method for the 1st tax-
4 able year for which using the straight
5 line method with respect to the ad-
6 justed basis as of the beginning of the
7 year will yield a higher allowance, or

8 “(II) the straight line method in
9 the case of property for which the ap-
10 plicable depreciation method under
11 section 168(a) is the straight line
12 method.

13 “(ii) PROPERTY TO WHICH SUBPARA-
14 GRAPH APPLIES.—This subparagraph shall
15 apply to any tangible property placed in
16 service after December 31, 1993, except
17 that this subparagraph shall not apply
18 to—

19 “(I) any residential rental prop-
20 erty or nonresidential real property
21 (within the meaning of section
22 168(e)), and

23 “(II) any other property for
24 which the depreciation deduction pro-
25 vided by section 167(a) for purposes

1 of the regular tax is computed under
2 the alternative depreciation system of
3 section 168(g).

4 “(iii) COORDINATION WITH SUBPARA-
5 GRAPH (A).—Subparagraph (A) shall not
6 apply to any property to which this sub-
7 paragraph applies.”

8 (b) ELIMINATION OF ACE DEPRECIATION ADJUST-
9 MENT.—Clause (i) of section 56(g)(4)(A) (relating to de-
10 preciation adjustments for computing adjusted current
11 earnings) is amended by adding at the end thereof the
12 following new sentence: “The preceding sentence shall not
13 apply to any property to which subsection (a)(1)(B) ap-
14 plies, and the depreciation deduction with respect to such
15 property shall be determined under the rules of subsection
16 (a)(1)(B).”.

17 (c) CONFORMING AMENDMENTS.—

18 (1) Paragraph (2) of section 168(b) is amended
19 to read as follows:

20 “(2) SPECIAL RULE FOR DECLINING BALANCE
21 METHOD IN CERTAIN CASES.—

22 “(A) 150 PERCENT METHOD FOR CERTAIN
23 PROPERTY.—Paragraph (1) shall be applied by
24 substituting ‘150 percent’ for ‘200 percent’ in
25 the case of—

1 “(i) any 15-year or 20-year property,

2 or

3 “(ii) any property used in a farming
4 business (within the meaning of section
5 263A(e)(4)).

6 “(B) ELECTION TO USE MINIMUM TAX
7 METHOD.—In the case of any property (other
8 than property described in paragraph (3)) with
9 respect to which the taxpayer elects under para-
10 graph (5) to have the provisions of this sub-
11 paragraph apply, paragraph (1) shall be applied
12 by substituting ‘120 percent’ for ‘200 percent’
13 (and subparagraph (A) of this paragraph shall
14 not apply).”

15 (2) Paragraph (5) of section 168(b) is amended
16 by striking “paragraph (2)(C)” and inserting “para-
17 graph (2)(B)”.

18 (3) Subsection (c) of section 168 is amended—

19 (A) by striking paragraph (2), and

20 (B) by striking so much of such subsection
21 as precedes the table contained in paragraph
22 (1) and inserting the following:

23 “(c) APPLICABLE RECOVERY PERIOD.—For purposes
24 of this section, the applicable recovery period shall be de-
25 termined in accordance with the following table:”.

1 (d) EFFECTIVE DATES.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), the amendments made by this section
4 shall apply to property placed in service after De-
5 cember 31, 1993.

6 (2) COORDINATION WITH TRANSITIONAL
7 RULES.—The amendments made by this section
8 shall not apply to any property to which paragraph
9 (1) of section 56(a) of the Internal Revenue Code of
10 1986 does not apply by reason of subparagraph
11 (D)(i) thereof (as redesignated by subsection (a) of
12 this section).

13 **Subtitle C—Tax-Exempt Bond**
14 **Provisions**

15 **SEC. 1301. HIGH-SPEED INTERCITY RAIL FACILITY BONDS**

16 **EXEMPT FROM STATE VOLUME CAP.**

17 (a) IN GENERAL.—Paragraph (4) of section 146(g)
18 (relating to exemption for certain bonds) is amended by
19 striking “75 percent of”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall apply to bonds issued after December
22 31, 1993.

1 **SEC. 1302. PERMANENT EXTENSION OF QUALIFIED SMALL**
 2 **ISSUE BONDS.**

3 (a) IN GENERAL.—Subparagraph (B) of section
 4 144(a)(12) is amended to read as follows:

5 “(B) BONDS ISSUED TO FINANCE
 6 MANUFACTURING FACILITIES AND FARM
 7 PROPERTY.—Subparagraph (A) shall not
 8 apply to any bond issued as part of an
 9 issue 95 percent or more of the net pro-
 10 ceeds of which are to be used to provide—
 11 “(i) any manufacturing facility, or
 12 “(ii) any land or property in accord-
 13 ance with section 147(c)(2).”

14 (b) EFFECTIVE DATE.—The amendment made by
 15 subsection (a) shall apply to bonds issued after June 30,
 16 1992.

17 **Subtitle D—Expansion And Sim-**
 18 **plification Of Earned Income**
 19 **Tax Credit**

20 **SEC. 1401. EXPANSION AND SIMPLIFICATION OF EARNED**
 21 **INCOME TAX CREDIT.**

22 (a) GENERAL RULE.—Section 32 (relating to earned
 23 income credit) is amended by striking subsections (a) and
 24 (b) and inserting the following:

25 “(a) ALLOWANCE OF CREDIT.—

1 “(1) IN GENERAL.—In the case of an eligible
 2 individual, there shall be allowed as a credit against
 3 the tax imposed by this subtitle for the taxable year
 4 an amount equal to the credit percentage of so much
 5 of the taxpayer’s earned income for the taxable year
 6 as does not exceed the earned income amount.

7 “(2) LIMITATION.—The amount of the credit
 8 allowable to a taxpayer under paragraph (1) for any
 9 taxable year shall not exceed the excess (if any) of—

10 “(A) the credit percentage of the earned
 11 income amount, over

12 “(B) the phaseout percentage of so much
 13 of the adjusted gross income (or, if greater, the
 14 earned income) of the taxpayer for the taxable
 15 year as exceeds the phaseout amount.

16 “(b) PERCENTAGES AND AMOUNTS.—For purposes
 17 of subsection (a)—

18 “(1) PERCENTAGES.—The credit percentage
 19 and the phaseout percentage shall be determined as
 20 follows:

21 “(A) IN GENERAL.—In the case of taxable
 22 years beginning after 1994:

In the case of an eli- gible individual with:	The credit percentage is:	The phaseout percent- age is:
1 qualifying child	34.37	16.16

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
2 or more qualifying children	39.66	19.83
No qualifying children	7.65	7.65

1 “(B) TRANSITIONAL PERCENTAGES.—In
2 the case of a taxable year beginning in 1994:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child .	26.60	16.16
2 or more qualifying children	31.59	15.79
No qualifying children	7.65	7.65

3 “(2) AMOUNTS.—The earned income amount
4 and the phaseout amount shall be determined as follows:
5

6 “(A) IN GENERAL.—In the case of taxable
7 years beginning after 1994:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child	\$6,000	\$11,000
2 or more qualifying children	\$8,500	\$11,000
No qualifying children	\$4,000	\$5,000

8 “(B) TRANSITIONAL AMOUNTS.—In the
9 case of a taxable year beginning in 1994:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child .	\$7,750	\$11,000
2 or more qualifying children	\$8,500	\$11,000
No qualifying children	\$4,000	\$5,000”.

1 (b) ELIGIBLE INDIVIDUAL.—Subparagraph (A) of
2 section 32(c)(1) (defining eligible individual) is amended
3 to read as follows:

4 “(A) IN GENERAL.—The term ‘eligible in-
5 dividual’ means—

6 “(i) any individual who has a qualify-
7 ing child for the taxable year, or

8 “(ii) any other individual who does
9 not have a qualifying child for the taxable
10 year, if—

11 “(I) such individual’s principal
12 place of abode is in the United States
13 for more than one-half of such taxable
14 year,

15 “(II) such individual (or, if the
16 individual is married, the individual’s
17 spouse) has attained age 22 before
18 the close of the taxable year, and

19 “(III) such individual (or, if the
20 individual is married, the individual’s
21 spouse) is not a dependent for whom
22 a deduction is allowable under section
23 151 to another taxpayer for any tax-
24 able year beginning in the same cal-
25 endar year as such taxable year.”

1 (c) INFLATION ADJUSTMENTS.—Section 32(i) (relat-
2 ing to inflation adjustments) is amended—

3 (1) by striking paragraphs (1) and (2) and in-
4 serting the following new paragraph:

5 “(1) IN GENERAL.—In the case of any taxable
6 year beginning after 1994, each dollar amount con-
7 tained in subsection (b)(2)(A) shall be increased by
8 an amount equal to—

9 “(A) such dollar amount, multiplied by

10 “(B) the cost-of-living adjustment deter-
11 mined under section 1(f)(3), for the calendar
12 year in which the taxable year begins, by sub-
13 stituting ‘calendar year 1993’ for ‘calendar year
14 1992.’”, and

15 (2) by redesignating paragraph (3) as para-
16 graph (2).

17 (d) CONFORMING AMENDMENTS.—

18 (1) Subparagraph (D) of section 32(c)(3) is
19 amended—

20 (A) by striking “clause (i) or (ii)” in clause
21 (iii) and inserting “clause (i)”,

22 (B) by striking clause (ii), and

23 (C) by redesignating clause (iii) as clause
24 (ii).

1 (2) Paragraph (3) of section 162(l) is amended
2 to read as follows:

3 “(3) COORDINATION WITH MEDICAL DEDUC-
4 TION.—Any amount paid by a taxpayer for insur-
5 ance to which paragraph (1) applies shall not be
6 taken into account in computing the amount allow-
7 able to the taxpayer as a deduction under section
8 213(a).”

9 (3) Section 213 is amended by striking sub-
10 section (f).

11 (4) Subsection (b) of section 3507 is amended
12 by redesignating paragraphs (2) and (3) as para-
13 graphs (3) and (4), respectively, and by inserting
14 after paragraph (1) the following new paragraph:

15 “(2) certifies that the employee has 1 or more
16 qualifying children (within the meaning of section
17 32(c)(3)) for such taxable year.”.

18 (5) Subparagraph (B) of section 3507(c)(2) is
19 amended by striking clauses (i) and (ii) and insert-
20 ing the following:

21 “(i) of not more than the credit per-
22 centage in effect under section 32(b)(1) for
23 an eligible individual with 1 qualifying
24 child and with earned income not in excess
25 of the earned income amount in effect

1 under section 32(b)(2) for such an eligible
2 individual, which

3 “(ii) phases out at the phaseout per-
4 centage in effect under section 32(b)(1) for
5 such an eligible individual between the
6 phaseout amount in effect under section
7 32(b)(2) for such an eligible individual and
8 the amount of earned income at which the
9 credit under section 32(a) phases out for
10 such an eligible individual, or”.

11 (e) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 1993.

14 **Subtitle E—Incentives For**
15 **Investment In Real Estate**

16 **PART I—EXTENSION OF QUALIFIED MORTGAGE**

17 **BONDS AND LOW-INCOME HOUSING CREDIT**

18 **SEC. 1501. PERMANENT EXTENSION OF QUALIFIED MORT-**

19 **GAGE BONDS.**

20 (a) IN GENERAL.—Paragraph (1) of section 143(a)
21 (defining qualified mortgage bond) is amended to read as
22 follows:

23 “(1) QUALIFIED MORTGAGE BOND DEFINED.—

24 For purposes of this title, the term ‘qualified mort-

1 gage bond' means a bond which is issued as part of
 2 a qualified mortgage issue.”

3 (b) MORTGAGE CREDIT CERTIFICATES.—Section 25
 4 is amended by striking subsection (h) and by redesignat-
 5 ing subsections (i) and (j) as subsections (h) and (i), re-
 6 spectively.

7 (c) EFFECTIVE DATES.—

8 (1) BONDS.—The amendment made by sub-
 9 section (a) shall apply to bonds issued after June
 10 30, 1992.

11 (2) CERTIFICATES.—The amendment made by
 12 subsection (b) shall apply to elections for periods
 13 after June 30, 1992.

14 **SEC. 1502. PERMANENT EXTENSION OF LOW-INCOME HOUS-**
 15 **ING CREDIT.**

16 (a) IN GENERAL.—Section 42 (relating to low-income
 17 housing credit) is amended by striking subsection (o).

18 (b) EFFECTIVE DATE.—The amendment made by
 19 subsection (a) shall apply to periods after June 30, 1992.

20 **PART II—MODIFICATION OF PASSIVE LOSS**

21 **RULES**

22 **SEC. 1511. MODIFICATION OF PASSIVE LOSS RULES.**

23 (a) GENERAL RULE.—Section 469 (relating to pas-
 24 sive activity losses and credits limited) is amended by re-
 25 designating subsections (l) and (m) as subsections (m) and

1 (n), respectively, and by inserting after subsection (k) the
2 following new subsection:

3 “(l) SPECIAL RULES FOR REAL ESTATE ACTIVI-
4 TIES.—

5 “(1) LOSS FROM CERTAIN RENTAL REAL ES-
6 TATE ACTIVITIES TREATED AS NOT PASSIVE.—If the
7 taxpayer meets the requirements of paragraph (2)
8 for the taxable year, subsection (a) shall not apply
9 to so much of the passive activity loss for such tax-
10 able year as does not exceed the least of—

11 “(A) the net loss for such taxable year
12 from rental real estate activities in which the
13 taxpayer materially participates,

14 “(B) the net income of the taxpayer for
15 the taxable year from real property trade or
16 business activities which are not passive activi-
17 ties, or

18 “(C) the taxable income of the taxpayer
19 for the taxable year determined without regard
20 to this subsection.

21 A similar rule shall apply to any passive activity
22 credit.

23 “(2) REQUIREMENTS.—The taxpayer meets the
24 requirements of this paragraph for any taxable year
25 if more than one-half of the personal services per-

1 formed in trades or businesses by the taxpayer dur-
2 ing such taxable year are performed in real property
3 trades or businesses in which the taxpayer materially
4 participates.

5 “(3) REAL PROPERTY TRADE OR BUSINESS.—
6 For purposes of this paragraph, the term ‘real prop-
7 erty trade or business’ means any real property de-
8 velopment, redevelopment, construction, reconstruc-
9 tion, acquisition, conversion, rental, operation, man-
10 agement, leasing, or brokerage trade or business.

11 “(4) SPECIAL RULES.—

12 “(A) PERSONAL SERVICES AS AN EM-
13 PLOYEE.—For purposes of paragraph (2), per-
14 sonal services performed as an employee shall
15 not be treated as performed in real property
16 trades or businesses. The preceding sentence
17 shall not apply if such employee is a 5-percent
18 owner (as defined in section 416(i)(1)(B)) in
19 the employer.

20 “(B) CLOSELY HELD C CORPORATIONS.—
21 This subsection shall not apply to any interests
22 held by a closely held C corporation.

23 “(5) COORDINATION WITH SUBSECTION (i).—

1 “(A) IN GENERAL.—This subsection shall
2 be applied after the application of subsection
3 (i).

4 “(B) AMOUNTS ALLOWED UNDER SUB-
5 SECTION (i).—For purposes of this sub-
6 section—

7 “(i) the passive activity loss and pas-
8 sive activity credit, and

9 “(ii) the net loss referred to in para-
10 graph (1)(A),

11 shall not include any amount allowed under
12 subsection (i).”

13 (b) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 1993.

16 **PART III—PROVISIONS RELATING TO REAL**
17 **ESTATE INVESTMENTS BY PENSION FUNDS**

18 **SEC. 1521. REAL ESTATE PROPERTY ACQUIRED BY A**
19 **QUALIFIED ORGANIZATION.**

20 (a) MODIFICATIONS OF EXCEPTIONS.—Paragraph
21 (9) of section 514(c) (relating to real property acquired
22 by a qualified organization) is amended by adding at the
23 end thereof the following new subparagraphs:

1 “(G) SPECIAL RULES FOR PURPOSES OF
2 THE EXCEPTIONS.—Except as otherwise pro-
3 vided by regulations—

4 “(i) SMALL LEASES DISREGARDED.—
5 For purposes of clauses (iii) and (iv) of
6 subparagraph (B), a lease to a person de-
7 scribed in such clause (iii) or (iv) shall be
8 disregarded if no more than 25 percent of
9 the leasable floor space in a building (or
10 complex of buildings) is covered by the
11 lease and if the lease is on commercially
12 reasonable terms.

13 “(ii) COMMERCIALY REASONABLE FI-
14 NANCING.—Clause (v) of subparagraph (B)
15 shall not apply if the financing is on com-
16 mercially reasonable terms.

17 “(H) QUALIFYING SALES BY FINANCIAL
18 INSTITUTIONS.—

19 “(i) IN GENERAL.—In the case of a
20 qualifying sale by a financial institution,
21 except as provided in regulations, clauses
22 (i) and (ii) of subparagraph (B) shall not
23 apply with respect to financing provided by
24 such institution for such sale.

1 “(ii) QUALIFYING SALE.—For pur-
2 poses of this clause, there is a qualifying
3 sale by a financial institution if—

4 “(I) a qualified organization ac-
5 quires property described in clause
6 (iii) from a financial institution and
7 any gain recognized by the financial
8 institution with respect to the prop-
9 erty is ordinary income,

10 “(II) the stated principal amount
11 of the financing provided by the finan-
12 cial institution does not exceed the
13 amount of the outstanding indebted-
14 ness (including accrued but unpaid in-
15 terest) of the financial institution with
16 respect to the property described in
17 clause (iii) immediately before the ac-
18 quisition referred to in clause (iii) or
19 (v), whichever is applicable, and

20 “(III) the present value (deter-
21 mined as of the time of the sale and
22 by using the applicable Federal rate
23 determined under section 1274(d)) of
24 the maximum amount payable pursu-
25 ant to the financing that is deter-

1 mined by reference to the revenue, in-
2 come, or profits derived from the
3 property cannot exceed 30 percent of
4 the total purchase price of the prop-
5 erty (including the contingent pay-
6 ments).

7 “(iii) PROPERTY TO WHICH SUBPARA-
8 GRAPH APPLIES.—Property is described in
9 this clause if such property is foreclosure
10 property, or is real property which—

11 “(I) was acquired by the quali-
12 fied organization from a financial in-
13 stitution which is in conservatorship
14 or receivership, or from the conserva-
15 tor or receiver of such an institution,
16 and

17 “(II) was held by the financial
18 institution at the time it entered into
19 conservatorship or receivership.

20 “(iv) FINANCIAL INSTITUTION.—For
21 purposes of this subparagraph, the term
22 ‘financial institution’ means—

23 “(I) any financial institution de-
24 scribed in section 581 or 591(a),

1 “(II) any other corporation which
2 is a direct or indirect subsidiary of an
3 institution referred to in subclause (I)
4 but only if, by virtue of being affili-
5 ated with such institution, such other
6 corporation is subject to supervision
7 and examination by a Federal or
8 State agency which regulates institu-
9 tions referred to in subclause (I), and

10 “(III) any person acting as a
11 conservator or receiver of an entity re-
12 ferred to in subclause (I) or (II) (or
13 any government agency or corporation
14 succeeding to the rights or interest of
15 such person).

16 “(v) FORECLOSURE PROPERTY.—For
17 purposes of this subparagraph, the term
18 ‘foreclosure property’ means any real prop-
19 erty acquired by the financial institution as
20 the result of having bid on such property
21 at foreclosure, or by operation of an agree-
22 ment or process of law, after there was a
23 default (or a default was imminent) on in-
24 debtedness which such property secured.”

1 (b) CONFORMING AMENDMENT.—Paragraph (9) of
2 section 514(c) is amended—

3 (1) by adding the following new sentence at the
4 end of subparagraph (A): “For purposes of this
5 paragraph, an interest in a mortgage shall in no
6 event be treated as real property.”, and

7 (2) by striking the last sentence of subpara-
8 graph (B).

9 (c) EFFECTIVE DATES.—

10 (1) IN GENERAL.—The amendments made by
11 this section shall apply to acquisitions on or after
12 January 1, 1994.

13 (2) SMALL LEASES.—The provisions of section
14 514(c)(9)(G)(i) of the Internal Revenue Code of
15 1986 shall, in addition to any leases to which the
16 provisions apply by reason of paragraph (1), apply
17 to leases entered into on or after January 1, 1994.

18 **SEC. 1522. REPEAL OF SPECIAL TREATMENT OF PUBLICLY**

19 **TREATED PARTNERSHIPS.**

20 (a) GENERAL RULE.—Subsection (c) of section 512
21 is amended—

22 (1) by striking paragraph (2),

23 (2) by redesignating paragraph (3) as para-
24 graph (2), and

1 taken to correct the circumstances giving rise to
2 such income.”

3 (b) CONFORMING AMENDMENT.—Paragraph (2) of
4 section 501(c) is amended by adding at the end thereof
5 the following new sentence: “Rules similar to the rules of
6 subparagraph (G) of paragraph (25) shall apply for pur-
7 poses of this paragraph.”

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning on or
10 after January 1, 1994.

11 **SEC. 1524. EXCLUSION FROM UNRELATED BUSINESS TAX**
12 **OF GAINS FROM CERTAIN PROPERTY.**

13 (a) GENERAL RULE.—Subsection (b) of section 512
14 (relating to modifications) is amended by adding at the
15 end thereof the following new paragraph:

16 “(16)(A) Notwithstanding paragraph (5)(B),
17 there shall be excluded all gains or losses from the
18 sale, exchange, or other disposition of any real prop-
19 erty described in subparagraph (B) if—

20 “(i) such property was acquired by the or-
21 ganization from—

22 “(I) a financial institution described
23 in section 581 or 591(a) which is in
24 conservatorship or receivership, or

1 “(II) the conservator or receiver of
2 such an institution (or any government
3 agency or corporation succeeding to the
4 rights or interests of the conservator or re-
5 ceiver),

6 “(ii) such property is designated by the or-
7 ganization within the 9-month period beginning
8 on the date of its acquisition as property held
9 for sale, except that not more than one-half (by
10 value determined as of such date) of property
11 acquired in a single transaction may be so
12 designated,

13 “(iii) such sale, exchange, or disposition
14 occurs before the later of—

15 “(I) the date which is 30 months after
16 the date of the acquisition of such prop-
17 erty, or

18 “(II) the date specified by the Sec-
19 retary in order to assure an orderly dis-
20 position of property held by persons de-
21 scribed in subparagraph (A), and

22 “(iv) while such property was held by the
23 organization, the aggregate expenditures on im-
24 provements and development activities included
25 in the basis of the property are (or were) not

1 in excess of 20 percent of the net selling price
2 of such property.

3 “(B) Property is described in this subparagraph
4 if it is real property which—

5 “(i) was held by the financial institution at
6 the time it entered into conservatorship or re-
7 ceivership, or

8 “(ii) was foreclosure property (as defined
9 in section 514(c)(9)(H)(v)) which secured in-
10 debtedness held by the financial institution at
11 such time.

12 For purposes of this subparagraph, real property in-
13 cludes an interest in a mortgage.”

14 (b) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall apply to property acquired on or after
16 January 1, 1994.

17 **SEC. 1525. EXCLUSION FROM UNRELATED BUSINESS TAX**
18 **OF CERTAIN FEES AND OPTION PREMIUMS.**

19 (a) LOAN COMMITMENT FEES.—Paragraph (1) of
20 section 512(b) (relating to modifications) is amended by
21 inserting “amounts received or accrued as consideration
22 for entering into agreements to make loans,” before “and
23 annuities”.

24 (b) OPTION PREMIUMS.—The second sentence of sec-
25 tion 512(b)(5) is amended—

1 (1) by striking “all gains on” and inserting “all
 2 gains or losses recognized, in connection with the or-
 3 ganization’s investment activities, from”,

4 (2) by striking “, written by the organization in
 5 connection with its investment activities,” and

6 (3) by inserting “or real property and all gains
 7 or losses from the forfeiture of good-faith deposits
 8 (that are consistent with established business prac-
 9 tice) for the purchase, sale, or lease of real property
 10 in connection with the organization’s investment ac-
 11 tivities” before the period.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to amounts received on or after
 14 January 1, 1994.

15 **PART IV—INCREASE IN RECOVERY PERIOD FOR**
 16 **NONRESIDENTIAL REAL PROPERTY**

17 **SEC. 1531. INCREASE IN RECOVERY PERIOD FOR**
 18 **NONRESIDENTIAL REAL PROPERTY.**

19 (a) GENERAL RULE.—Paragraph (1) of section
 20 168(c) (relating to applicable recovery period) is amended
 21 by striking the item relating to nonresidential real prop-
 22 erty and inserting the following:

“Nonresidential real property 37 years.”.

23 (b) EFFECTIVE DATE.—

24 (1) IN GENERAL.—Except as provided in para-
 25 graph (2), the amendment made by subsection (a)

1 shall apply to property placed in service by the tax-
2 payer on or after February 25, 1993.

3 (2) EXCEPTION.—The amendments made by
4 this section shall not apply to property placed in
5 service by the taxpayer before January 1, 1994, if—

6 (A) the taxpayer or a qualified person en-
7 tered into a binding written contract to pur-
8 chase or construct such property before Feb-
9 ruary 25, 1993, or

10 (B) the construction of such property was
11 commenced by or for the taxpayer or a quali-
12 fied person before February 25, 1993.

13 For purposes of this paragraph, the term “qualified
14 person” means any person who transfers his rights
15 in such a contract or such property to the taxpayer
16 but only if the property is not placed in service by
17 such person before such rights are transferred to the
18 taxpayer.

19 **Subtitle F—Other Changes**

20 **SEC. 1601. ALTERNATIVE MINIMUM TAX TREATMENT OF** 21 **CONTRIBUTIONS OF APPRECIATED PROP-** 22 **ERTY.**

23 (a) REPEAL OF TAX PREFERENCE.—Subsection (a)
24 of section 57 (as amended by section 1221) is amended
25 by striking paragraph (6) (relating to appreciated prop-

erty charitable deduction) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) EFFECT ON ADJUSTED CURRENT EARNINGS.— Paragraph (4) of section 56(g) is amended by adding at the end thereof the following new subparagraph:

“(J) TREATMENT OF CHARITABLE CONTRIBUTIONS.—Notwithstanding subparagraphs (B) and (C), no adjustment related to the earnings and profits effects of any charitable contribution shall be made in computing adjusted current earnings.”

(c) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) (as amended by section 1221) is amended by striking “(5), (6), and (8)” and inserting “(5), and (7)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after June 30, 1992, except that in the case of any contribution of capital gain property which is not tangible personal property, such amendments shall apply only if the contribution is made after December 31, 1992.

SEC. 1602. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT MADE PERMANENT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r)

1 revenue increase transferred to certain railroad accounts)
2 is amended by striking “with respect to benefits received
3 before October 1, 1992”.

4 **SEC. 1603. TEMPORARY EXTENSION OF DEDUCTION FOR**
5 **HEALTH INSURANCE COSTS OF SELF-EM-**
6 **PLOYED INDIVIDUALS.**

7 (a) IN GENERAL.—

8 (1) EXTENSION.—Paragraph (6) of section
9 162(l) (relating to special rules for health insurance
10 costs of self-employed individuals) is amended by
11 striking “June 30, 1992” and inserting “December
12 31, 1993”.

13 (2) CONFORMING AMENDMENT.—Paragraph (2)
14 of section 110(a) of the Tax Extension Act of 1991
15 is hereby repealed.

16 (3) EFFECTIVE DATE.—The amendments made
17 by this subsection shall apply to taxable years end-
18 ing after June 30, 1992.

19 (b) DETERMINATION OF ELIGIBILITY FOR EM-
20 PLOYER-SPONSORED HEALTH PLAN.—

21 (1) IN GENERAL.—Paragraph (2)(B) of section
22 162(l) is amended to read as follows:

23 “(B) OTHER COVERAGE.—Paragraph (1)
24 shall not apply to any taxpayer for any calendar
25 month for which the taxpayer is eligible to

1 participate in any subsidized health plan main-
 2 tained by any employer of the taxpayer or of
 3 the spouse of the taxpayer.”

4 (2) EFFECTIVE DATE.—The amendment made
 5 by paragraph (1) shall apply to taxable years begin-
 6 ning after December 31, 1992.

7 **TITLE II—REVENUE INCREASES**

8 **Subtitle A—Provisions Affecting** 9 **Individuals**

10 **PART I—RATE INCREASES**

11 **SEC. 2101. INCREASE IN TOP MARGINAL RATE UNDER SEC-** 12 **TION 1.**

13 (a) GENERAL RULE.—Section 1 (relating to tax im-
 14 posed) is amended by striking subsections (a) through (e)
 15 and inserting the following:

16 “(a) MARRIED INDIVIDUALS FILING JOINT RETURNS
 17 AND SURVIVING SPOUSES.—There is hereby imposed on
 18 the taxable income of—

19 “(1) every married individual (as defined in sec-
 20 tion 7703) who makes a single return jointly with
 21 his spouse under section 6013, and

22 “(2) every surviving spouse (as defined in sec-
 23 tion 2(a)),

24 a tax determined in accordance with the following table:

“If taxable income is:	The tax is:
Not over \$36,900	15% of taxable income.

“If taxable income is:	The tax is:
Over \$36,900 but not over \$89,150.	\$5,535, plus 28% of the excess over \$36,900.
Over \$89,150 but not over \$140,000.	\$20,165, plus 31% of the excess over \$89,150.
Over \$140,000	\$35,928.50, plus 36% of the excess over \$140,000.

1 “(b) HEADS OF HOUSEHOLDS.—There is hereby im-
 2 posed on the taxable income of every head of a household
 3 (as defined in section 2(b)) a tax determined in accordance
 4 with the following table:

“If taxable income is:	The tax is:
Not over \$29,600	15% of taxable income.
Over \$29,600 but not over \$76,400.	\$4,440, plus 28% of the excess over \$29,600.
Over \$76,400 but not over \$127,500.	\$17,544, plus 31% of the excess over \$76,400.
Over \$127,500	\$33,385, plus 36% of the excess over \$127,500.

5 “(c) UNMARRIED INDIVIDUALS (OTHER THAN SUR-
 6 VIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There
 7 is hereby imposed on the taxable income of every individ-
 8 ual (other than a surviving spouse as defined in section
 9 2(a) or the head of a household as defined in section 2(b))
 10 who is not a married individual (as defined in section
 11 7703) a tax determined in accordance with the following
 12 table:

“If taxable income is:	The tax is:
Not over \$22,100	15% of taxable income.
Over \$22,100 but not over \$53,500.	\$3,315, plus 28% of the excess over \$22,100.
Over \$53,500 but not over \$115,000.	\$12,107, plus 31% of the excess over \$53,500.
Over \$115,000	\$31,172, plus 36% of the excess over \$115,000.

13 “(d) MARRIED INDIVIDUALS FILING SEPARATE RE-
 14 TURNS.—There is hereby imposed on the taxable income

1 of every married individual (as defined in section 7703)
 2 who does not make a single return jointly with his spouse
 3 under section 6013, a tax determined in accordance with
 4 the following table:

“If taxable income is:	The tax is:
Not over \$18,450	15% of taxable income.
Over \$18,450 but not over \$44,575.	\$2,767.50, plus 28% of the excess over \$18,450.
Over \$44,575 but not over \$70,000.	\$10,082.50, plus 31% of the excess over \$44,575.
Over \$70,000	\$17,964.25, plus 36% of the excess over \$70,000.

5 “(e) ESTATES AND TRUSTS.—There is hereby im-
 6 posed on the taxable income of—
 7 “(1) every estate, and
 8 “(2) every trust,
 9 taxable under this subsection a tax determined in accord-
 10 ance with the following table:

“If taxable income is:	The tax is:
Not over \$1,500	15% of taxable income.
Over \$1,500 but not over \$3,500 ..	\$225, plus 28% of the excess over \$1,500.
Over \$3,500 but not over \$5,500 ..	\$785, plus 31% of the excess over \$3,500.
Over \$5,500	\$1,405, plus 36% of the excess over \$5,500.”

11 (b) CONFORMING AMENDMENTS.—
 12 (1) Section 531 is amended by striking “28
 13 percent” and inserting “36 percent”.
 14 (2) Section 541 is amended by striking “28
 15 percent” and inserting “36 percent”.
 16 (3)(A) Subsection (f) of section 1 is amended—

1 (i) by striking “1990” in paragraph (1)
2 and inserting “1993”, and

3 (ii) by striking “1989” in paragraph
4 (3)(B) and inserting “1992”.

5 (B) Subparagraph (C) of section 41(e)(5) is
6 amended by striking “1989” each place it appears
7 and inserting “1992”.

8 (C) Subparagraph (B) of section 63(c)(4) is
9 amended by striking “1989” and inserting “1992”.

10 (D) Subparagraph (B) of section 68(b)(2) is
11 amended by striking “1989” and inserting “1992”.

12 (E) Subparagraph (B) of section 132(f)(6) is
13 amended by striking “, determined by substituting”
14 and all that follows down through the period at the
15 end thereof and inserting a period.

16 (F) Subparagraphs (A)(ii) and (B)(ii) of section
17 151(d)(4) are each amended by striking “1989” and
18 inserting “1992”.

19 (G) Clause (ii) of section 513(h)(2)(C) is
20 amended by striking “1989” and inserting “1992”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 1992.

24 **SEC. 2102. SURTAX ON HIGH-INCOME TAXPAYERS.**

25 (a) GENERAL RULE.—

1 (1) Subsection (a) of section 1 (as amended by
 2 section 2101) is amended by striking the last item
 3 in the table contained therein and inserting the
 4 following:

Over \$140,000 but not over \$250,000.	\$35,928.50, plus 36% of the excess over \$140,000.
Over \$250,000	\$75,528.50, plus 39.6% of the excess over \$250,000.”

5 (2) Subsection (b) of section 1 (as so amended)
 6 is amended by striking the last item in the table
 7 contained therein and inserting the following:

Over \$127,500 but not over \$250,000.	\$33,385, plus 36% of the excess over \$127,500.
Over \$250,000	\$77,485, plus 39.6% of the excess over \$250,000.”

8 (3) Subsection (c) of section 1 (as so amended)
 9 is amended by striking the last item in the table
 10 contained therein and inserting the following:

Over \$115,000 but not over \$250,000.	\$31,172, plus 36% of the excess over \$115,000.
Over \$250,000	\$79,772, plus 39.6% of the excess over \$250,000.”

11 (4) Subsection (d) of section 1 (as so amended)
 12 is amended by striking the last item in the table
 13 contained therein and inserting the following:

Over \$70,000 but not over \$125,000.	\$17,964.25, plus 36% of the excess over \$70,000.
Over \$125,000	\$37,764.25, plus 39.6% of the excess over \$125,000.”

14 (5) Subsection (e) of section 1 (as so amended)
 15 is amended by striking the last item in the table
 16 contained therein and inserting the following:

Over \$5,500 but not over \$7,500 ..	\$1,405, plus 36% of the excess over \$5,500.
Over \$7,500	\$2,125, plus 39.6% of the excess over \$7,500."

1 (b) TECHNICAL AMENDMENT.—Sections 531 and
 2 541 (as amended by section 2101) are each amended by
 3 striking “36 percent” and inserting “39.6 percent”.

4 (c) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to taxable years beginning after
 6 December 31, 1992.

7 **SEC. 2103. MODIFICATIONS TO ALTERNATIVE MINIMUM**
 8 **TAX RATES AND EXEMPTION AMOUNTS.**

9 (a) INCREASE IN RATE.—Paragraph (1) of section
 10 55(b) (defining tentative minimum tax) is amended to
 11 read as follows:

12 “(1) AMOUNT OF TENTATIVE TAX.—

13 “(A) NONCORPORATE TAXPAYERS.—

14 “(i) IN GENERAL.—In the case of a
 15 taxpayer other than a corporation, the ten-
 16 tentative minimum tax for the taxable year is
 17 the sum of—

18 “(I) 26 percent of so much of the
 19 taxable excess as does not exceed
 20 \$175,000, plus

21 “(II) 28 percent of so much of
 22 the taxable excess as exceeds
 23 \$175,000.

1 The amount determined under the preced-
2 ing sentence shall be reduced by the alter-
3 native minimum tax foreign tax credit for
4 the taxable year.

5 “(ii) TAXABLE EXCESS.—For pur-
6 poses of clause (i), the term ‘taxable ex-
7 cess’ means so much of the alternative
8 minimum taxable income for the taxable
9 year as exceeds the exemption amount.

10 “(iii) MARRIED INDIVIDUAL FILING
11 SEPARATE RETURN.—In the case of a mar-
12 ried individual filing a separate return,
13 clause (i) shall be applied by substituting
14 ‘\$87,500’ for ‘\$175,000’ each place it ap-
15 pears. For purposes of the preceding sen-
16 tence, marital status shall be determined
17 under section 7703.

18 “(B) CORPORATIONS.—In the case of a
19 corporation, the tentative minimum tax for the
20 taxable year is—

21 “(i) 20 percent of so much of the al-
22 ternative minimum taxable income for the
23 taxable year as exceeds the exemption
24 amount, reduced by

1 “(ii) the alternative minimum tax for-
2 eign tax credit for the taxable year.”

3 (b) INCREASE IN EXEMPTION AMOUNTS.—Para-
4 graph (1) of section 55(d) (defining exemption amount)
5 is amended—

6 (1) by striking “\$40,000” in subparagraph (A)
7 and inserting “\$45,000”,

8 (2) by striking “\$30,000” in subparagraph (B)
9 and inserting “\$33,750”, and

10 (3) by striking “\$20,000” in subparagraph (C)
11 and inserting “\$22,500”.

12 (c) CONFORMING AMENDMENTS.—

13 (1) The last sentence of section 55(d)(3) is
14 amended by striking “\$155,000 or (ii) \$20,000” and
15 inserting “\$165,000 or (ii) \$22,500”.

16 (2)(A) Subparagraph (A) of section 897(a)(2)
17 is amended by striking “the amount determined
18 under section 55(b)(1)(A) shall not be less than 21
19 percent of” and inserting “the taxable excess for
20 purposes of section 55(b)(1)(A) shall not be less
21 than”.

22 (B) The heading for paragraph (2) of section
23 897(a) is amended by striking “21-PERCENT”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 1992.

4 **SEC. 2104. OVERALL LIMITATION ON ITEMIZED DEDUC-**
5 **TIONS FOR HIGH-INCOME TAXPAYERS MADE**
6 **PERMANENT.**

7 Subsection (f) of section 68 (relating to overall limita-
8 tion on itemized deductions) is hereby repealed.

9 **SEC. 2105. PHASEOUT OF PERSONAL EXEMPTION OF HIGH-**
10 **INCOME TAXPAYERS MADE PERMANENT.**

11 Section 151(d)(3) (relating to phaseout of personal
12 exemption) is amended by striking subparagraph (E).

13 **SEC. 2106. PROVISIONS TO PREVENT CONVERSION OF OR-**
14 **DINARY INCOME TO CAPITAL GAIN.**

15 (a) INTEREST EMBEDDED IN FINANCIAL TRANS-
16 ACTIONS.—

17 (1) IN GENERAL.—Part IV of subchapter P of
18 chapter 1 (relating to special rules for determining
19 capital gains and losses) is amended by adding at
20 the end thereof the following new section:

21 **“SEC. 1258. RECHARACTERIZATION OF GAIN FROM CER-**
22 **TAIN FINANCIAL TRANSACTIONS.**

23 “(a) GENERAL RULE.—In the case of any gain—

1 “(1) which (but for this section) would be treat-
2 ed as gain from the sale or exchange of a capital
3 asset, and

4 “(2) which is recognized on the disposition of
5 any property which was held as part of a conversion
6 transaction,

7 such gain (to the extent such gain does not exceed the
8 applicable imputed income amount) shall be treated as
9 ordinary income.

10 “(b) APPLICABLE IMPUTED INCOME AMOUNT.—For
11 purposes of subsection (a), the term ‘applicable imputed
12 income amount’ means, with respect to any disposition re-
13 ferred to in subsection (a), an amount equal to—

14 “(1) the amount of interest which would have
15 accrued on the taxpayer’s net investment in the con-
16 version transaction for the period ending on the date
17 of such disposition (or, if earlier, the date on which
18 the requirements of subsection (c) ceased to be satis-
19 fied) at a rate equal to 120 percent of the applicable
20 rate, reduced by

21 “(2) the amount treated as ordinary income
22 under subsection (a) with respect to any prior dis-
23 position of property which was held as a part of
24 such transaction.

1 “(c) CONVERSION TRANSACTION.—For purposes of
2 this section, the term ‘conversion transaction’ means any
3 of the following where substantially all of the taxpayer’s
4 expected net return from the transaction is attributable
5 to the time value of the taxpayer’s net investment in such
6 transaction:

7 “(1) The holding of any property (whether or
8 not actively traded), and the entering into a contract
9 to sell such property (or substantially identical prop-
10 erty) at a price determined in accordance with such
11 contract, but only if such property was acquired and
12 such contract was entered into on a substantially
13 contemporaneous basis.

14 “(2) Any applicable straddle.

15 “(3) Any other transaction which is marketed
16 or sold as producing capital gains.

17 “(4) Any other transaction specified in regula-
18 tions prescribed by the Secretary.

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

21 “(1) APPLICABLE STRADDLE.—The term ‘appli-
22 cable straddle’ means any straddle (within the mean-
23 ing of section 1092(c)); except that—

24 “(A) the term ‘personal property’ shall in-
25 clude stock, and

1 “(B) paragraph (4) of section 1092(c)
2 shall not apply.

3 “(2) APPLICABLE RATE.—The term ‘applicable
4 Federal rate’ means—

5 “(A) the applicable Federal rate deter-
6 mined under section 1274(d) (compounded
7 semiannually) as if the conversion transaction
8 were a debt instrument, or

9 “(B) if the term of the conversion trans-
10 action is indefinite, the Federal short-term
11 rates in effect under section 6621(b) during the
12 period of the conversion transaction
13 (compounded daily).

14 “(3) TREATMENT OF PROPERTY WITH BUILT-IN
15 LOSS.—

16 “(A) IN GENERAL.—If any property with a
17 built-in loss becomes part of a conversion trans-
18 action—

19 “(i) for purposes of applying this sub-
20 title to such property for periods after such
21 property becomes part of such transaction,
22 the adjusted basis of such property shall be
23 its fair market value as of the time it be-
24 came part of such transaction, except that

1 “(ii) upon the disposition of such
2 property in a transaction in which gain or
3 loss is recognized, such built-in loss shall
4 be recognized and shall have a character
5 determined without regard to this section.

6 “(B) BUILT-IN LOSS.—For purposes of
7 subparagraph (A), the term ‘built-in loss’
8 means the excess (if any) of the adjusted basis
9 of any property over its fair market value.

10 “(4) PROPERTY TAKEN INTO ACCOUNT AT FAIR
11 MARKET VALUE.—In determining the taxpayer’s net
12 investment in any conversion transaction, there shall
13 be included the fair market value of any property
14 which becomes part of such transaction (determined
15 as of the date on which such property became part
16 of such transaction).”

17 (2) CLERICAL AMENDMENT.—The table of sec-
18 tions for part IV of subchapter P of chapter 1 is
19 amended by adding at the end thereof the following
20 new item:

 “Sec. 1258. Recharacterization of gain from certain financial
 transactions.”

21 (3) EFFECTIVE DATE.—The amendments made
22 by this section shall apply to conversion transactions
23 entered into after April 30, 1993.

1 (b) REPEAL OF CERTAIN EXCEPTIONS TO MARKET
2 DISCOUNT RULES.—

3 (1) MARKET DISCOUNT BONDS ISSUED ON OR
4 BEFORE JULY 18, 1984.—The following provisions
5 are hereby repealed:

6 (A) Section 1276(e).

7 (B) Section 1277(d).

8 (2) TAX-EXEMPT OBLIGATIONS.—

9 (A) IN GENERAL.—Paragraph (1) of sec-
10 tion 1278(a) (defining market discount bond) is
11 amended—

12 (i) by striking clause (ii) of subpara-
13 graph (B) and redesignating subclauses
14 (iii) and (iv) of such subparagraph as
15 clauses (ii) and (iii), respectively,

16 (ii) by redesignating subparagraph
17 (C) as subparagraph (D), and

18 (iii) by inserting after subparagraph
19 (B) the following new subparagraph:

20 “(C) SECTION 1277 NOT APPLICABLE TO
21 TAX-EXEMPT OBLIGATIONS.—For purposes of
22 section 1277, the term ‘market discount bond’
23 shall not include any tax-exempt obligation (as
24 defined in section 1275(a)(3)).”

1 (B) CONFORMING AMENDMENT.—Sections
2 1276(a)(4) and 1278(b)(1) are each amended
3 by striking “sections 871(a)” and inserting
4 “sections 103, 871(a),”.

5 (3) EFFECTIVE DATE.—The amendments made
6 by this section shall apply to obligations purchased
7 (within the meaning of section 1272(d)(1) of the In-
8 ternal Revenue Code of 1986) after April 30, 1993.

9 (c) TREATMENT OF STRIPPED PREFERRED
10 STOCK.—

11 (1) IN GENERAL.—Section 305 is amended by
12 redesignating subsection (e) as subsection (f) and by
13 inserting after subsection (d) the following new sub-
14 section:

15 “(e) TREATMENT OF PURCHASER OF STRIPPED PRE-
16 FERRED STOCK.—

17 “(1) IN GENERAL.—If any person purchases
18 after April 30, 1993 any stripped preferred stock,
19 then such person, while holding such stock, shall in-
20 clude in gross income amounts equal to the amounts
21 which would have been so includible if such stripped
22 preferred stock were a bond issued on the purchase
23 date and having original issue discount equal to the
24 excess, if any, of—

1 “(A) the redemption price for such stock,
2 over

3 “(B) the price at which such person pur-
4 chased such stock.

5 The preceding sentence shall also apply in the case
6 of any person whose basis in such stock is deter-
7 mined by reference to the basis in the hands of such
8 purchaser.

9 “(2) BASIS ADJUSTMENTS.—Appropriate ad-
10 justments to basis shall be made for amounts includ-
11 ible in gross income under paragraph (1).

12 “(3) TAX TREATMENT OF PERSON STRIPPING
13 STOCK.—If any person strips the rights to 1 or more
14 dividends from any stock described in paragraph
15 (5)(B) and after April 30, 1993 disposes of such
16 dividend rights, for purposes of paragraph (1), such
17 person shall be treated as having purchased the
18 stripped preferred stock on the date of such disposi-
19 tion for a purchase price equal to such person’s ad-
20 justed basis in such stripped preferred stock.

21 “(4) AMOUNTS TREATED AS ORDINARY IN-
22 COME.—Any amount included in gross income under
23 paragraph (1) shall be treated as ordinary income.

24 “(5) STRIPPED PREFERRED STOCK.—For pur-
25 poses of this subsection—

1 “(A) IN GENERAL.—The term ‘stripped
2 preferred stock’ means any stock described in
3 subparagraph (B) if there has been a separa-
4 tion in ownership between such stock and any
5 dividend on such stock which has not become
6 payable.

7 “(B) DESCRIPTION OF STOCK.—Stock is
8 described in this subsection if such stock—

9 “(i) is limited and preferred as to
10 dividends and does not participate in cor-
11 porate growth to any significant extent,
12 and

13 “(ii) has a fixed redemption price.

14 “(6) PURCHASE.—For purposes of this sub-
15 section, the term ‘purchase’ means—

16 “(A) any acquisition of stock, where

17 “(B) the basis of such stock is not deter-
18 mined in whole or in part by the reference to
19 the adjusted basis of such stock in the hands of
20 the person from whom acquired.”

21 “(2) COORDINATION WITH SECTION 167(e).—
22 Paragraph (2) of section 167(e) is amended to read
23 as follows:

24 “(2) COORDINATION WITH OTHER PROVI-
25 SIONS.—

1 “(A) SECTION 273.—This subsection shall
2 not apply to any term interest to which section
3 273 applies.

4 “(B) SECTION 305(e).—This subsection
5 shall not apply to the holder of the dividend
6 rights which were separated from any stripped
7 preferred stock to which section 305(e)(1) ap-
8 plies.”

9 (3) EFFECTIVE DATE.—The amendments made
10 by this subsection shall take effect on April 30,
11 1993.

12 (d) TREATMENT OF CAPITAL GAIN UNDER LIMITA-
13 TION ON INVESTMENT INTEREST.—

14 (1) IN GENERAL.—Subparagraph (B) of section
15 163(d)(4) (defining investment income) is amended
16 to read as follows:

17 “(B) INVESTMENT INCOME.—The term
18 ‘investment income’ means the sum of—

19 “(i) gross income from property held
20 for investment (other than any gain taken
21 into account under clause (ii)(I)),

22 “(ii) the excess (if any) of—

23 “(I) the net gain attributable to
24 the disposition of property held for in-
25 vestment, over

1 “(II) the net capital gain deter-
2 mined by only taking into account
3 gains and losses from dispositions of
4 property held for investment, plus

5 “(iii) so much of the net capital gain
6 referred to in clause (ii)(II) (or, if lesser,
7 the net gain referred to in clause (ii)(I)) as
8 the taxpayer elects to take into account
9 under this clause.”

10 (2) COORDINATION WITH SPECIAL CAPITAL
11 GAINS RATE.—Subsection (h) of section 1 is amend-
12 ed by adding at the end thereof the following new
13 sentence:

14 “For purposes of the preceding sentence, the net capital
15 gain for any taxable year shall be reduced (but not below
16 zero) by the amount which the taxpayer elects to take into
17 account as investment income for the taxable year under
18 section 163(d)(4)(B)(iii).”

19 (3) EFFECTIVE DATE.—The amendments made
20 by this subsection shall apply to taxable years begin-
21 ning after December 31, 1992.

22 (e) TREATMENT OF CERTAIN APPRECIATED INVEN-
23 TORY.—

24 (1) Paragraph (1) of section 751(d) is amended
25 to read as follows:

1 “(1) SUBSTANTIAL APPRECIATION.—

2 “(A) IN GENERAL.—Inventory items of the
3 partnership shall be considered to have appre-
4 ciated substantially in income if their fair mar-
5 ket value exceeds 120 percent of the adjusted
6 basis to the partnership of such property.

7 “(B) CERTAIN PROPERTY EXCLUDED.—
8 For purposes of subparagraph (A), there shall
9 be excluded any inventory property if a prin-
10 cipal purpose for acquiring such property was
11 to avoid the provisions of this section relating
12 to inventory items.”

13 (2) EFFECTIVE DATE.—The amendment made
14 by paragraph (1) shall apply to sales, exchanges,
15 and distributions after April 30, 1993.

16 **PART II—OTHER PROVISIONS**

17 **SEC. 2111. REPEAL OF LIMITATION ON AMOUNT OF WAGES**

18 **SUBJECT TO HEALTH INSURANCE EMPLOY-**

19 **MENT TAX.**

20 (a) HOSPITAL INSURANCE TAX.—

21 (1) Paragraph (1) of section 3121(a) (defining
22 wages) is amended—

23 (A) by inserting “in the case of the taxes
24 imposed by sections 3101(a) and 3111(a)” after
25 “(1)”,

1 (B) by striking “applicable contribution
2 base (as determined under subsection (x))”
3 each place it appears and inserting “contribu-
4 tion and benefit base (as determined under sec-
5 tion 230 of the Social Security Act)”, and

6 (C) by striking “such applicable contribu-
7 tion base” and inserting “such contribution and
8 benefit base”.

9 (2) Section 3121 is amended by striking sub-
10 section (x).

11 (b) SELF-EMPLOYMENT TAX.—

12 (1) Subsection (b) of section 1402 is amend-
13 ed—

14 (A) by striking “that part of the net” in
15 paragraph (1) and inserting “in the case of the
16 tax imposed by section 1401(a), that part of
17 the net”,

18 (B) by striking “applicable contribution
19 base (as determined under subsection (k))” in
20 paragraph (1) and inserting “contribution and
21 benefit base (as determined under section 230
22 of the Social Security Act)”,

23 (C) by inserting “and” after “section
24 3121(b),”, and

1 (D) by striking “and (C) includes” and all
2 that follows through “3111(b)”.

3 (2) Section 1402 is amended by striking sub-
4 section (k).

5 (c) RAILROAD RETIREMENT TAX.—

6 (1) Subparagraph (A) of section 3231(e)(2) is
7 amended by adding at the end thereof the following
8 new clause:

9 “(iii) HOSPITAL INSURANCE TAXES.—

10 Clause (i) shall not apply to—

11 “(I) so much of the rate applica-
12 ble under section 3201(a) or 3221(a)
13 as does not exceed the rate of tax in
14 effect under section 3101(b), and

15 “(II) so much of the rate applica-
16 ble under section 3211(a)(1) as does
17 not exceed the rate of tax in effect
18 under section 1402(b).”

19 (2) Clause (i) of section 3231(e)(2)(B) is
20 amended to read as follows:

21 “(i) TIER 1 TAXES.—Except as pro-
22 vided in clause (ii), the term ‘applicable
23 base’ means for any calendar year the con-
24 tribution and benefit base determined

1 under section 230 of the Social Security
2 Act for such calendar year.”

3 (d) TECHNICAL AMENDMENTS.—

4 (1) Paragraph (1) of section 6413(c) is amend-
5 ed by striking “section 3101 or section 3201” and
6 inserting “section 3101(a) or section 3201(a) (to the
7 extent the rate applicable under section 3201(a) as
8 does not exceed the rate of tax in effect under sec-
9 tion 3101(a))”.

10 (2) Subparagraphs (B) and (C) of section
11 6413(c)(2) are each amended by striking “section
12 3101” each place it appears and inserting “section
13 3101(a)”.

14 (3) Subsection (c) of section 6413 is amended
15 by striking paragraph (3).

16 (4) Sections 3122 and 3125 of such Code are
17 each amended by striking “applicable contribution
18 base limitation” and inserting “contribution and
19 benefit base limitation”.

20 (e) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to 1994 and later calendar years.

1 **SEC. 2112. TOP ESTATE AND GIFT TAX RATES MADE PERMA-**
 2 **NENT.**

3 (a) GENERAL RULE.—The table contained in para-
 4 graph (1) of section 2001(c) is amended by striking the
 5 last item and inserting the following new items:

“Over \$2,500,000 but not over \$3,000,000.	\$1,025,800, plus 53% of the excess over \$2,500,000.
Over \$3,000,000	\$1,290,800, plus 55% of the excess over \$3,000,000.”

6 (b) CONFORMING AMENDMENTS.—

7 (1) Subsection (c) of section 2001 is amended
 8 by striking paragraph (2) and by redesignating
 9 paragraph (3) as paragraph (2).

10 (2) Paragraph (2) of section 2001(c), as redesi-
 11 gnated by paragraph (1), is amended by striking
 12 “(\$18,340,000 in the case of decedents dying, and
 13 gifts made, after 1992)”.

14 (3) The last sentence of section 2101(b) is
 15 amended by striking “section 2001(c)(3)” and in-
 16 sserting “section 2001(c)(2)”.

17 (c) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply in the case of decedents dying, and
 19 gifts made, after December 31, 1992.

20 **SEC. 2113. REDUCTION IN DEDUCTIBLE PORTION OF BUSI-**
 21 **NESS MEALS AND ENTERTAINMENT.**

22 (a) GENERAL RULE.—Paragraph (1) of section
 23 274(n) (relating to only 80 percent of meal and entertain-

1 ment expenses allowed as deduction) is amended by strik-
2 ing “80 percent” and inserting “50 percent”.

3 (b) CONFORMING AMENDMENT.—The subsection
4 heading for section 274(n) is amended by striking “80”
5 and inserting “50”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 December 31, 1993.

9 **SEC. 2114. ELIMINATION OF DEDUCTION FOR CLUB MEM-**
10 **BERSHIP FEES.**

11 (a) IN GENERAL.—Subsection (a) of section 274 (re-
12 lating to disallowance of certain entertainment, etc., ex-
13 penses) is amended by adding at the end thereof the
14 following new paragraph:

15 “(3) DENIAL OF DEDUCTION FOR CLUB
16 DUES.—Notwithstanding the preceding provisions of
17 this subsection, no deduction shall be allowed under
18 this chapter for amounts paid or incurred for mem-
19 bership in any club organized for business, pleasure,
20 recreation, or other social purpose.

21 (b) EXCEPTION FOR EMPLOYEE RECREATIONAL EX-
22 PENSES NOT TO APPLY.—Paragraph (4) of section
23 274(e) is amended by adding at the end thereof the follow-
24 ing: “This paragraph shall not apply for purposes of sub-
25 section (a)(3).”

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to amounts paid or incurred after
3 December 31, 1993.

4 **SEC. 2115. DISALLOWANCE OF DEDUCTION FOR CERTAIN**
5 **EMPLOYEE REMUNERATION IN EXCESS OF**
6 **\$1,000,000.**

7 (a) GENERAL RULE.—Section 162 (relating to trade
8 or business expenses) is amended by redesignating sub-
9 section (m) as subsection (n) and by inserting after sub-
10 section (l) the following new subsection:

11 “(m) CERTAIN EXCESSIVE EMPLOYEE REMUNERA-
12 TION.—

13 “(1) IN GENERAL.—In the case of any publicly
14 held corporation, no deduction shall be allowed
15 under this chapter for applicable employee remun-
16 eration with respect to any covered employee to the
17 extent that the amount of such remuneration for the
18 taxable year with respect to such employee exceeds
19 \$1,000,000.

20 “(2) PUBLICLY HELD CORPORATION.—For pur-
21 poses of this subsection, the term ‘publicly held cor-
22 poration’ means any corporation issuing any class of
23 common equity securities required to be registered
24 under section 12 of the Securities Exchange Act of
25 1934.

1 “(3) COVERED EMPLOYEE.—For purposes of
2 this subsection, the term ‘covered employee’ means
3 any employee of the taxpayer if—

4 “(A) as of the close of the taxable year,
5 such employee is the chief executive officer of
6 the taxpayer or an individual acting in such a
7 capacity, or

8 “(B) the total compensation for the tax-
9 able year of such employee is required to be re-
10 ported to shareholders under the Securities Ex-
11 change Act of 1934 by reason of such employee
12 being among the 4 highest compensated officers
13 for the taxable year (other than the chief execu-
14 tive officer).

15 “(4) APPLICABLE EMPLOYEE REMUNERA-
16 TION.—For purposes of this subsection—

17 “(A) IN GENERAL.—Except as otherwise
18 provided in this paragraph, the term ‘applicable
19 employee remuneration’ means, with respect to
20 any covered employee for any taxable year, the
21 aggregate amount allowable as a deduction
22 under this chapter for such taxable year (deter-
23 mined without regard to this subsection) for re-
24 muneration for services performed by such em-
25 ployee (whether or not during the taxable year).

1 “(B) EXCEPTION FOR REMUNERATION
2 PAYABLE ON COMMISSION BASIS.—The term
3 ‘applicable employee remuneration’ shall not in-
4 clude any remuneration payable on a commis-
5 sion basis solely on account of income generated
6 directly by the individual performance of the in-
7 dividual to whom such remuneration is payable.

8 “(C) OTHER PERFORMANCE-BASED COM-
9 PENSATION.—The term ‘applicable employee re-
10 muneration’ shall not include any remuneration
11 payable solely on account of the attainment of
12 one or more performance goals but only if—

13 “(i) the performance goals are deter-
14 mined by a compensation committee of the
15 board of directors of the taxpayer which is
16 comprised solely of 2 or more independent
17 directors,

18 “(ii) the material terms under which
19 the remuneration is to be paid, including
20 the performance goals, are disclosed to
21 shareholders and approved by a majority of
22 the vote in a separate shareholder vote be-
23 fore the payment of such remuneration,
24 and

1 “(iii) before any payment of such re-
2 muneration, the compensation committee
3 referred to in clause (i) certifies that the
4 performance goals and any other material
5 terms were in fact satisfied.

6 “(D) EXCEPTION FOR EXISTING BINDING
7 CONTRACTS.—The term ‘applicable employee
8 remuneration’ shall not include any remunera-
9 tion payable under a written binding contract
10 which was in effect on February 17, 1993, and
11 which was not modified thereafter in any mate-
12 rial respect before such remuneration is paid.

13 “(E) REMUNERATION.—For purposes of
14 this paragraph, the term ‘remuneration’ in-
15 cludes any remuneration (including benefits) in
16 any medium other than cash, but shall not in-
17 clude—

18 “(i) any payment referred to in so
19 much of section 3121(a)(5) as precedes
20 subparagraph (E) thereof, and

21 “(ii) any benefit provided to or on be-
22 half of an employee if at the time such
23 benefit is provided it is reasonable to be-
24 lieve that the employee will be able to ex-

1 (2) by striking the second sentence and insert-
2 ing “In the case of years beginning after 1994, the
3 Secretary shall adjust the \$150,000 amount at the
4 same time and in the same manner as under section
5 415(d), except that the base period for purposes of
6 section 415(d)(1)(A) shall be the calendar quarter
7 beginning October 1, 1994.”

8 (b) SIMPLIFIED EMPLOYEE PENSIONS.—

9 (1) IN GENERAL.—Paragraphs (3)(C) and
10 (6)(D)(ii) of section 408(k) are each amended by
11 striking “\$200,000” and inserting “\$150,000”.

12 (2) COST-OF-LIVING.—Paragraph (8) of section
13 408(k) is amended to read as follows:

14 “(8) COST-OF-LIVING ADJUSTMENT.—The Sec-
15 retary shall adjust the \$300 amount in paragraph
16 (2)(C) at the same time and in the same manner as
17 under section 415(d) and shall adjust the \$150,000
18 amount in paragraphs (3)(C) and (6)(D)(ii) at the
19 same time and by the same amount as the adjust-
20 ment to the \$150,000 amount in section
21 401(a)(17).”

22 (c) CONFORMING AMENDMENT.—The heading for
23 section 505(b)(7) is amended by striking “\$200,000”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to benefits accruing in plan years
3 beginning after December 31, 1993.

4 **SEC. 2117. MODIFICATION TO DEDUCTION FOR CERTAIN**
5 **MOVING EXPENSES.**

6 (a) REPEAL OF DEDUCTION FOR QUALIFIED RESI-
7 DENCE SALE, ETC., EXPENSES.—

8 (1) IN GENERAL.—Paragraph (1) of section
9 217(b) (defining moving expenses) is amended by in-
10 sserting “or” at the end of subparagraph (C), by
11 striking “, or” at the end of subparagraph (D) and
12 inserting a period, and by striking
13 subparagraph (E).

14 (2) CONFORMING AMENDMENTS.—

15 (A) Subsection (b) of section 217 is
16 amended by striking paragraph (2) and redesignig-
17 nating paragraph (3) as paragraph (2).

18 (B) Paragraph (2) of section 217(b) (as
19 redesignated by subparagraph (A)) is amend-
20 ed—

21 (i) by striking the last sentence of
22 subparagraph (A), and

23 (ii) by striking “, and by” in subpara-
24 graph (B) and all that follows down

1 through the period at the end of subpara-
2 graph (B) and inserting a period.

3 (C) Paragraph (1) of section 217(h) is
4 amended by striking subparagraphs (B) and
5 (C) and inserting the following:

6 “(B) subsection (b)(2)(A) shall be applied
7 by substituting ‘\$4,500’ for ‘\$1,500’, and

8 “(C) subsection (b)(2)(B) shall be applied
9 as if the last sentence of such subsection read
10 as follows: ‘In the case of a husband and wife
11 filing separate returns, subparagraph (A) shall
12 be applied by substituting “\$2,250” for
13 “\$4,500”.’ ”

14 (D) Section 217 is amended by striking
15 subsection (e).

16 (b) DEDUCTION DISALLOWED FOR MEAL EX-
17 PENSES.—Paragraph (1) of section 217(b) is amended—

18 (1) by striking “meals and lodging” in subpara-
19 graphs (B), (C) and (D) and inserting “lodging”,
20 and

21 (2) by adding at the end thereof the following
22 new sentence:

23 “Such term shall not include any expenses for
24 meals.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to expenses incurred after Decem-
3 ber 31, 1993.

4 **Subtitle B—Provisions Affecting**
5 **Businesses**

6 **SEC. 2201. INCREASE IN TOP MARGINAL RATE UNDER SEC-**
7 **TION 11.**

8 (a) GENERAL RULE.—Paragraph (1) of section 11(b)
9 (relating to amount of tax) is amended—

10 (1) by striking “and” at the end of subpara-
11 graph (B),

12 (2) by striking subparagraph (C) and inserting
13 the following:

14 “(C) 34 percent of so much of the taxable
15 income as exceeds \$75,000 but does not exceed
16 \$10,000,000, and

17 “(D) 36 percent of so much of the taxable
18 income as exceeds \$10,000,000.”, and

19 (3) by adding at the end thereof the following
20 new sentence: “In the case of a corporation which
21 has taxable income in excess of \$15,000,000, the
22 amount of the tax determined under the foregoing
23 provisions of this paragraph shall be increased by an
24 additional amount equal to the lesser of (i) 3 percent
25 of such excess, or (ii) \$200,000.”.

1 (b) CERTAIN PERSONAL SERVICE CORPORATIONS.—
2 Paragraph (2) of section 11(b) is amended by striking “34
3 percent” and inserting “36 percent”.

4 (c) CONFORMING AMENDMENTS.—

5 (1) Clause (iii) of section 852(b)(3)(D) is
6 amended by striking “66 percent” and inserting “64
7 percent”.

8 (2) Subsection (a) of section 1201 is amended
9 by striking “34 percent” each place it appears and
10 inserting “36 percent”.

11 (3) Paragraphs (1) and (2) of section 1445(e)
12 are each amended by striking “34 percent” and in-
13 serring “36 percent”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning on or
16 after January 1, 1993; except that the amendment made
17 by subsection (c)(3) shall take effect on the date of the
18 enactment of this Act.

19 **SEC. 2202. DENIAL OF DEDUCTION FOR LOBBYING EX-**
20 **PENSES.**

21 (a) DISALLOWANCE OF DEDUCTION.—Section 162(e)
22 (relating to appearances, etc., with respect to legislation)
23 is amended to read as follows:

24 “(e) DENIAL OF DEDUCTION FOR CERTAIN LOBBY-
25 ING AND POLITICAL EXPENDITURES.—

1 “(1) IN GENERAL.—No deduction shall be al-
2 lowed under subsection (a) for any amount paid or
3 incurred—

4 “(A) in connection with influencing legisla-
5 tion,

6 “(B) for participation in, or intervention
7 in, any political campaign on behalf of (or in
8 opposition to) any candidate for public office, or

9 “(C) in connection with any attempt to in-
10 fluence the general public, or segments thereof,
11 with respect to elections.

12 “(2) APPLICATION TO DUES.—

13 “(A) IN GENERAL.—No deduction shall be
14 allowed under subsection (a) for the portion of
15 dues or other similar amounts (paid by the tax-
16 payer with respect to an organization) which is
17 allocable to the expenditures described in para-
18 graph (1).

19 “(B) ALLOCATION.—

20 “(i) IN GENERAL.—For purposes of
21 subparagraph (A), expenditures described
22 in paragraph (1) shall be treated as paid
23 out of dues or other similar amounts.

24 “(ii) CARRYOVER OF LOBBYING EX-
25 PENDITURES IN EXCESS OF DUES.—For

1 purposes of this paragraph, if expenditures
2 described in paragraph (1) exceed the dues
3 or other similar amounts for any calendar
4 year, such excess shall be treated as ex-
5 penditures described in paragraph (1)
6 which are paid or incurred by the organi-
7 zation during the following calendar year.

8 “(3) INFLUENCING LEGISLATION.—For pur-
9 poses of this subsection—

10 “(A) IN GENERAL.—The term ‘influencing
11 legislation’ means—

12 “(i) any attempt to influence the gen-
13 eral public, or segments thereof, with re-
14 spect to legislation, and

15 “(ii) any attempt to influence any leg-
16 islation through communication with any
17 member or employee of the legislative
18 body, or with any government official or
19 employee who may participate in the for-
20 mulation of the legislation.

21 “(B) EXCEPTION FOR CERTAIN TECH-
22 NICAL ADVICE.—The term ‘influencing legisla-
23 tion’ shall not include the providing of technical
24 advice or assistance to a governmental body or
25 to a committee or other subdivision thereof in

1 response to a specific written request by such
2 governmental entity to the taxpayer which
3 specifies the nature of the advice or assistance
4 requested.

5 “(C) LEGISLATION.—The term ‘legislation’
6 has the meaning given such term by section
7 4911(e)(2).

8 “(4) EXCEPTION FOR CERTAIN TAXPAYERS.—
9 In the case of any taxpayer engaged in the trade or
10 business of conducting activities described in para-
11 graph (1), paragraph (1) shall not apply to expendi-
12 tures of the taxpayer in conducting such activities on
13 behalf of another person (but shall apply to pay-
14 ments by such other person to the taxpayer for con-
15 ducting such activities).

16 “(5) CROSS REFERENCE.—

**“For reporting requirements related to this sub-
section, see section 60500.”**

17 (b) REPORTING REQUIREMENTS.—

18 (1) IN GENERAL.—Subpart B of part III of
19 subchapter A of chapter 61 (relating to information
20 concerning transactions with other persons) is
21 amended by adding at the end the following new
22 section:

1 **“SEC. 60500. RETURNS RELATING TO LOBBYING EXPENDI-**
2 **TURES OF CERTAIN ORGANIZATIONS.**

3 “(a) REQUIREMENT OF REPORTING.—Each organi-
4 zation referred to in section 162(e)(2) shall make a return,
5 according to the forms or regulations prescribed by the
6 Secretary, setting forth the names and addresses of per-
7 sons paying dues to the organization, the amount of the
8 dues paid by such person, and the portion of such dues
9 which is nondeductible under section 162(e)(2).

10 “(b) STATEMENTS TO BE FURNISHED TO PERSONS
11 WITH RESPECT TO WHOM INFORMATION IS FUR-
12 NISHED.—Any organization required to make a return
13 under subsection (a) shall furnish to each person whose
14 name is required to be set forth in such return a written
15 statement showing—

16 “(1) the name and address of the organization,
17 and

18 “(2) the dues paid by the person during the cal-
19 endar year and the portion of such dues which is
20 nondeductible under section 162(e)(2).

21 The written statement required under the preceding sen-
22 tence shall be furnished (either in person or in a statement
23 mailing by first-class mail which includes adequate notice
24 that the statement is enclosed) to the persons on or before
25 January 31 of the year following the calendar year for
26 which the return under subsection (a) was made and shall

1 be in such form as the Secretary may prescribe by regula-
2 tions.

3 “(c) WAIVER.—The Secretary may waive the report-
4 ing requirements of this section with respect to any orga-
5 nization or class of organizations if the Secretary deter-
6 mines that such reporting is not necessary to carry out
7 the purposes of section 162(e).

8 “(d) DUES.—For purposes of this section, the term
9 ‘dues’ includes other similar amounts.”

10 (2) PENALTIES.—

11 (A) RETURNS.—Subparagraph (A) of sec-
12 tion 6724(d)(1) (defining information return) is
13 amended by striking “or” at the end of clause
14 (xi), by striking the period at the end of the
15 clause (xii) relating to section 4101(d) and in-
16 serting a comma, by redesignating the clause
17 (xii) relating to section 338(h)(10) as clause
18 (xiii), by striking the period at the end of clause
19 (xiii) (as so redesignated) and inserting “, or”,
20 and by adding at the end the following new
21 clause:

22 “(xiv) section 6050O(a) (relating to
23 information on nondeductible lobbying ex-
24 penditures).”

1 (B) PAYEE STATEMENTS.—Paragraph (2)
2 of section 6724(d) (defining payee statement) is
3 amended by striking “or” at the end of sub-
4 paragraph (R), by striking the period at the
5 end of subparagraph (S) and inserting “, or”,
6 and by adding at the end the following new sub-
7 paragraph:

8 “(T) section 60500(b) (relating to returns
9 on nondeductible lobbying expenditures).”

10 (C) EXCESSIVE UNDERREPORTING.—Sec-
11 tion 6721 (relating to failure to file correct in-
12 formation returns) is amended by adding at the
13 end the following new subsection:

14 “(f) PENALTY IN CASE OF EXCESSIVE
15 UNDERREPORTING ON NONDEDUCTIBLE DUES.—If the
16 aggregate amount of nondeductible dues which is reported
17 on the return required to be filed under section 60500(a)
18 for any calendar year is less than 75 percent of the aggre-
19 gate amount required to be so reported—

20 “(1) subsections (b), (c), and (d) shall not
21 apply, and

22 “(2) the penalty imposed under subsection (a)
23 shall be equal to the product of—

24 “(A) the amount required to be reported
25 which was not so reported, and

1 “(2) In the case of any security which is not in-
2 ventory in the hands of the dealer and which is held
3 at the close of any taxable year—

4 “(A) the dealer shall recognize gain or loss
5 as if such security were sold for its fair market
6 value on the last business day of such taxable
7 year, and

8 “(B) any gain or loss shall be taken into
9 account for such taxable year.

10 Proper adjustment shall be made in the amount of
11 any gain or loss subsequently realized for gain or
12 loss taken into account under the preceding sen-
13 tence. The Secretary may provide by regulations for
14 the application of this paragraph at times other than
15 the times provided in this paragraph.

16 “(b) EXCEPTIONS.—

17 “(1) IN GENERAL.—Subsection (a) shall not
18 apply to—

19 “(A) any security held for investment,

20 “(B)(i) any security described in sub-
21 section (c)(2)(C) which is acquired (including
22 originated) by the taxpayer in the ordinary
23 course of a trade or business of the taxpayer
24 and which is not held for sale, and (ii) any obli-
25 gation to acquire a security described in clause

1 (i) if such obligation is entered into in the ordi-
2 nary course of such trade or business and is not
3 held for sale, and

4 “(C) any security which is a hedge with re-
5 spect to—

6 “(i) a security to which subsection (a)
7 does not apply, or

8 “(ii) a position, right to income, or a
9 liability which is not a security in the
10 hands of the taxpayer.

11 To the extent provided in regulations, subparagraph
12 (C) shall not apply to any security held by a person
13 in its capacity as a dealer in securities.

14 “(2) IDENTIFICATION REQUIRED.—A security
15 shall not be treated as described in subparagraph
16 (A), (B), or (C) of paragraph (1), as the case may
17 be, unless such security is clearly identified in the
18 dealer’s records as being described in such subpara-
19 graph before the close of the day on which it was ac-
20 quired, originated, or entered into (or such other
21 time as the Secretary may by regulations prescribe).

22 “(3) SECURITIES SUBSEQUENTLY NOT EX-
23 EMPT.—If a security ceases to be described in para-
24 graph (1) at any time after it was identified as such
25 under paragraph (2), subsection (a) shall apply to

1 any changes in value of the security occurring after
2 the cessation.

3 “(4) SPECIAL RULE FOR PROPERTY HELD FOR
4 INVESTMENT.—To the extent provided in regula-
5 tions, subparagraph (A) of paragraph (1) shall not
6 apply to any security described in subparagraph (D)
7 or (E) of subsection (c)(2) which is held by a dealer
8 in such securities.

9 “(c) DEFINITIONS.—For purposes of this section—

10 “(1) DEALER IN SECURITIES DEFINED.—The
11 term ‘dealer in securities’ means a taxpayer who—

12 “(A) regularly purchases securities from or
13 sells securities to customers in the ordinary
14 course of a trade or business; or

15 “(B) regularly offers to enter into, assume,
16 offset, assign or otherwise terminate positions
17 in securities with customers in the ordinary
18 course of a trade or business.

19 “(2) SECURITY DEFINED.—The term ‘security’
20 means any—

21 “(A) share of stock in a corporation;

22 “(B) partnership or beneficial ownership
23 interest in a widely held or publicly traded part-
24 nership or trust;

1 “(C) note, bond, debenture, or other evi-
2 dence of indebtedness;

3 “(D) interest rate, currency, or equity no-
4 tional principal contract;

5 “(E) evidence of an interest in, or a deriv-
6 ative financial instrument in, any security de-
7 scribed in subparagraph (A), (B), (C), or (D),
8 or any currency, including any option, forward
9 contract, short position, and any similar finan-
10 cial instrument in such a security or currency;
11 and

12 “(F) position which—

13 “(i) is not a security described in sub-
14 paragraph (A), (B), (C), (D), or (E),

15 “(ii) is a hedge with respect to such
16 a security, and

17 “(iii) is clearly identified in the deal-
18 er’s records as being described in this sub-
19 paragraph before the close of the day on
20 which it was acquired or entered into (or
21 such other time as the Secretary may by
22 regulations prescribe).

23 Subparagraph (E) shall not include any contract to
24 which section 1256(a) applies.

1 “(3) HEDGE.—The term ‘hedge’ means any po-
2 sition which reduces the dealer’s risk of interest rate
3 or price changes or currency fluctuations, including
4 any position which is reasonably expected to become
5 a hedge within 60 days after the acquisition of the
6 position.

7 “(d) SPECIAL RULES.—For purposes of this sec-
8 tion—

9 “(1) COORDINATION WITH CERTAIN RULES.—
10 The rules of sections 263(g), 263A, and 1256(a)
11 shall not apply to securities to which subsection (a)
12 applies, and section 1091 shall not apply (and sec-
13 tion 1092 shall apply) to any loss recognized under
14 subsection (a).

15 “(2) IMPROPER IDENTIFICATION.—If a tax-
16 payer—

17 “(A) identifies any security under sub-
18 section (b)(2) as being described in subsection
19 (b)(1) and such security is not so described, or

20 “(B) fails under subsection (c)(2)(F)(iii) to
21 identify any position which is described in sub-
22 section (c)(2)(F) (without regard to clause (iii)
23 thereof) at the time such identification is re-
24 quired,

1 the provisions of subsection (a) shall apply to such
2 security or position, except that any loss under this
3 section prior to the disposition of the security or po-
4 sition shall be recognized only to the extent of gain
5 previously recognized under this section (and not
6 previously taken into account under this paragraph)
7 with respect to such security or position.

8 “(3) CHARACTER OF GAIN OR LOSS.—

9 “(A) IN GENERAL.—Except as provided in
10 subparagraph (B) or section 1236(b)—

11 “(i) IN GENERAL.—Any gain or loss
12 with respect to a security under subsection
13 (a)(2) shall be treated as ordinary income
14 or loss.

15 “(ii) SPECIAL RULE FOR DISPOSI-
16 TIONS.—If—

17 “(I) gain or loss is recognized
18 with respect to a security before the
19 close of the taxable year, and

20 “(II) subsection (a)(2) would
21 have applied if the security were held
22 as of the close of the taxable year,
23 such gain or loss shall be treated as ordi-
24 nary income or loss.

1 “(B) EXCEPTION.—Subparagraph (A)
2 shall not apply to any gain or loss which is allo-
3 cable to a period during which—

4 “(i) the security is described in sub-
5 section (b)(1)(C) (without regard to sub-
6 section (b)(2)),

7 “(ii) the security is held by a person
8 other than in connection with its activities
9 as a dealer in securities, or

10 “(iii) the security is improperly identi-
11 fied (within the meaning of subparagraph
12 (A) or (B) of paragraph (2)).

13 “(e) REGULATORY AUTHORITY.—The Secretary shall
14 prescribe such regulations as may be necessary or appro-
15 priate to carry out the purposes of this section, including
16 rules—

17 “(1) to prevent the use of year-end transfers,
18 related parties, or other arrangements to avoid the
19 provisions of this section, and

20 “(2) to provide for the application of this sec-
21 tion to any security which is a hedge which cannot
22 be identified with a specific security, position, right
23 to income, or liability.”

24 (b) CONFORMING AMENDMENTS.—

1 (1) Paragraph (1) of section 988(d) is amend-
2 ed—

3 (A) by striking “section 1256” and insert-
4 ing “section 475 or 1256”, and

5 (B) by striking “1092 and 1256” and in-
6 serting “475, 1092, and 1256”.

7 (2) The table of sections for subpart D of part
8 II of subchapter E of chapter 1 is amended by add-
9 ing at the end thereof the following new item:

“Sec. 475. Mark to market accounting method for dealers in secu-
rities.”

10 (c) EFFECTIVE DATE.—

11 (1) IN GENERAL.—The amendments made by
12 this section shall apply to all taxable years ending on
13 or after December 31, 1993.

14 (2) CHANGE IN METHOD OF ACCOUNTING.—In
15 the case of any taxpayer required by this section to
16 change its method of accounting for any taxable
17 year—

18 (A) such change shall be treated as initi-
19 ated by the taxpayer,

20 (B) such change shall be treated as made
21 with the consent of the Secretary, and

22 (C) except as provided in paragraph (3),
23 the net amount of the adjustments required to
24 be taken into account by the taxpayer under

1 section 481 of the Internal Revenue Code of
2 1986 shall be taken into account ratably over
3 the 5-taxable year period beginning with the
4 first taxable year ending on or after December
5 31, 1993.

6 (3) SPECIAL RULE FOR FLOOR SPECIALISTS
7 AND MARKET MAKERS.—

8 (A) IN GENERAL.—If—

9 (i) a taxpayer used the last-in first-
10 out (LIFO) method of accounting with re-
11 spect to any qualified securities for its last
12 taxable year ending before December 31,
13 1993, and

14 (ii) any portion of the net amount de-
15 scribed in paragraph (2)(C) is attributable
16 to the use of such method of accounting,
17 then paragraph (2)(C) shall be applied by tak-
18 ing such portion into account ratably over the
19 20-taxable year period beginning with the first
20 taxable year ending on or after December 31,
21 1993 (or, if shorter, the period of taxable years
22 equal to the greater of 5 years or the number
23 of taxable years before such first taxable year
24 for which the taxpayer (or any predecessor)
25 used such method of accounting).

1 (B) QUALIFIED SECURITY.—For purposes
2 of this paragraph, the term “qualified security”
3 means any security acquired—

4 (i) by a floor specialist (as defined in
5 section 1236(d)(2) of the Internal Revenue
6 Code of 1986) in connection with the spe-
7 cialist’s duties as a specialist on an ex-
8 change, but only if the security is one in
9 which the specialist is registered with the
10 exchange, or

11 (ii) by a taxpayer who is a market
12 maker in connection with the taxpayer’s
13 duties as a market maker, but only if—

14 (I) the security is included on the
15 National Association of Security Deal-
16 ers Automated Quotation System,

17 (II) the taxpayer is registered as
18 a market maker in such security with
19 the National Association of Security
20 Dealers, and

21 (III) as of the last day of the
22 taxable year preceding the taxpayer’s
23 first taxable year ending on or after
24 December 31, 1993, the taxpayer (or
25 any predecessor) has been actively

1 and regularly engaged as a market
2 maker in such security for the 2-year
3 period ending on such date (or, if
4 shorter, the period beginning 61 days
5 after the security was listed in such
6 quotation system and ending on such
7 date).

8 **SEC. 2204. CLARIFICATION OF TREATMENT OF CERTAIN**
9 **FSLIC FINANCIAL ASSISTANCE.**

10 (a) GENERAL RULE.—For purposes of chapter 1 of
11 the Internal Revenue Code of 1986—

12 (1) any FSLIC assistance with respect to any
13 loss of principal, capital, or similar amount upon the
14 disposition of any asset shall be taken into account
15 as compensation for such loss for purposes of section
16 165 of such Code, and

17 (2) any FSLIC assistance with respect to any
18 debt shall be taken into account for purposes of sec-
19 tion 166, 585, or 593 of such Code in determining
20 whether such debt is worthless (or the extent to
21 which such debt is worthless) and in determining the
22 amount of any addition to a reserve for bad debts
23 arising from the worthlessness or partial worthlessness
24 of such debts.

1 (b) FSLIC ASSISTANCE.—For purposes of this sec-
2 tion, the term “FSLIC assistance” means any assistance
3 (or right to assistance) with respect to a domestic building
4 and loan association (as defined in section 7701(a)(19) of
5 such Code without regard to subparagraph (C) thereof)
6 under section 406(f) of the National Housing Act or sec-
7 tion 21A of the Federal Home Loan Bank Act (or under
8 any similar provision of law).

9 (c) EFFECTIVE DATE.—

10 (1) IN GENERAL.—Except as otherwise pro-
11 vided in this subsection—

12 (A) The provisions of this section shall
13 apply to taxable years ending on or after March
14 4, 1991, but only with respect to FSLIC assist-
15 ance not credited before March 4, 1991.

16 (B) If any FSLIC assistance not credited
17 before March 4, 1991, is with respect to a loss
18 sustained or charge-off in a taxable year ending
19 before March 4, 1991, for purposes of deter-
20 mining the amount of any net operating loss
21 carryover to a taxable year ending on or after
22 March 4, 1991, the provisions of this section
23 shall apply to such assistance for purposes of
24 determining the amount of the net operating
25 loss for the taxable year in which such loss was

1 sustained or debt written off. Except as pro-
2 vided in the preceding sentence, this section
3 shall not apply to any FSLIC assistance with
4 respect to a loss sustained or charge-off in a
5 taxable year ending before March 4, 1991.

6 (2) EXCEPTIONS.—The provisions of this sec-
7 tion shall not apply to any assistance to which the
8 amendments made by section 1401(a)(3) of the Fi-
9 nancial Institutions Reform, Recovery, and Enforce-
10 ment Act of 1989 apply.

11 **SEC. 2205. EXTENSION OF CORPORATE ESTIMATED TAX**

12 **RULES.**

13 (a) GENERAL RULE.—Clause (i) of section
14 6655(d)(1)(B) (relating to amount of required install-
15 ment) is amended by striking “91 percent” each place it
16 appears and inserting “97 percent”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) Subsection (d) of section 6655 is amend-
19 ed—

20 (A) by striking paragraph (3), and

21 (B) by striking “91 PERCENT” in the para-
22 graph heading of paragraph (2) and inserting
23 “97 PERCENT”.

1 (2) Clause (ii) of section 6655(e)(2)(B) is
2 amended by striking the table contained therein and
3 inserting the following:

“In the case of the following re- quired installments:	The applicable percentage is:
1st	24.25
2nd	48.50
3rd	72.75
4th	97. ”

4 (3) Clause (i) of section 6655(e)(3)(A) is
5 amended by striking “91 percent” and inserting “97
6 percent”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 1993.

10 **SEC. 2206. LIMITATION ON SECTION 936 CREDIT.**

11 (a) GENERAL RULE.—Subsection (a) of section 936
12 (relating to Puerto Rico and possession tax credit) is
13 amended—

14 (1) by striking “as provided in paragraph (3)”
15 in paragraph (1) and inserting “as otherwise pro-
16 vided in this section”;

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

19 “(4) LIMITATIONS ON CREDIT.—

20 “(A) CREDIT FOR ACTIVE BUSINESS IN-
21 COME.—The amount of the credit determined
22 under paragraph (1)(A) for any taxable year

1 shall not exceed 60 percent of the aggregate
2 amount of the possession corporation's qualified
3 possession wages for such taxable year.

4 “(B) CREDIT FOR INVESTMENT INCOME.—

5 “(i) IN GENERAL.—If—

6 “(I) the QPSII assets of the pos-
7 session corporation for any taxable
8 year, exceed

9 “(II) 80 percent of such posses-
10 sion corporation's qualified tangible
11 business investment for such taxable
12 year,

13 the credit determined under paragraph
14 (1)(B) for such taxable year shall be re-
15 duced by the amount determined under
16 clause (ii).

17 “(ii) AMOUNT OF REDUCTION.—The
18 reduction determined under this clause for
19 any taxable year is an amount which bears
20 the same ratio to the credit determined
21 under paragraph (1)(B) for such taxable
22 year (determined without regard to this
23 subparagraph) as—

24 “(I) the excess determined under
25 clause (i), bears to

1 “(II) the QPSII assets of the
2 possession corporation for such tax-
3 able year.

4 “(C) CROSS REFERENCE.—

**“For definitions and special rules applicable to
this paragraph, see subsection (i).”**

5 (b) DEFINITIONS AND SPECIAL RULES.—Section 936
6 is amended by adding at the end thereof the following new
7 subsection:

8 “(i) DEFINITIONS AND SPECIAL RULES RELATING
9 TO LIMITATIONS OF SUBSECTION (a)(4).—

10 “(1) QUALIFIED POSSESSION WAGES.—For
11 purposes of this section—

12 “(A) IN GENERAL.—The term ‘qualified
13 possession wages’ means wages paid or incurred
14 by the possession corporation during the tax-
15 able year to any employee for services per-
16 formed in a possession of the United States,
17 but only if such services are performed while
18 the principal place of employment of such em-
19 ployee is within such possession.

20 “(B) LIMITATION ON AMOUNT OF WAGES
21 TAKEN INTO ACCOUNT.—

22 “(i) IN GENERAL.—The amount of
23 wages which may be taken into account
24 under subparagraph (A) with respect to

1 any employee for any taxable year shall
2 not exceed the contribution and benefit
3 base determined under section 230 of the
4 Social Security Act for the calendar year
5 in which such taxable year begins.

6 “(ii) TREATMENT OF PART-TIME EM-
7 PLOYEES, ETC.—If—

8 “(I) any employee is not em-
9 ployed by the possession corporation
10 on a substantially full-time basis at all
11 times during the taxable year, or

12 “(II) the principal place of em-
13 ployment of any employee with the
14 possession corporation is not within a
15 possession at all times during the tax-
16 able year,

17 the limitation applicable under clause (i)
18 with respect to such employee shall be the
19 appropriate portion (as determined by the
20 Secretary) of the limitation which would
21 otherwise be in effect under clause (i).

22 “(C) TREATMENT OF CERTAIN EMPLOY-
23 EES.—The term ‘qualified possession wages’
24 shall not include any wages paid to employees
25 who are assigned by the employer to perform

1 services for another person, unless the principal
2 trade or business of the employer is to make
3 employees available for temporary periods to
4 other persons in return for compensation. All
5 possession corporations treated as 1 corporation
6 under paragraph (4) shall be treated as 1 em-
7 ployer for purposes of the preceding sentence.

8 “(D) WAGES.—

9 “(i) IN GENERAL.—Except as pro-
10 vided in clause (ii), the term ‘wages’ has
11 the meaning given to such term by sub-
12 section (b) of section 3306 (determined
13 without regard to any dollar limitation
14 contained in such section). For purposes of
15 the preceding sentence, such subsection (b)
16 shall be applied as if the term ‘United
17 States’ included all possessions of the
18 United States.

19 “(ii) SPECIAL RULE FOR AGRICUL-
20 TURAL LABOR AND RAILWAY LABOR.—In
21 any case to which subparagraph (A) or (B)
22 of paragraph (1) of section 51(h) applies,
23 the term ‘wages’ has the meaning given to
24 such term by section 51(h)(2).

1 “(2) QPSII ASSETS.—For purposes of this sec-
2 tion—

3 “(A) IN GENERAL.—The QPSII assets of a
4 possession corporation for any taxable year is
5 the average of the amounts of the possession
6 corporation’s qualified investment assets as of
7 the close of each quarter of such taxable year.

8 “(B) QUALIFIED INVESTMENT ASSETS.—
9 The term ‘qualified investment assets’ means
10 the aggregate adjusted bases of the assets
11 which are held by the possession corporation
12 and the income from which qualifies as quali-
13 fied possession source investment income. For
14 purposes of the preceding sentence, the ad-
15 justed basis of any asset shall be its adjusted
16 basis as determined for purposes of computing
17 earnings and profits.

18 “(3) QUALIFIED TANGIBLE BUSINESS INVEST-
19 MENT.—For purposes of this section—

20 “(A) IN GENERAL.—The qualified tangible
21 business investment of any possession corpora-
22 tion for any taxable year is the average of the
23 amounts of the possession corporation’s quali-
24 fied possession investments as of the close of
25 each quarter of such taxable year.

1 “(B) QUALIFIED POSSESSION INVEST-
2 MENTS.—The term ‘qualified possession invest-
3 ments’ means the aggregate adjusted bases of
4 tangible property used by the possession cor-
5 poration in a possession of the United States in
6 the active conduct of a trade or business within
7 such possession. For purposes of the preceding
8 sentence, the adjusted basis of any property
9 shall be its adjusted basis as determined for
10 purposes of computing earnings and profits.

11 “(4) ELECTION TO COMPUTE CREDIT ON CON-
12 SOLIDATED BASIS.—

13 “(A) IN GENERAL.—Any affiliated group
14 may elect to treat all possession corporations
15 which would be members of such group but for
16 section 1504(b)(4) as 1 corporation for pur-
17 poses of this section. The credit determined
18 under this section with respect to such 1 cor-
19 poration shall be allocated among such posses-
20 sion corporations in such manner as the Sec-
21 retary may prescribe.

22 “(B) ELECTION.—An election under sub-
23 paragraph (A) shall apply to the taxable year
24 for which made and all succeeding taxable years

1 unless revoked with the consent of the Sec-
2 retary.

3 “(5) TREATMENT OF CERTAIN TAXES.—Not-
4 withstanding subsection (c), if—

5 “(A) the credit determined under sub-
6 section (a)(1) for any taxable year is limited
7 under subsection (a)(4), and

8 “(B) the possession corporation has paid
9 or accrued any taxes of a possession of the
10 United States for such taxable year which are
11 treated as not being income, war profits, or ex-
12 cess profits taxes paid or accrued to a posses-
13 sion of the United States by reason of sub-
14 section (c),

15 such possession corporation shall be allowed a de-
16 duction for such taxable year equal to the portion of
17 such taxes which are allocable (on a pro rata basis)
18 to taxable income of the possession corporation the
19 tax on which is not offset by reason of the limita-
20 tions of subsection (a)(4). In determining the credit
21 under subsection (a) and in applying the preceding
22 sentence, taxable income shall be determined without
23 regard to the preceding sentence.

24 “(6) POSSESSION CORPORATION.—The term
25 ‘possession corporation’ means a domestic corpora-

1 tion for which the election provided in subsection (a)
2 is in effect.

3 “(7) TRANSITIONAL RULE.—If any possession
4 corporation elects the benefits of this paragraph for
5 any taxable year beginning in 1994 or 1995—

6 “(A) subsection (a)(4) shall not apply to
7 such taxable year, and

8 “(B) the credit determined under sub-
9 section (a)(1) for such taxable year shall be the
10 following percentage of the credit which would
11 otherwise have been determined under such
12 subsection:

13 “(i) 80 percent in the case of a tax-
14 able year beginning in 1994.

15 “(ii) 60 percent in the case of a tax-
16 able year beginning in 1995.

17 A possession corporation which elects the bene-
18 fits of this paragraph shall be entitled to the
19 benefits of paragraph (5) for taxes allocable to
20 taxable income the tax on which is not offset by
21 reason of this paragraph.”

22 (c) MINIMUM TAX TREATMENT.—

23 (1) IN GENERAL.—Clause (ii) of section
24 56(g)(4)(C) (relating to treatment of special rule for
25 certain dividends) is amended by striking “sections

1 936 and 921” and inserting “sections 936 (including
2 subsection (a)(4) thereof) and 921”.

3 (2) TREATMENT OF FOREIGN TAXES.—Clause
4 (iii) of section 56(g)(4)(C) is amended by adding at
5 the end thereof the following subclauses:

6 “(IV) SEPARATE APPLICATION
7 OF FOREIGN TAX CREDIT LIMITA-
8 TIONS.—In determining the alter-
9 native minimum foreign tax credit,
10 section 904(d) shall be applied as if
11 dividends from a corporation eligible
12 for the credit provided by section 936
13 were a separate category of income re-
14 ferred to in a subparagraph of section
15 904(d)(1).

16 “(V) COORDINATION WITH LIM-
17 TATION ON 936 CREDIT.—Any ref-
18 erence in this clause to a dividend re-
19 ceived from a corporation eligible for
20 the credit provided by section 936
21 shall be treated as a reference to the
22 portion of any such dividend for which
23 the dividends received deduction is
24 disallowed under clause (i) after the
25 application of clause (ii)(I).”

1 (d) CONFORMING AMENDMENT.—Paragraph (4) of
2 section 904(b) is amended by inserting before the period
3 at the end thereof the following: “(without regard to sub-
4 section (a)(4) thereof)”.

5 (e) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years beginning after
7 December 31, 1993.

8 **SEC. 2207. MODIFICATION TO LIMITATION ON DEDUCTION**
9 **FOR CERTAIN INTEREST.**

10 (a) GENERAL RULE.—Paragraph (3) of section
11 163(j) (defining disqualified interest) is amended to read
12 as follows:

13 “(3) DISQUALIFIED INTEREST.—For purposes
14 of this subsection, the term ‘disqualified interest’
15 means—

16 “(A) any interest paid or accrued by the
17 taxpayer (directly or indirectly) to a related
18 person if no tax is imposed by this subtitle with
19 respect to such interest, and

20 “(B) any interest paid or accrued by the
21 taxpayer with respect to any indebtedness to a
22 person who is not a related person if—

23 “(i) there is a disqualified guarantee
24 of such indebtedness, and

1 “(ii) no gross basis tax is imposed by
2 this subtitle with respect to such interest.”

3 (b) DEFINITIONS.—Paragraph (6) of section 163(j)
4 is amended by adding at the end thereof the following new
5 subparagraphs:

6 “(D) DISQUALIFIED GUARANTEE.—

7 “(i) IN GENERAL.—Except as pro-
8 vided in clause (ii), the term ‘disqualified
9 guarantee’ means any guarantee by a re-
10 lated person which is—

11 “(I) an organization exempt from
12 taxation under this subtitle, or

13 “(II) a foreign person.

14 “(ii) EXCEPTIONS.—The term ‘dis-
15 qualified guarantee’ shall not include a
16 guarantee—

17 “(I) in any circumstances identi-
18 fied by the Secretary by regulation,
19 where the interest on the indebtedness
20 would have been subject to a net basis
21 tax if the interest had been paid to
22 the guarantor, or

23 “(II) if the taxpayer owns a con-
24 trolling interest in the guarantor.

1 For purposes of subclause (II), except as
2 provided in regulations, the term ‘a con-
3 trolling interest’ means direct or indirect
4 ownership of at least 80 percent of the
5 total voting power and value of all classes
6 of stock of a corporation, or 80 percent of
7 the profit and capital interests in any other
8 entity. For purposes of the preceding sen-
9 tence, the rules of paragraphs (1) and (5)
10 of section 267(c) shall apply; except that
11 such rules shall also apply to interest in
12 entities other than corporations.

13 “(iii) GUARANTEE.—Except as pro-
14 vided in regulations, the term ‘guarantee’
15 includes any arrangement under which a
16 person (directly or indirectly through an
17 entity or otherwise) assures, on a condi-
18 tional or unconditional basis, the payment
19 of another person’s obligation under any
20 indebtedness.

21 “(E) GROSS BASIS AND NET BASIS TAX-
22 ATION.—

23 “(i) GROSS BASIS TAX.—The term
24 ‘gross basis tax’ means any tax imposed by
25 this subtitle which is determined by ref-

1 erence to the gross amount of any item of
2 income without any reduction for any de-
3 duction allowed by this subtitle.

4 “(ii) NET BASIS TAX.—The term ‘net
5 basis tax’ means any tax imposed by this
6 subtitle which is a not a gross basis tax.”

7 (c) CONFORMING AMENDMENT.—Subparagraph (B)
8 of section 163(j)(5) is amended by striking “to a related
9 person”.

10 (d) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to interest paid or accrued in tax-
12 able years beginning after December 31, 1993.

13 **Subtitle C—Foreign Tax Provisions**

14 **PART I—CURRENT TAXATION OF CERTAIN EARN-** 15 **INGS OF CONTROLLED FOREIGN CORPORA-** 16 **TIONS**

17 **SEC. 2301. EARNINGS INVESTED IN EXCESS PASSIVE AS-** 18 **SETS.**

19 (a) GENERAL RULE.—Paragraph (1) of section
20 951(a) (relating to amounts included in gross income of
21 United States shareholders) is amended by striking “and”
22 at the end of subparagraph (A), by striking the period
23 at the end of subparagraph (B) and inserting “; and”,
24 and by adding at the end thereof the following new sub-
25 paragraph:

1 poration, but only to the extent attributable to
2 the acquired interest and subject to such proof
3 of the identity of such interest as the Secretary
4 may require), or

5 “(2) such shareholder’s pro rata share of the
6 applicable earnings of such controlled foreign cor-
7 poration determined after the application of section
8 951(a)(1)(B).

9 “(b) ADJUSTMENT FOR CERTAIN DISTRIBUTIONS OF
10 PREVIOUSLY TAXED INCOME.—The amount determined
11 under subsection (a)(1)(B) shall be reduced by the amount
12 of any distribution excluded from gross income under sec-
13 tion 959 and treated as a distribution out of earnings and
14 profits referred to in section 959(c)(1)(B).

15 “(c) APPLICABLE EARNINGS.—For purposes of this
16 section, the term ‘applicable earnings’ means, with respect
17 to any controlled foreign corporation, the amounts re-
18 ferred to in sections 316(a)(1) and 316(a)(2) (but reduced
19 by distributions made during the taxable year), reduced
20 by any portion of such amounts which, if distributed,
21 would not be treated as a dividend by reason of section
22 955 and further reduced by the earnings and profits de-
23 scribed in section 959(c)(1).

24 “(d) EXCESS PASSIVE ASSETS.—For purposes of this
25 section—

1 “(1) IN GENERAL.—The excess passive assets
2 of any controlled foreign corporation for any taxable
3 year is the excess (if any) of—

4 “(A) the average of the amounts of passive
5 assets held by such corporation as of the close
6 of each quarter of such taxable year, over

7 “(B) 25 percent of the average of the
8 amounts of total assets held by such corpora-
9 tion as of the close of each quarter of such tax-
10 able year.

11 For purposes of the preceding sentence, the amount
12 taken into account with respect to any asset shall be
13 its adjusted basis as determined for purposes of
14 computing earnings and profits.

15 “(2) PASSIVE ASSET.—

16 “(A) IN GENERAL.—Except as otherwise
17 provided in this section, the term ‘passive asset’
18 means any asset held by the controlled foreign
19 corporation which produces passive income (as
20 defined in section 1296(b)) or is held for the
21 production of such income.

22 “(B) COORDINATION WITH SECTION 956.—

23 The term ‘passive asset’ shall not include any
24 United States property (as defined in section
25 956).

1 “(3) LOOK-THRU RULES MADE APPLICABLE.—
2 For purposes of this subsection, the rules of section
3 1296(c) shall apply.

4 “(4) LEASING RULES MADE APPLICABLE.—For
5 purposes of this subsection, the rules of section
6 1297(d) shall apply.

7 “(e) SPECIAL RULE WHERE CORPORATION CEASES
8 TO BE CONTROLLED FOREIGN CORPORATION DURING
9 TAXABLE YEAR.—If any foreign corporation ceases to be
10 a controlled foreign corporation during any taxable year—

11 “(1) the determination of any United States
12 shareholder’s pro rata share shall be made on the
13 basis of stock owned (within the meaning of section
14 958(a)) by such shareholder on the last day during
15 the taxable year on which the foreign corporation is
16 a controlled foreign corporation, and

17 “(2) the amount of such corporation’s excess
18 passive assets for such taxable year shall be deter-
19 mined by only taking into account quarters ending
20 on or before such last day, and

21 “(3) in determining applicable earnings, the
22 amount taken into account by reason of being de-
23 scribed in paragraph (2) of section 316(a) shall be
24 the portion of the amount so described which is allo-
25 cable (on a pro rata basis) to the part of such year

1 during which the corporation is a controlled foreign
 2 corporation.

3 “(f) TRANSITION RULE.—In the case of any taxable
 4 year of a controlled foreign corporation beginning after
 5 September 30, 1993, and before October 1, 1997, the
 6 amount determined under subsection (a) shall be the ap-
 7 plicable percentage (determined under the following table)
 8 of the amount which would otherwise be determined under
 9 such subsection:

“In the case of a taxable year beginning during the 1-year period beginning on:	The applicable percentage is:
October 1, 1993	20
October 1, 1994	25
October 1, 1995	35
October 1, 1996	50.

10 “(h) REGULATIONS.—The Secretary shall prescribe
 11 such regulations as may be necessary to carry out the pur-
 12 poses of this section, including regulations to prevent the
 13 avoidance of the provisions of this section through reorga-
 14 nizations or otherwise.”.

15 (c) PREVIOUSLY TAXED INCOME RULES.—

16 (1) IN GENERAL.—Subsection (a) of section
 17 959 (relating to exclusion from gross income of pre-
 18 viously taxed earnings and profits) is amended by
 19 striking “or” at the end of paragraph (1), by adding
 20 “or” at the end of paragraph (2), and by inserting
 21 after paragraph (2) the following new paragraph:

1 “(3) such amounts would, but for this sub-
2 section, be included under section 951(a)(1)(C) in
3 the gross income of,”.

4 (2) ALLOCATION RULES.—

5 (A) Subsection (a) of section 959 is
6 amended by adding at the end thereof the fol-
7 lowing new sentence: “The rules of subsection
8 (c) shall apply for purposes of paragraph (1) of
9 this subsection and the rules of subsection (f)
10 shall apply for purposes of paragraphs (2) and
11 (3) of this subsection.”.

12 (B) Section 959 is amended by adding at
13 the end thereof the following new subsection:

14 “(f) ALLOCATION RULES FOR CERTAIN INCLU-
15 SIONS.—For purposes of this section, amounts that would
16 be included under subparagraph (B) or (C) of section
17 951(a)(1) (determined without regard to this section) shall
18 be treated as attributable first to earnings described in
19 subsection (c)(2), and then to earnings described in sub-
20 section (c)(3).”

21 (C) Paragraph (1) of section 959(c) is
22 amended to read as follows:

23 “(1) first to the aggregate of—

24 “(A) earnings and profits attributable to
25 amounts included in gross income under section

1 951(a)(1)(B) (or which would have been in-
2 cluded except for subsection (a)(2) of this sec-
3 tion), and

4 “(B) earnings and profits attributable to
5 amounts included in gross income under section
6 951(a)(1)(C) (or which would have been in-
7 cluded except for subsection (a)(3) of this sec-
8 tion),

9 with any distribution being allocated between earn-
10 ings and profits described in subparagraph (A) and
11 earnings and profits described in subparagraph (B)
12 proportionately on the basis of the respective
13 amounts of such earnings and profits.”.

14 (3) CONFORMING AMENDMENTS.—

15 (A) Subsections (a) and (b) of section 959
16 are each amended by striking “earnings and
17 profits for a taxable year” and inserting “earn-
18 ings and profits”.

19 (B) Paragraph (2) of section 959(c) is
20 amended to read as follows:

21 “(2) then to earnings and profits attributable to
22 amounts included in gross income under section
23 951(a)(1)(A) (but reduced by amounts not included
24 under subparagraph (B) or (C) of section 951(a)(1)

1 because of the exclusions in paragraphs (2) and (3)
2 of subsection (a) of this section), and”

3 (d) MODIFICATIONS TO PASSIVE FOREIGN INVEST-
4 MENT COMPANY RULES.—

5 (1) ADJUSTED BASIS USED IN CERTAIN DETER-
6 MINATIONS.—Subsection (a) of section 1296 is
7 amended by striking the material following para-
8 graph (2) and inserting the following:

9 “In the case of a controlled foreign corporation (or any
10 other foreign corporation if such corporation so elects), the
11 determination under paragraph (2) shall be based on the
12 adjusted bases (as determined for purposes of computing
13 earnings and profits) of its assets in lieu of their value.
14 Such an election, once made, may be revoked only with
15 the consent of the Secretary.”

16 (2) TREATMENT OF CERTAIN SUBPART F IN-
17 CLUSIONS.—Subsection (b) of section 1297 is
18 amended by adding at the end thereof the following
19 new paragraph:

20 “(9) TREATMENT OF CERTAIN SUBPART F IN-
21 CLUSIONS.—The term ‘distribution’ includes any
22 amount included in gross income under subpara-
23 graph (B) or (C) of section 951(a)(1).”

24 (3) TREATMENT OF CERTAIN DEALERS IN SE-
25 CURITIES.—Subsection (b) of section 1296 is

1 amended by adding at the end thereof the following
2 new paragraph:

3 “(3) TREATMENT OF CERTAIN DEALERS IN SE-
4 CURITIES.—In the case of any foreign corporation
5 which is a controlled foreign corporation (as defined
6 in section 957(a)), the term ‘passive income’ does
7 not include any income derived in the active conduct
8 of a securities business by such corporation if such
9 corporation is registered as a securities broker or
10 dealer under section 15(a) of the Securities Ex-
11 change Act of 1934 or is registered as a Government
12 securities broker or dealer under section 15C(a) of
13 such Act. To the extent provided in regulations, such
14 term shall not include any income derived in the ac-
15 tive conduct of a securities business by a controlled
16 foreign corporation which is not so registered. The
17 preceding provisions of this paragraph shall only
18 apply in the case of persons who are United States
19 shareholders (as defined in section 951(b)) in the
20 controlled foreign corporation.”

21 (4) LEASING RULES.—Section 1297 is amended
22 by redesignating subsection (d) as subsection (e) and
23 by inserting after subsection (c) the following new
24 subsection:

1 “(d) TREATMENT OF CERTAIN LEASED PROP-
2 ERTY.—For purposes of this part—

3 “(1) IN GENERAL.—Any tangible personal
4 property with respect to which a foreign corporation
5 is the lessee under a lease with a term of at least
6 12 months shall be treated as an asset actually held
7 by such corporation.

8 “(2) DETERMINATION OF ADJUSTED BASIS.—

9 “(A) IN GENERAL.—The adjusted basis of
10 any asset to which paragraph (1) applies shall
11 be the unamortized portion (as determined
12 under regulations prescribed by the Secretary)
13 of the present value of the payments under the
14 lease for the use of such property.

15 “(B) PRESENT VALUE.—For purposes of
16 subparagraph (A), the present value of pay-
17 ments described in subparagraph (A) shall be
18 determined in the manner provided in regula-
19 tions prescribed by the Secretary—

20 “(i) as of the beginning of the lease
21 term, and

22 “(ii) except as provided in such regu-
23 lations, by using a discount rate equal to
24 the applicable Federal rate determined
25 under section 1274(d)—

1 (1) by redesignating subsections (b) and (c) as
2 subsections (c) and (d), respectively, and

3 (2) by striking subsection (a) and inserting the
4 following:

5 “(a) GENERAL RULE.—In the case of any controlled
6 foreign corporation, the amount determined under this
7 section with respect to any United States shareholder for
8 any taxable year is the lesser of—

9 “(1) the excess (if any) of—

10 “(A) such shareholder’s pro rata share of
11 the average of the amounts of United States
12 property held (directly or indirectly) by the con-
13 trolled foreign corporation as of the close of
14 each quarter of such taxable year, over

15 “(B) the aggregate amount previously in-
16 cluded under section 951(a)(1)(B) (or which
17 would have been included but for section
18 959(a)(2)) in the gross income of such share-
19 holder (or of any other United States person
20 from whom such shareholder acquired any por-
21 tion of his interest in the controlled foreign cor-
22 poration, but only to the extent attributable to
23 the acquired interest and subject to such proof
24 of the identity of such interest as the Secretary
25 may require), or

1 “(2) such shareholder’s pro rata share of the
2 applicable earnings of such controlled foreign cor-
3 poration.

4 The amount taken into account under paragraph (1) with
5 respect to any property shall be its adjusted basis as deter-
6 mined for purposes of computing earnings and profits, re-
7 duced by any liability to which the property is subject.

8 “(b) ADJUSTMENTS FOR CERTAIN DISTRIBUTIONS;
9 OTHER SPECIAL RULES.—

10 “(1) ADJUSTMENT FOR CERTAIN DISTRIBUTIONS
11 OF PREVIOUSLY TAXED INCOME.—The
12 amount determined under subsection (a)(1)(B) shall
13 be reduced by the amount of any distribution ex-
14 cluded from gross income under section 959 and
15 treated as a distribution out of earnings and profits
16 described in section 959(c)(1)(A).

17 “(2) APPLICABLE EARNINGS.—For purposes of
18 this section, the term ‘applicable earnings’ has the
19 meaning given to such term by section 956A(c).

20 “(3) SPECIAL RULE WHERE CORPORATION
21 CEASES TO BE CONTROLLED FOREIGN CORPORA-
22 TION.—Rules similar to the rules of section 956A(e)
23 shall apply for purposes of this section.

24 (b) CONFORMING AMENDMENTS.—

1 (1) Subparagraph (B) of section 951(a)(1) is
2 amended to read as follows:

3 “(B) the amount determined under section
4 956 with respect to such shareholder for such
5 year (but only to the extent not excluded from
6 gross income under section 959(a)(2)); and”

7 (2) Subsection (a) of section 951 is amended by
8 striking paragraph (4).

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years of controlled for-
11 eign corporations beginning after September 30, 1993,
12 and to taxable years of United States shareholders in
13 which or with which such taxable years of controlled for-
14 eign corporations end.

15 **SEC. 2303. OTHER MODIFICATIONS TO SUBPART F.**

16 (a) SAME COUNTRY EXCEPTION NOT TO APPLY TO
17 CERTAIN DIVIDENDS.—

18 (1) IN GENERAL.—Paragraph (3) of section
19 954(c) (relating to certain income received from re-
20 lated persons) is amended by adding at the end
21 thereof the following new subparagraph:

22 “(C) EXCEPTION FOR CERTAIN DIVI-
23 DENDS.—Subparagraph (A)(i) shall not apply
24 to any dividend with respect to any stock which
25 is attributable to earnings and profits of the

1 distributing corporation accumulated during
2 any period during which the person receiving
3 such dividend did not hold such stock.”

4 (2) EFFECTIVE DATE.—The amendment made
5 by paragraph (1) shall apply to taxable years of con-
6 trolled foreign corporations beginning after Septem-
7 ber 30, 1993, and to taxable years of United States
8 shareholders in which or with which such taxable
9 years of controlled foreign corporations end.

10 (b) SIMPLIFICATION OF SECTION 960(b).—

11 (1) IN GENERAL.—Subsection (b) of section
12 960 is amended—

13 (A) by redesignating paragraphs (3) and
14 (4) as paragraphs (4) and (5), respectively, and

15 (B) by striking paragraphs (1) and (2) and
16 inserting the following new paragraphs:

17 “(1) INCREASE IN SECTION 904 LIMITATION.—

18 In the case of any taxpayer who—

19 “(A) either (i) chose to have the benefits
20 of subpart A of this part for a taxable year be-
21 ginning after September 30, 1993, in which he
22 was required under section 951(a) to include
23 any amount in his gross income, or (ii) did not
24 pay or accrue for such taxable year any income,
25 war profits, or excess profits taxes to any for-

1 eign country or to any possession of the United
2 States,

3 “(B) chooses to have the benefits of sub-
4 part A of this part for any taxable year in
5 which he receives 1 or more distributions or
6 amounts which are excludable from gross in-
7 come under section 959(a) and which are at-
8 tributable to amounts included in his gross in-
9 come for taxable years referred to in subpara-
10 graph (A), and

11 “(C) for the taxable year in which such
12 distributions or amounts are received, pays, or
13 is deemed to have paid, or accrues income, war
14 profits, or excess profits taxes to a foreign
15 country or to any possession of the United
16 States with respect to such distributions or
17 amounts,

18 the limitation under section 904 for the taxable year
19 in which such distributions or amounts are received
20 shall be increased by the lesser of the amount of
21 such taxes paid, or deemed paid, or accrued with re-
22 spect to such distributions or amounts or the
23 amount in the excess limitation account as of the be-
24 ginning of such taxable year.

25 “(2) EXCESS LIMITATION ACCOUNT.—

1 “(A) ESTABLISHMENT OF ACCOUNT.—
2 Each taxpayer meeting the requirements of
3 paragraph (1)(A) shall establish an excess limi-
4 tation account. The opening balance of such ac-
5 count shall be zero.

6 “(B) INCREASES IN ACCOUNT.—For each
7 taxable year beginning after September 30,
8 1993, the taxpayer shall increase the amount in
9 the excess limitation account by the excess (if
10 any) of—

11 “(i) the amount by which the limita-
12 tion under section 904(a) for such taxable
13 year was increased by reason of the total
14 amount of the inclusions in gross income
15 under section 951(a) for such taxable year,
16 over

17 “(ii) the amount of any income, war
18 profits, and excess profits taxes paid, or
19 deemed paid, or accrued to any foreign
20 country or possession of the United States
21 which were allowable as a credit under sec-
22 tion 901 for such taxable year and which
23 would not have been allowable but for the
24 inclusions in gross income described in
25 clause (i).

1 Proper reductions in the amount added to the
2 account under the preceding sentence for any
3 taxable year shall be made for any increase in
4 the credit allowable under section 901 for such
5 taxable year by reason of a carryback if such
6 increase would not have been allowable but for
7 the inclusions in gross income described in
8 clause (i).

9 “(C) DECREASES IN ACCOUNT.—For each
10 taxable year beginning after September 30,
11 1993, for which the limitation under section
12 904 was increased under paragraph (1), the
13 taxpayer shall reduce the amount in the excess
14 limitation account by the amount of such in-
15 crease.

16 “(3) DISTRIBUTIONS OF INCOME PREVIOUSLY
17 TAXED IN YEARS BEGINNING BEFORE OCTOBER 1,
18 1993.—If the taxpayer receives a distribution or
19 amount in a taxable year beginning after September
20 30, 1993, which is excluded from gross income
21 under section 959(a) and is attributable to any
22 amount included in gross income under section
23 951(a) for a taxable year beginning before October
24 1, 1993, the limitation under section 904 for the
25 taxable year in which such amount or distribution is

1 received shall be increased by the amount deter-
2 mined under this subsection as in effect on the day
3 before the date of the enactment of the Revenue
4 Reconciliation Act of 1993.”

5 (2) EFFECTIVE DATE.—The amendment made
6 by paragraph (1) shall apply to taxable years begin-
7 ning after September 30, 1993.

8 **PART II—ALLOCATION OF RESEARCH AND EX-**
9 **PERIMENTAL EXPENDITURES; TREATMENT**
10 **OF CERTAIN ROYALTIES**

11 **SEC. 2311. ALLOCATION OF RESEARCH AND EXPERI-**
12 **MENTAL EXPENDITURES.**

13 (a) GENERAL RULE.—Paragraph (1) of section
14 864(f) (relating to allocation of research and experimental
15 expenditures) is amended by striking subparagraphs (B)
16 and (C) and inserting the following:

17 “(B) In the case of any qualified research
18 and experimental expenditures (not allocated
19 under subparagraph (A))—

20 “(i) to the extent such expenditures
21 are attributable to activities conducted in
22 the United States, 100 percent of such ex-
23 penditures shall be allocated and appor-
24 tioned to income from sources within the
25 United States and deducted from such in-

1 come in determining the amount of taxable
2 income from sources within the United
3 States, and

4 “(ii) to the extent such expenditures
5 are attributable to activities conducted out-
6 side the United States, such expenditures
7 shall be allocated and apportioned on the
8 basis of gross sales.”

9 (b) CONFORMING AMENDMENTS.—

10 (1) Subsection (f) of section 864 is amended by
11 striking paragraph (5) and inserting the following:

12 “(5) REGULATIONS.—The Secretary shall pre-
13 scribe such regulations as may be appropriate to
14 carry out the purposes of this subsection, including
15 regulations relating to the determination of whether
16 any expenses are attributable to activities conducted
17 in the United States or outside the United States
18 and regulations providing such adjustments to the
19 provisions of this subsection as may be appropriate
20 in the case of cost-sharing arrangements and con-
21 tract research.”

22 (2) Subparagraph (D) of section 864(f)(4) is
23 amended by striking “subparagraph (C)” and insert-
24 ing “subparagraph (B) or (C)”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 1993.

4 **SEC. 2312. ROYALTIES TREATED AS PASSIVE INCOME FOR**
5 **PURPOSES OF SEPARATE APPLICATION OF**
6 **FOREIGN TAX CREDIT.**

7 (a) GENERAL RULE.—Subparagraph (A) of section
8 904(d)(2) (defining passive income) is amended by redес-
9 ignating clauses (iii) and (iv) as clauses (iv) and (v), re-
10 spectively, and by inserting after clause (ii) the following
11 new clause:

12 “(iii) INCLUSION OF ROYALTIES.—Ex-
13 cept as provided in clause (iv), the term
14 ‘passive income’ includes—

15 “(I) any royalty in respect of any
16 intangible property described in sec-
17 tion 936(h)(3)(B) (whether or not the
18 requirements of paragraph (2)(A) or
19 (3)(A)(ii) of section 954(c) are met),
20 and

21 “(II) any other payment for the
22 use of, or for the right or privilege to
23 use, any intangible property so de-
24 scribed and any payment made in con-
25 sideration of a sale or other disposi-

1 tion of any such intangible property to
2 the extent that such payment is con-
3 tingent on the productivity, use, or
4 disposition of such property.”

5 (b) DETERMINATION OF WHETHER ROYALTIES ARE
6 HIGH-TAXED INCOME.—Subparagraph (F) of section
7 904(d)(2) is amended by adding at the end thereof the
8 following new sentence: “For purposes of this subpara-
9 graph, all items of income described in clause (iii) of sub-
10 paragraph (A) shall be treated as 1 item of income.”.

11 (c) LOOK-THRU RULES NOT APPLICABLE TO CER-
12 TAIN ROYALTIES.—Paragraph (3) of section 904(d) is
13 amended by adding at the end thereof the following new
14 subparagraph:

15 “(J) LOOK-THRU RULES NOT APPLICABLE
16 TO CERTAIN ROYALTIES.—For purposes of this
17 paragraph, the term ‘royalty’ shall not include
18 any royalty in respect of intangible property de-
19 scribed in section 936(h)(3)(B).”

20 (d) CONFORMING AMENDMENTS.—

21 (1) Clause (ii) of section 904(d)(2)(A) is
22 amended by striking “clause (iii)” and inserting
23 “clause (iv)”.

1 (2) Subclause (II) of section 904(d)(2)(C)(i) is
2 amended by striking “subparagraph (A)(iii)” and in-
3 serting “subparagraph (A)(iv)”.

4 (3) Subclause (I) of section 904(d)(3)(F)(ii) is
5 amended by striking “paragraph (2)(A)(iii)” and in-
6 serting “paragraph (2)(A)(iv)”.

7 (e) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 1993.

10 **PART III—OTHER PROVISIONS**

11 **SEC. 2321. REPEAL OF CERTAIN EXCEPTIONS FOR WORK-** 12 **ING CAPITAL.**

13 (a) PROVISIONS RELATING TO OIL AND GAS IN-
14 COME.—

15 (1) AMENDMENTS TO SECTION 907.—

16 (A) Paragraph (1) of section 907(c) is
17 amended by adding at the end thereof the fol-
18 lowing new flush sentence:

19 “Such term does not include any dividend or interest in-
20 come which is passive income (as defined in section
21 904(d)(2)(A)).”.

22 (B) Paragraph (2) of section 907(c) is
23 amended by adding at the end thereof the fol-
24 lowing new flush sentence:

1 “Such term does not include any dividend or interest in-
2 come which is passive income (as defined in section
3 904(d)(2)(A)).”.

4 (2) SEPARATE APPLICATION OF FOREIGN TAX
5 CREDIT.—Clause (iii) of section 904(d)(2)(A) is
6 amended by inserting “and” at the end of subclause
7 (II), by striking “, and” at the end of subclause
8 (III) and inserting a period, and by striking
9 subclause (IV).

10 (3) TREATMENT UNDER SUBPART F.—

11 (A) Paragraph (1) of section 954(g) is
12 amended by adding at the end thereof the fol-
13 lowing new flush sentence:

14 “Such term shall not include any foreign personal holding
15 company income (as defined in subsection (c)).”.

16 (B) Paragraph (8) of section 954(b) is
17 amended by striking “(1),”.

18 (b) TREATMENT OF SHIPPING INCOME.—Subsection
19 (f) of section 954 is amended by adding at the end thereof
20 the following new sentence: “Such term shall not include
21 any dividend or interest income which is foreign personal
22 holding company income (as defined in subsection (c)).”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 1992.

1 **SEC. 2322. MODIFICATIONS OF ACCURACY-RELATED PEN-**
2 **ALTY.**

3 (a) **THRESHOLD REQUIREMENT.**—Clause (ii) of sec-
4 tion 6662(e)(1)(B) (relating to substantial valuation
5 misstatement under chapter 1) is amended to read as fol-
6 lows:

7 “(ii) the net section 482 transfer price
8 adjustment for the taxable year exceeds
9 the lesser of \$5,000,000 or 10 percent of
10 the taxpayer’s gross receipts.”

11 (b) **CERTAIN ADJUSTMENTS EXCLUDED IN DETER-**
12 **MINING THRESHOLD.**—Subparagraph (B) of section
13 6662(e)(3) is amended to read as follows:

14 “(B) **CERTAIN ADJUSTMENTS EXCLUDED**
15 **IN DETERMINING THRESHOLD.**—For purposes
16 of determining whether the threshold require-
17 ments of paragraph (1)(B)(ii) are met, the fol-
18 lowing shall be excluded:

19 “(i) Any portion of the net increase in
20 taxable income referred to in subparagraph
21 (A) which is attributable to any redeter-
22 mination of a price if—

23 “(I) it is established that the tax-
24 payer determined such price in ac-
25 cordance with a specific pricing meth-
26 od set forth in the regulations pre-

1 scribed under section 482 and that
2 the taxpayer's use of such method was
3 reasonable,

4 “(II) the taxpayer has docu-
5 mentation (which was in existence as
6 of the time of filing the return) which
7 sets forth the determination of such
8 price in accordance with such a meth-
9 od and which establishes that the use
10 of such method was reasonable, and

11 “(III) the taxpayer provides such
12 documentation to the Secretary within
13 30 days of a request for such docu-
14 mentation.

15 “(ii) Any portion of the net increase
16 in taxable income referred to in subpara-
17 graph (A) which is attributable to a rede-
18 termination of price where such price was
19 not determined in accordance with such a
20 specific pricing method if—

21 “(I) the taxpayer establishes that
22 none of such pricing methods was
23 likely to result in a price that would
24 clearly reflect income, the taxpayer
25 used another pricing method to deter-

1 mine such price, and such other pric-
2 ing method was likely to result in a
3 price that would clearly reflect in-
4 come,

5 “(II) the taxpayer has docu-
6 mentation (which was in existence as
7 of the time of filing the return) which
8 sets forth the determination of such
9 price in accordance with such other
10 method and which establishes that the
11 requirements of subclause (I) were
12 satisfied, and

13 “(III) the taxpayer provides such
14 documentation to the Secretary within
15 30 days of request for such docu-
16 mentation.

17 “(iii) Any portion of such net increase
18 which is attributable to any transaction
19 solely between foreign corporations unless,
20 in the case of any such corporations, the
21 treatment of such transaction affects the
22 determination of income from sources with-
23 in the United States or taxable income ef-
24 fectively connected with the conduct of a

1 trade or business within the United
2 States.”

3 (b) COORDINATION WITH REASONABLE CAUSE EX-
4 CEPTION.—Paragraph (3) of section 6662(e) is amended
5 by adding at the end thereof the following new subpara-
6 graph:

7 “(D) COORDINATION WITH REASONABLE
8 CAUSE EXCEPTION.—For purposes of section
9 6664(c) the taxpayer shall not be treated as
10 having reasonable cause for any portion of an
11 underpayment attributable to a net section 482
12 transfer price adjustment unless such taxpayer
13 meets the requirements of clause (i), (ii), or (iii)
14 of subparagraph (B) with respect to such por-
15 tion.”

16 (c) CONFORMING AMENDMENT.—Clause (iii) of sec-
17 tion 6662(h)(2)(A) is amended to read as follows:

18 “(iii) in paragraph (1)(B)(ii)—
19 “(I) ‘\$20,000,000’ for
20 ‘\$5,000,000’, and
21 “(II) ‘20 percent’ for ‘10 per-
22 cent’.”

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 1993.

1 **SEC. 2323. DENIAL OF PORTFOLIO INTEREST EXEMPTION**
2 **FOR CONTINGENT INTEREST.**

3 (a) GENERAL RULE.—

4 (1) Subsection (h) of section 871 (relating to
5 repeal of tax on interest of nonresident alien individ-
6 uals received from certain portfolio debt invest-
7 ments) is amended by redesignating paragraphs (4),
8 (5), and (6) as paragraphs (5), (6), and (7), respec-
9 tively, and by inserting after paragraph (3) the fol-
10 lowing new paragraph:

11 “(4) PORTFOLIO INTEREST NOT TO INCLUDE
12 CERTAIN CONTINGENT INTEREST.—For purposes of
13 this subsection—

14 “(A) IN GENERAL.—Except as otherwise
15 provided in this paragraph, the term ‘portfolio
16 interest’ shall not include—

17 “(i) any interest if the amount of such
18 interest is determined by reference to—

19 “(I) any receipts, sales or other
20 cash flow of the debtor or a related
21 person,

22 “(II) any income or profits of the
23 debtor or a related person,

24 “(III) any change in value of any
25 property of the debtor or a related
26 person, or

1 “(IV) any dividend, partnership
2 distributions, or similar payments
3 made by the debtor or a related per-
4 son, or

5 “(ii) any other type of contingent in-
6 terest that is identified by the Secretary by
7 regulation, where a denial of the portfolio
8 interest exemption is necessary or appro-
9 priate to prevent avoidance of Federal in-
10 come tax.

11 “(B) RELATED PERSON.—The term ‘relat-
12 ed person’ means any person who is related to
13 the debtor within the meaning of section 267(b)
14 or 707(b)(1), or who is a party to any arrange-
15 ment undertaken for a purpose of avoiding the
16 application of this paragraph.

17 “(C) EXCEPTIONS.—Subparagraph (A)(i)
18 shall not apply to—

19 “(i) any amount of interest solely by
20 reason of the fact that the timing of any
21 interest or principal payment is subject to
22 a contingency,

23 “(ii) any amount of interest solely by
24 reason of the fact that the interest is paid

1 with respect to nonrecourse or limited re-
2 course indebtedness,

3 “(iii) any amount of interest all or
4 substantially all of which is determined by
5 reference to any other amount of interest
6 not described in subparagraph (A) (or by
7 reference to the principal amount of in-
8 debtedness on which such other interest is
9 paid),

10 “(iv) any amount of interest solely by
11 reason of the fact that the debtor or a re-
12 lated person enters into a hedging trans-
13 action to reduce the risk of interest rate or
14 currency fluctuations with respect to such
15 interest,

16 “(v) any amount of interest deter-
17 mined by reference to—

18 “(I) changes in the value of prop-
19 erty (including stock) that is actively
20 traded (within the meaning of section
21 1092(d)) other than property de-
22 scribed in section 897(c)(1) or (g),

23 “(II) the yield on property de-
24 scribed in subclause (I), other than a
25 debt instrument that pays interest de-

1 scribed in subparagraph (A), or stock
2 or other property that represents a
3 beneficial interest in the debtor or a
4 related person, or

5 “(III) changes in any index of
6 the value of, or yield on, property de-
7 scribed in subclause (I), and

8 “(vi) any other type of interest identi-
9 fied by the Secretary by regulation.

10 “(D) EXCEPTION FOR CERTAIN EXISTING
11 INDEBTEDNESS.—Subparagraph (A) shall not
12 apply to any interest paid or accrued with re-
13 spect to any indebtedness with a fixed term—

14 “(i) which was issued on or before
15 April 7, 1993, or

16 “(ii) which was issued after such date
17 pursuant to a written binding contract in
18 effect on such date and at all times there-
19 after before such indebtedness was issued.”

20 (2) Subsection (c) of section 881 is amended by
21 redesignating paragraphs (4), (5), and (6) as para-
22 graphs (5), (6), and (7), respectively, and by insert-
23 ing after paragraph (3) the following new para-
24 graph:

1 “(4) PORTFOLIO INTEREST NOT TO INCLUDE
2 CERTAIN CONTINGENT INTEREST.—For purposes of
3 this subsection, the term ‘portfolio interest’ shall not
4 include any interest which is treated as not being
5 portfolio interest under the rules of section
6 871(h)(4).”

7 (b) CONFORMING AMENDMENTS.—

8 (1) Clause (ii) of section 871(h)(2)(B) is
9 amended by striking “paragraph (4)” and inserting
10 “paragraph (5)”.

11 (2) Clause (ii) of section 881(c)(2)(B) is
12 amended by striking “section 871(h)(4)” and insert-
13 ing “section 871(h)(5)”.

14 (3) Paragraph (6) of section 881(c) (as redesign-
15 ated by subsection (a)) is amended by striking
16 “section 871(h)(5)” each place it appears and in-
17 serting “section 871(h)(6)”.

18 (4) Paragraph (9) of section 1441(c) is amend-
19 ed by striking “section 871(h)(3)” and inserting
20 “section 871(h)(3) or (4)”.

21 (5) Subsection (a) of section 1442 is amend-
22 ed—

23 (A) by striking “871(h)(3)” and inserting
24 “871(h)(3) or (4)”, and

1 (B) by striking “881(c)(3)” and inserting
2 “881(c)(3) or (4)”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to interest received after December
5 31, 1993.

6 **SEC. 2324. REGULATIONS DEALING WITH CONDUIT AR-**
7 **RANGEMENTS.**

8 Section 7701 is amended by redesignating subsection
9 (l) as subsection (m) and by inserting after subsection (k)
10 the following new subsection:

11 “(l) REGULATIONS RELATING TO CONDUIT AR-
12 RANGEMENTS.—The Secretary may prescribe regulations
13 recharacterizing any multiple-party financing transaction
14 as a transaction directly among any 2 or more of such
15 parties where the Secretary determines that such
16 recharacterization is appropriate to prevent avoidance of
17 any tax imposed by this title.”

18 **Subtitle D—Energy Tax Provision**

19 **SEC. 2401. IMPOSITION OF ENERGY TAX BASED ON BTU**
20 **CONTENT.**

21 (a) IN GENERAL.—Chapter 36 (relating to other ex-
22 cise taxes) is amended by redesignating subchapters A and
23 B as subchapters B and C, respectively, and by inserting
24 before subchapter B (as so redesignated) the following
25 new subchapter:

1 “SUBCHAPTER A—ENERGY TAXES

“Part I. Imposition of taxes.

“Part II. Tax rates; applicable Btu factors.

“Part III. Tax-free sales; refunds of tax for certain sales and uses.

“Part IV. Use taxes; floor stocks taxes; administrative provisions; definitions and special rules.

2 **“Part I—Imposition of Taxes**

“Sec. 4441. Taxable refined petroleum products.

“Sec. 4442. Natural gas.

“Sec. 4443. Coal.

“Sec. 4444. Certain electricity.

3 **“SEC. 4441. TAXABLE REFINED PETROLEUM PRODUCTS.**

4 “(a) GENERAL RULE.—There is hereby imposed a
5 tax on any taxable refined petroleum product—

6 “(1) removed from any United States refinery,

7 or

8 “(2) entered into the United States for con-
9 sumption, use, or warehousing.

10 “(b) RATE OF TAX.—

11 “(1) IN GENERAL.—The amount of the tax im-
12 posed by subsection (a) on each barrel of any tax-
13 able refined petroleum product shall be the sum of—

14 “(A) the base rate, and

15 “(B) the supplemental rate,

16 multiplied by the applicable Btu factor for such
17 product.

18 “(2) ONLY BASE RATE APPLIES TO LIQUEFIED
19 PETROLEUM GASES.—In the case of any liquefied

1 petroleum gas, subparagraph (B) of paragraph (1)
2 shall not apply.

3 “(c) LIABILITY FOR TAX.—

4 “(1) REMOVAL.—

5 “(A) IN GENERAL.—Except as provided in
6 paragraph (2), the tax imposed by subsection
7 (a)(1) shall be paid by the operator of the
8 United States refinery.

9 “(B) PRODUCTS REMOVED FROM NATURAL
10 GAS PROCESSING OR FRACTIONATION
11 PLANTS.—In the case of a product removed
12 from a natural gas processing or fractionation
13 plant, the tax imposed by subsection (a)(1)
14 shall be paid by the person receiving the prod-
15 uct at the time of removal, and the operator of
16 such plant shall collect such tax from such
17 person.

18 “(2) IMPORTATION.—The tax imposed by sub-
19 section (a)(2) shall be paid by the person entering
20 the product into the United States for consumption,
21 use, or warehousing.

22 “(d) TAXABLE REFINED PETROLEUM PRODUCT.—

23 For purposes of this subchapter, the term ‘taxable refined
24 petroleum product’ means—

25 “(1) aviation gasoline,

1 “(2) motor gasoline (including blending compo-
2 nents of gasoline),

3 “(3) kerosene-type jet fuel,

4 “(4) naphtha-type jet fuel,

5 “(5) distillate fuel oil,

6 “(6) kerosene,

7 “(7) residual fuel oil,

8 “(8) petroleum coke,

9 “(9) butane,

10 “(10) propane, and

11 “(11) to the extent provided in regulations
12 prescribed by the Secretary, any other petroleum
13 product.

14 “(e) CREDIT OR REFUND WHERE PRIOR TAX IM-
15 POSED.—If tax was imposed under this section with re-
16 spect to any taxable refined petroleum product and such
17 product is received at any United States refinery other
18 than for use as a fuel, credit or refund (without interest)
19 of such tax shall be allowed or made to the operator of
20 such refinery.

21 “(f) OTHER DEFINITIONS.—For purposes of this
22 subchapter—

23 “(1) UNITED STATES REFINERY.—The term
24 ‘United States refinery’ means any facility in the
25 United States—

1 “(A) at which crude oil or any petroleum
2 product is refined, or

3 “(B) which is a natural gas processing or
4 fractionation plant.

5 “(2) BARREL.—The term ‘barrel’ means 42
6 United States gallons measured at 60 degrees Fahr-
7 enheit. In the case of a taxable refined petroleum
8 product which is not a liquid at such temperature,
9 the term ‘barrel’ means a volume determined under
10 regulations prescribed by the Secretary on the basis
11 of an equivalence to a barrel of oil.

12 **“SEC. 4442. NATURAL GAS.**

13 “(a) GENERAL RULE.—There is hereby imposed a
14 tax on natural gas removed in the United States from any
15 pipeline (not part of a local distribution system)—

16 “(1) for transmission to ultimate users through
17 a local distribution system, or

18 “(2) for use prior to entry into a local distribu-
19 tion system.

20 “(b) RATE OF TAX.—

21 “(1) IN GENERAL.—The amount of the tax im-
22 posed by subsection (a) on each MCF of natural gas
23 shall be the base rate multiplied by the applicable
24 Btu factor.

1 “(2) AUTHORITY TO USE ACTUAL BTU CON-
2 TENT.—To the extent provided in regulations pre-
3 scribed by the Secretary, the amount of the tax im-
4 posed by subsection (a) shall be the base rate for
5 each million Btu’s of the actual Btu content of the
6 natural gas.

7 “(c) LIABILITY FOR, AND COLLECTION OF, TAX.—

8 “(1) LIABILITY FOR TAX.—

9 “(A) The tax imposed by subsection (a)(1)
10 shall be paid by the operator of the local dis-
11 tribution system.

12 “(B) The tax imposed by subsection (a)(2)
13 shall be paid by the person receiving the natu-
14 ral gas at the time of removal.

15 “(2) COLLECTION OF TAX.—The operator of
16 the pipeline shall collect the tax imposed by sub-
17 section (a) from the person liable for payment of
18 such tax.

19 “(d) DEFINITIONS.—For purposes of this sub-
20 chapter—

21 “(1) NATURAL GAS.—The term ‘natural gas’
22 includes synthetic natural gas produced from coal or
23 from natural gas liquids.

24 “(2) MCF.—The term ‘MCF’ means 1,000
25 cubic feet of natural gas measured at a pressure of

1 14.73 pounds per square inch (absolute) and a tem-
2 perature of 60 degrees Fahrenheit.

3 “(e) TAX ON ENTRY INTO LOCAL DISTRIBUTION
4 SYSTEM WHERE NO PRIOR TAX.—

5 “(1) IN GENERAL.—There is hereby imposed a
6 tax (computed as provided in subsection (b)) on the
7 entry of natural gas into any local distribution sys-
8 tem in the United States if no tax has been imposed
9 by subsection (a) before such entry.

10 “(2) LIABILITY FOR TAX.—The tax imposed by
11 this subsection shall be paid by the operator of the
12 local distribution system.

13 **“SEC. 4443. COAL.**

14 “(a) GENERAL RULE.—There is hereby imposed a
15 tax on coal received at any facility in the United States
16 for use as a fuel at such facility.

17 “(b) RATE OF TAX.—The amount of the tax imposed
18 by subsection (a) shall be the base rate for each million
19 Btu’s of the actual Btu content of the coal. For purposes
20 of the preceding sentence, the actual Btu content of any
21 coal shall be determined under procedures prescribed by
22 the Secretary.

23 “(c) LIABILITY FOR TAX.—

1 “(1) IN GENERAL.—Except as provided in this
2 subsection, the tax imposed by subsection (a) shall
3 be paid by the operator of the facility.

4 “(2) COAL RECEIVED AT SMALL FACILITIES.—
5 If the ultimate vendor of coal received at a facility
6 receives a certificate from the operator of such facil-
7 ity (or otherwise determines) that such facility re-
8 ceived less than 1,000 tons of coal during the pre-
9 ceding calendar year, the tax imposed by subsection
10 (a) shall be paid by the ultimate vendor.

11 “(3) RESIDENTIAL PROPERTY.—In the case of
12 coal received at a residential property (as defined in
13 section 4448(b)(1)(B)), the tax imposed by sub-
14 section (a) shall be paid by the ultimate vendor.

15 “(d) EXCEPTION FOR COAL USED TO PRODUCE SYN-
16 THETIC NATURAL GAS.—The tax imposed by this section
17 shall not apply to coal received for use in the manufacture
18 or production of synthetic natural gas or any other syn-
19 thetic fuel specified in regulations prescribed by the Sec-
20 retary.

21 **“SEC. 4444. CERTAIN ELECTRICITY.**

22 “(a) GENERAL RULE.—There is hereby imposed a
23 tax on—

1 “(1) the entry of any electricity generated at a
2 hydropower or nuclear power facility in the United
3 States—

4 “(A) into a transmission system, or

5 “(B) into a distribution system if not pre-
6 viously entered into a transmission system,

7 “(2) the use of electricity generated in the
8 United States which was not subject to tax under
9 paragraph (1), and

10 “(3) the transmission into the United States of
11 electricity which is generated outside the United
12 States.

13 “(b) RATES OF TAX.—

14 “(1) IN GENERAL.—Except as provided in para-
15 graph (2), the amount of the tax imposed by sub-
16 section (a) on each kilowatt hour of electricity shall
17 be the base rate multiplied by the applicable Btu
18 factor for electricity.

19 “(2) IMPORTED ELECTRICITY.—If the person
20 liable for the tax imposed by subsection (a)(3) estab-
21 lishes to the satisfaction of the Secretary that—

22 “(A) the electricity was not generated by
23 hydropower or nuclear power, and

24 “(B) the average Btu content per kilowatt
25 hour of the fuel used to generate the electricity

1 was less than the applicable per unit Btu
2 amount otherwise applicable,
3 such lesser amount shall be used for purposes of
4 paragraph (1).

5 “(c) LIABILITY FOR TAX.—

6 “(1) ENTRY OR USE.—The taxes imposed by
7 paragraphs (1) and (2) of subsection (a) shall be
8 paid by the operator of the generating facility.

9 “(2) IMPORTATION.—The tax imposed by sub-
10 section (a)(3) shall be paid by the contract pur-
11 chaser of the electricity as of the time of trans-
12 mission into the United States.

13 “(d) EXCEPTIONS.—

14 “(1) CERTAIN IMPORTED ELECTRICITY.—The
15 tax imposed by subsection (a)(3) shall not apply to
16 electricity transmitted into the United States if the
17 person otherwise liable for such tax establishes to
18 the satisfaction of the Secretary that such electricity
19 was not generated using any fossil fuel, hydropower,
20 or nuclear power.

21 “(2) ELECTRICITY GENERATED FROM PUMPED
22 STORAGE, ETC.—The tax imposed by this section
23 shall not apply to electricity generated in the United
24 States from any hydropower source created by elec-
25 tricity.

1 “(3) USE TAX EXCEPTION.—The Secretary may
 2 provide by regulations that the tax imposed by sub-
 3 section (a)(2) shall not apply in cases where the Sec-
 4 retary determines that such an exception is war-
 5 ranted, after taking into account the protection of
 6 revenues to the United States from this subchapter
 7 and the ease of administration for both taxpayers
 8 and the Secretary.

9 “(e) CROSS REFERENCE.—

**“For special rules relating to independent power
 producers, see section 4454(b).”**

10 **“Part II—Tax Rates; Applicable Btu Factors**

“Sec. 4446. Tax rates.

“Sec. 4447. Applicable Btu factors.

11 **“SEC. 4446. TAX RATES.**

12 “(a) BASE RATE.—For purposes of this sub-
 13 chapter—

14 “(1) PHASE-IN RATES.—Effective during—

15 “(A) the 1-year period beginning on July
 16 1, 1994, the base rate is 8.6 cents, and

17 “(B) the 1-year period beginning on July
 18 1, 1995, the base rate is 17.2 cents.

19 “(2) PERMANENT UNINDEXED RATE.—Effec-
 20 tive on and after July 1, 1996, the base rate is 25.7
 21 cents.

22 “(3) INDEXED RATES.—

1 “(A) IN GENERAL.—Effective during any
2 calendar year after 1997, the base rate under
3 paragraph (2) shall be increased by an amount
4 equal to—

5 “(i) 25.7 cents, multiplied by

6 “(ii) the inflation adjustment for such
7 calendar year.

8 “(B) INFLATION ADJUSTMENT.—For pur-
9 poses of subparagraph (A), the inflation adjust-
10 ment for any calendar year is the percentage (if
11 any) by which—

12 “(i) the GDP deflator for the preced-
13 ing calendar year, exceeds

14 “(ii) the GDP deflator for 1996.

15 “(C) GDP DEFLATOR FOR CALENDAR
16 YEAR.—For purposes of subparagraph (B), the
17 GDP deflator for any calendar year is the GDP
18 deflator for the second calendar quarter of such
19 year.

20 “(D) GDP DEFLATOR.—For purposes of
21 subparagraph (C), the term ‘GDP deflator’
22 means the most recent revision of the implicit
23 price deflator for the gross domestic product as
24 computed and published by the Department of

1 Commerce before November 15 of the calendar
2 year referred to in subparagraph (B)(i).

3 “(b) SUPPLEMENTAL RATE.—For purposes of this
4 subchapter—

5 “(1) PHASE-IN RATES.—Effective during—

6 “(A) the 1-year period beginning on July
7 1, 1994, the supplemental rate is 11.4 cents,
8 and

9 “(B) the 1-year period beginning on July
10 1, 1995, the supplemental rate is 22.8 cents.

11 “(2) PERMANENT UNINDEXED RATE.—Effec-
12 tive on and after July 1, 1996, the supplemental
13 rate is 34.2 cents.

14 “(3) INDEXED RATES.—Effective during any
15 calendar year after 1997, the supplemental rate
16 under paragraph (2) shall be increased by an
17 amount equal to—

18 “(A) 34.2 cents, multiplied by

19 “(B) the inflation adjustment for such cal-
20 endar year determined under subsection
21 (a)(3)(B).

22 “(c) ROUNDING.—If any increase determined under
23 subsection (a)(3) or (b)(3) is not a multiple of 0.1 cent,
24 such increase shall be rounded to the nearest multiple of
25 0.1 cent.

1 **“SEC. 4447. APPLICABLE BTU FACTORS.**

2 “(a) IN GENERAL.—For purposes of this subchapter,
 3 the applicable Btu factor with respect to any petroleum
 4 product, natural gas, or electricity is—

5 “(1) the applicable per unit Btu amount deter-
 6 mined under subsection (b), divided by

7 “(2) 1,000,000.

8 “(b) APPLICABLE PER UNIT BTU AMOUNT.—For
 9 purposes of this subchapter—

10 “(1) PETROLEUM PRODUCTS.—

11 “(A) IN GENERAL.—

“In the case of:	The applicable per unit Btu amount is the follow- ing amount per barrel:
Aviation gasoline	5,048,000
Motor gasoline (including blending compo- nents of gasoline)	5,267,000
Kerosene-type jet fuel	5,670,000
Naphtha-type jet fuel	5,355,000
Distillate fuel oil	5,852,000
Kerosene	5,670,000
Residual fuel oil	6,486,000
Petroleum coke	6,024,000
Butane	4,326,000
Propane	3,836,000.

12 “(B) MIXTURES.—Any mixture which in-
 13 cludes a taxable refined petroleum product shall
 14 be treated as specified in subparagraph (A)
 15 and—

16 “(i) if more than 1 such product is in-
 17 cluded in such mixture, the applicable per
 18 unit Btu amount shall be the weighted av-
 19 erage of the applicable per unit Btu

1 amounts for the taxable refined petroleum
2 products included in the mixture, and

3 “(ii) if any substance is included in
4 the mixture which is not a taxable refined
5 petroleum product, the Btu content of such
6 product shall be disregarded for purposes
7 of subsection (c) and its volume shall be
8 disregarded.

9 “(2) NATURAL GAS.—In the case of natural
10 gas, the applicable per unit Btu amount is
11 1,031,000 per MCF.

12 “(3) ELECTRICITY.—In the case of electricity,
13 the applicable Btu amount is 10,335 per kilowatt
14 hour.

15 “(c) ADJUSTMENTS TO PER UNIT BTU AMOUNTS.—

16 “(1) PETROLEUM AND NATURAL GAS.—

17 “(A) IN GENERAL.—If the Secretary deter-
18 mines that the applicable per unit Btu amount
19 then in effect for any petroleum product or nat-
20 ural gas does not properly reflect the Btu con-
21 tent per unit for such substance (in the cir-
22 cumstances where taxable events under this
23 subchapter occur with respect to such sub-
24 stance), the Secretary may modify the applica-
25 ble per unit Btu amount for such substance.

1 Any such modification shall be effective as of
2 the date prescribed by the Secretary.

3 “(B) MODIFICATION OF LIST OF PETRO-
4 LEUM PRODUCTS.—The Secretary may modify,
5 as appropriate, the list of petroleum products
6 for which applicable per unit Btu amounts are
7 separately determined.

8 “(2) ELECTRICITY.—If the Secretary deter-
9 mines that the applicable per unit Btu amount then
10 in effect for electricity differs by more than 1 per-
11 cent from the national average Btu content per kilo-
12 watt hour of fossil fuel used to generate electricity,
13 such national average shall be the applicable per
14 unit Btu amount for such electricity effective as of
15 the date prescribed by the Secretary.

16 **“Part III—Tax-Free Exports; Refunds of Tax for**
17 **Certain Sales and Uses**

“Sec. 4448. Tax-free exports; refunds for certain sales and uses.

18 **“SEC. 4448. TAX-FREE EXPORTS; REFUNDS FOR CERTAIN**
19 **SALES AND USES.**

20 “(a) EXPORTS.—No tax shall be imposed under part
21 I on any taxable energy source which is exported by the
22 person otherwise liable for such tax.

23 “(b) REFUNDS TO ULTIMATE VENDORS IN CERTAIN
24 CASES.—Under regulations prescribed by the Secretary—

1 “(1) HOME HEATING OIL.—

2 “(A) IN GENERAL.—If tax was imposed
3 under this subchapter with respect to any No.
4 2 distillate fuel oil and such fuel oil is delivered
5 to any residential property for use in heating
6 such property, the Secretary shall pay to the ul-
7 timate vendor of such fuel oil an amount equal
8 to the product of the supplemental rate and the
9 applicable Btu factor per barrel of the fuel oil
10 so delivered.

11 “(B) RESIDENTIAL PROPERTY.—For pur-
12 poses of this paragraph, the term ‘residential
13 property’ means any building which consists
14 primarily of 1 or more dwelling units used for
15 residential purposes other than on a transient
16 basis.

17 “(2) INTERNATIONAL COMMERCIAL TRANSPOR-
18 TATION.—

19 “(A) IN GENERAL.—If tax was imposed
20 under this subchapter with respect to any tax-
21 able refined petroleum product and such prod-
22 uct is sold for use by the purchaser for inter-
23 national commercial transportation, the Sec-
24 retary shall pay to the ultimate vendor of such
25 product an amount equal to the tax so imposed.

1 “(B) INTERNATIONAL COMMERCIAL
2 TRANSPORTATION.—For purposes of subpara-
3 graph (A), the term ‘international commercial
4 transportation’ means transportation in the
5 trade or business of transporting persons or
6 property for hire—

7 “(i) by any vessel actually engaged in
8 foreign trade or trade between the United
9 States and any of its possessions, or

10 “(ii) by aircraft from a point within
11 the United States to a point outside the
12 United States and outside the 225-mile
13 zone (as defined in section 4262(c)(2)).

14 “(3) VENDOR REQUIREMENTS.—A payment
15 may be made under this subsection to a vendor only
16 if the vendor establishes that such vendor—

17 “(A) has not included the tax in the price
18 of the product, and

19 “(B) has not collected the tax from the
20 purchaser of such product.

21 “(c) REFUNDS TO ULTIMATE USERS IN CERTAIN
22 CASES.—Under regulations prescribed by the Secretary—

23 “(1) IN GENERAL.—If tax was imposed under
24 this subchapter with respect to any taxable energy
25 source and such source is used by any person in an

1 exempt use, the Secretary shall pay to such person
2 an amount equal to the tax so imposed.

3 “(2) EXEMPT USE.—For purposes of this sub-
4 section, the term ‘exempt use’ means—

5 “(A) export,

6 “(B) in the case of any taxable refined pe-
7 troleum product or natural gas—

8 “(i) any qualified nonfuel use, or

9 “(ii) use (other than as a fuel) in the
10 manufacture or production of methanol or
11 ether derivatives of ethanol or methanol,

12 “(C) the use of natural gas or coal in en-
13 hanced heavy oil recovery, and

14 “(D) the use of any taxable refined petro-
15 leum product in the production of synthetic nat-
16 ural gas or other synthetic fuels identified in
17 regulations prescribed by the Secretary.

18 “(3) SPECIAL RULE FOR EXPORTED ELEC-
19 TRICITY.—For purposes of this subsection, in the
20 case of electricity—

21 “(A) this subsection shall apply to all elec-
22 tricity exported from the United States which
23 was generated using hydropower, nuclear
24 power, or any fossil fuel, and

1 “(B) the rate of tax taken into account
2 under paragraph (1) shall be the rate applicable
3 under section 4444(b)(1).

4 “(4) QUALIFIED NONFUEL USE.—For purposes
5 of this subsection, the term ‘qualified nonfuel use’
6 means any use other than use—

7 “(A) as a fuel, or

8 “(B) in the manufacture or production of
9 any fuel.

10 “(5) ENHANCED HEAVY OIL RECOVERY.—For
11 purposes of this subsection, natural gas or coal shall
12 be treated as used in enhanced heavy oil recovery if
13 such gas or coal is used in a qualified enhanced oil
14 recovery project (as defined in section 43(c)(2) with-
15 out regard to subparagraph (A)(iii) thereof) for the
16 recovery of oil having a weighted average gravity of
17 20 degrees API or less (corrected to 60 degrees
18 Fahrenheit). In the case of natural gas or coal which
19 is used to produce both steam and electricity subject
20 to tax under section 4444(a)(1), only the portion of
21 the natural gas or coal not allocable to the produc-
22 tion of such electricity (determined on the basis of
23 the proportionate Btu content of the electricity and
24 the steam) shall be treated as used in such project.

1 “(d) METHANE RECOVERED FROM BIOMASS OR
2 COAL MINING.—

3 “(1) IN GENERAL.—If—

4 “(A) methane is recovered from biomass or
5 in conjunction with room and pillar or long wall
6 coal mining operations, and

7 “(B) such methane is entered into any
8 pipeline the removal from which would subject
9 such methane to the tax imposed by section
10 4442(a),

11 the Secretary shall pay to the person so entering
12 such methane an amount equal to the amount of tax
13 which would be imposed under section 4442(a) on
14 such methane if such entry were a taxable event
15 under such section.

16 “(2) RECAPTURE OF CREDIT FOR METHANE
17 RECOVERED FROM COAL MINING IN CERTAIN
18 CASES.—

19 “(A) IN GENERAL.—If—

20 “(i) the Secretary has made a pay-
21 ment under paragraph (1) with respect to
22 methane recovered from coal mining oper-
23 ations before the date the actual mining
24 commences, and

1 “(ii) the actual mining commences
2 more than 10 years after the date such
3 methane was first recovered,
4 then the tax under this chapter of the person
5 to whom such payments were made for the tax-
6 able year in which such 10th year ends shall be
7 increased by the aggregate of such payments to
8 such person plus interest at the underpayment
9 rate under section 6621 for the periods begin-
10 ning on the dates such payments were made.

11 “(B) NO FURTHER PAYMENTS UNTIL MIN-
12 ING COMMENCES.—If there is an increase in tax
13 under subparagraph (A) with respect to any
14 payments for methane recovered from any site,
15 no further payments shall be made under this
16 subsection with respect to methane recovered
17 from such site until actual mining commences
18 at such site.

19 “(C) NO CREDITS AGAINST TAX, ETC.—
20 Any increase in tax under this paragraph shall
21 not be taken into account in determining the
22 amount of any credit allowable under part IV of
23 subchapter A of chapter 1 or in determining the
24 amount of the tax imposed by section 55.

1 “(e) PRODUCTION OF COKE FOR STEEL.—If tax was
 2 imposed under this subchapter with respect to any coal
 3 and such coal is used by any person to produce coke for
 4 use in the reduction of iron-bearing ores in the iron and
 5 steel process, the Secretary shall pay to such person an
 6 amount equal to the base rate for each million Btu’s of
 7 the actual Btu content of the coke produced.

8 “(f) PRODUCTION OF CALCINED COKE.—If tax was
 9 imposed under this subchapter with respect to any petro-
 10 leum product and such product is used by any person to
 11 produce calcined coke, the Secretary shall pay to such per-
 12 son an amount equal to the base rate for each million
 13 Btu’s of the actual Btu content of the coke produced.

14 **“Part IV—Use Taxes; Floor Stocks Taxes; Administra-**
 15 **tive Provisions; Definitions and Special Rules**

“Sec. 4451. Tax on certain uses.

“Sec. 4452. Floor stocks taxes.

“Sec. 4453. Administrative provisions.

“Sec. 4454. Definitions and special rules.

16 **“SEC. 4451. TAX ON CERTAIN USES.**

17 “(a) GENERAL RULE.—There is hereby imposed a
 18 tax on the use of any fossil fuel (other than coal)—

19 “(1) in the manufacture or production of a fuel
 20 other than at a United States refinery, or

21 “(2) as a fuel.

1 The preceding sentence shall not apply if tax was imposed
2 under this subchapter before such use and such tax is not
3 credited or refunded.

4 “(b) RATE OF TAX.—

5 “(1) IN GENERAL.—Except as otherwise pro-
6 vided in this subsection, the amount of tax imposed
7 by subsection (a) shall be the amount which would
8 be imposed under the appropriate section of part I
9 if such use were a taxable event under such section.

10 “(2) CRUDE OIL AND OTHER PRODUCTS NOT
11 TAXED ON REMOVAL OR IMPORTATION.—The
12 amount of the tax imposed by subsection (a) on
13 crude oil or other product not subject to tax under
14 part I shall be the base rate (increased by the sup-
15 plemental rate in the case of crude oil or any petro-
16 leum product other than any liquefied petroleum
17 gas, isopentane, and natural gasoline) for each mil-
18 lion Btu’s of the Btu content of such oil or product.

19 “(3) AUTHORITY TO PRESCRIBE APPLICABLE
20 PER UNIT BTU AMOUNTS.—In the case of crude oil
21 or any other product for which an applicable per
22 unit Btu amount is not prescribed for purposes of
23 part I, the Secretary may prescribe such an amount,
24 and, if so prescribed, such amount shall apply for
25 purposes of paragraph (2).

1 “(c) LIABILITY FOR TAX.—The taxes imposed by
2 subsection (a) shall be paid by the person using the fuel.

3 “(d) EXCEPTIONS.—

4 “(1) IN GENERAL.—The tax imposed by this
5 section shall not apply to—

6 “(A) any use to which paragraph (1) or
7 (2) of section 4448(b) applies,

8 “(B) any exempt use (as defined in section
9 4448(c)),

10 “(C) any methane for which a payment
11 may be made under section 4448(d),

12 “(D) any use to which section 4448(e) ap-
13 plies, and

14 “(E) any use to which section 4448(f) ap-
15 plies.

16 “(2) USE ON PRODUCTION PREMISES.—

17 “(A) IN GENERAL.—The tax imposed by
18 this section shall not apply to any use of crude
19 oil or natural gas on the premises where pro-
20 duced for producing crude oil or natural gas.

21 “(B) CRUDE OIL USED ON PREMISES.—
22 For purposes of subparagraph (A), crude oil
23 shall be treated as used on the premises where
24 produced if it is used before entry at the lease

1 automatic custody transfer point (or its manual
2 equivalent).

3 “(C) NATURAL GAS USED ON PREMISES.—
4 For purposes of subparagraph (A), natural gas
5 shall be treated as used on the premises where
6 produced if it is used before entry into a natu-
7 ral gas processing or fractionation plant or into
8 an interstate or intrastate transmission pipe-
9 line.

10 “(3) CRUDE OIL USED AT REFINERY, ETC.—
11 The tax imposed by this section shall not apply to—

12 “(A) any use of crude oil or any petroleum
13 product (other than natural gas) at a United
14 States refinery, or

15 “(B) any use of natural gas at a natural
16 gas processing or fractionation plant.

17 “(4) OTHERWISE TAXABLE EVENT OCCURRING
18 BEFORE EFFECTIVE DATE.—The tax imposed by
19 this section shall not apply to any use if no tax
20 would be imposed by this section on such use were
21 this subchapter in effect for all periods before
22 July 1, 1994.

23 “(e) TREATMENT OF NATURAL GAS LOST IN TRANS-
24 MISSION.—For purposes of this section, natural gas lost

1 in transmission by pipeline shall be treated as used as a
2 fuel for such pipeline.

3 **“SEC. 4452. FLOOR STOCKS TAXES.**

4 “(a) IMPOSITION OF TAX.—There is hereby imposed
5 a tax on any taxable fuel which on any tax-increase date
6 is held in the United States by any person.

7 “(b) AMOUNT OF TAX.—The amount of the tax im-
8 posed by subsection (a) on any taxable fuel with respect
9 to any tax-increase date shall be equal to the excess (if
10 any) of—

11 “(1) the amount of tax which would be imposed
12 under part I if a taxable event with respect to such
13 fuel had occurred on such date, over

14 “(2) the prior tax (if any) imposed by this sub-
15 chapter on such fuel.

16 “(c) LIABILITY FOR TAX.—The person holding the
17 taxable fuel on any tax-increase date shall pay the tax im-
18 posed by subsection (a).

19 “(d) EXCEPTIONS.—The tax imposed by subsection
20 (a) shall not apply to—

21 “(1) any taxable refined petroleum product—

22 “(A) held (other than for use as a fuel)
23 within a United States refinery, or

1 “(B) held for use by the holder in inter-
2 national commercial transportation (as defined
3 in section 4448(b)(2)),

4 “(2) any natural gas which has not been re-
5 moved as described in section 4442(a) and which is
6 not held in any local distribution system, and

7 “(3) any coal held other than at the facility
8 where it is to be used as a fuel.

9 “(e) CREDIT AGAINST TAX.—

10 “(1) IN GENERAL.—Each person shall be al-
11 lowed \$200 as a credit against the taxes imposed by
12 subsection (a) with respect to each tax-increase date.
13 Such credit shall not exceed the amount of taxes im-
14 posed by subsection (a) for which such person is lia-
15 ble with respect to such date.

16 “(2) CONTROLLED GROUPS.—For purposes of
17 paragraph (1)—

18 “(A) all persons who are treated as a sin-
19 gle employer under subsection (a) or (b) of sec-
20 tion 52 shall be treated as 1 taxpayer, and

21 “(B) the \$200 amount specified in para-
22 graph (1) shall be apportioned among such per-
23 sons under regulations prescribed by the Sec-
24 retary.

25 “(f) DEFINITIONS.—For purposes of this section—

1 “(1) TAXABLE FUEL.—The term ‘taxable fuel’
2 means any taxable refined petroleum product, natu-
3 ral gas, or coal.

4 “(2) TAX-INCREASE DATE.—The term ‘tax-in-
5 crease date’ means—

6 “(A) July 1, 1994,

7 “(B) July 1, 1995,

8 “(C) July 1, 1996, and

9 “(D) January 1 of each calendar year for
10 which there is an increase in a rate of tax by
11 reason of subsection (a)(3) or (b)(3) of section
12 4446 (relating to inflation adjustment).

13 “(f) DUE DATE.—The tax imposed by subsection (a)
14 shall be paid on or before the close of the 7-month period
15 beginning on the tax-increase date.

16 **“SEC. 4453. ADMINISTRATIVE PROVISIONS.**

17 “(a) RULES RELATING TO REFUNDS FOR EXEMPT
18 AND OTHER USES.—

19 “(1) PERIOD FOR FILING CLAIMS.—No pay-
20 ment shall be made under section 4448 unless, with-
21 in 2 years after the date that the event occurs giving
22 rise to a right to such payment, a claim therefor is
23 filed by the person entitled to such payment.

1 “(2) DENIAL OF INTEREST.—Except as pro-
2 vided in paragraph (3), no interest shall be paid on
3 claims for payments under section 4448.

4 “(3) MINIMUM AMOUNTS AND PERIODS.—In
5 the case of persons who meet such requirements as
6 the Secretary may prescribe, if—

7 “(A) a claim for payment is filed under
8 section 4448 for any period for which more
9 than \$1,000 is payable and which is not less
10 than 1 week, and

11 “(B) the Secretary has not paid such claim
12 within 20 days after the date the claim was
13 filed,

14 such claim shall be paid with interest from such date
15 using the overpayment rate and method under sec-
16 tion 6621.

17 “(3) APPLICABLE LAWS.—

18 “(A) IN GENERAL.—All provisions of law,
19 including penalties, applicable in respect of the
20 tax imposed by this subchapter shall, insofar as
21 applicable and not inconsistent with this sub-
22 section and section 4448, apply in respect of
23 payments provided for in section 4448 to the
24 same extent as if such payments constituted re-
25 funds of overpayments of the tax so imposed.

1 “(B) EXAMINATION OF BOOKS AND WIT-
2 NESSES.—For the purpose of ascertaining the
3 correctness of any claim made under section
4 4448, or the correctness of any payment made
5 in respect of such claim, the Secretary shall
6 have the authority granted by paragraphs (1),
7 (2), and (3) of section 7602(a) (relating to ex-
8 amination of books and witnesses) as if the
9 claimant were the person liable for tax.

10 “(b) PAYMENT OF TAX TO PERSONS REQUIRED TO
11 COLLECT TAX.—

12 “(1) IN GENERAL.—In the case of the taxes im-
13 posed by sections 4441 and 4442 which are required
14 to be collected by another person, the person liable
15 for such tax shall remit the tax to such other person
16 within 30 days after the date of the taxable event.

17 “(2) RELIEF FROM PENALTY FOR CERTAIN
18 FAILURES TO COLLECT TAX.—No penalty shall be
19 imposed under this title on the failure of any person
20 to collect the taxes referred to in paragraph (1) if—

21 “(A) during the 30-day period referred to
22 in paragraph (1), such person exercises due dili-
23 gence in attempting to collect such tax, and

24 “(B) such person notifies the Secretary,
25 within 15 days after such 30th day, of the fail-

1 ure to collect such tax and provides such other
2 information as the Secretary may require.

3 “(c) INFORMATION REPORTING.—The Secretary may
4 require—

5 “(1) information reporting by each remitter of
6 tax imposed by this subchapter, and

7 “(2) information reporting by, and registration
8 of, such other persons as the Secretary deems nec-
9 essary to carry out this subchapter.

10 **“SEC. 4454. DEFINITIONS AND SPECIAL RULES.**

11 “(a) DEFINITIONS.—For purposes of this sub-
12 chapter—

13 “(1) TAXABLE ENERGY SOURCE.—The term
14 ‘taxable energy source’ means any taxable refined
15 petroleum product, natural gas, coal, and electricity
16 (within the meaning of such terms under part I).

17 “(2) FOSSIL FUEL.—The term ‘fossil fuel’
18 means crude oil, any petroleum product, natural gas,
19 any natural gas product, and coal.

20 “(3) CRUDE OIL.—The term ‘crude oil’ includes
21 condensates from crude oil.

22 “(4) COAL.—The term ‘coal’ includes lignite.

23 “(5) UNITED STATES.—The term ‘United
24 States’ means the 50 States, the District of Colum-

1 bia, and the foreign trade zones of the United
2 States.

3 “(6) PERSON.—The term ‘person’ includes the
4 United States, any State or political subdivision
5 thereof, the District of Columbia, and any agency or
6 instrumentality of any of the foregoing.

7 “(b) SPECIAL RULES FOR INDEPENDENT POWER
8 PRODUCERS SELLING ELECTRICITY UNDER FIXED-PRICE
9 CONTRACTS.—

10 “(1) ELECTRICITY GENERATED USING FOSSIL
11 FUELS.—If electricity is generated by an independ-
12 ent power producer using any fossil fuel and is sold
13 pursuant to a qualified fixed-price contract—

14 “(A) such use of fossil fuel shall be treated
15 for purposes of this subchapter as an exempt
16 use (as defined in section 4448), and

17 “(B) a tax is hereby imposed on the con-
18 tract purchaser of such electricity equal to the
19 amount payable under subparagraph (A) on the
20 fossil fuel used to generate such electricity.

21 “(2) OTHER ELECTRICITY.—In the case of elec-
22 tricity generated by an independent power producer
23 which is subject to the tax imposed by section 4444
24 and which is sold pursuant to a qualified fixed-price

1 contract, the tax imposed by section 4444(a)(1) shall
2 be paid by the contract purchaser of the electricity.

3 “(3) INDEPENDENT POWER PRODUCER.—For
4 purposes of this subsection, electricity shall be treat-
5 ed as generated by an independent power producer
6 if such electricity is generated—

7 “(A) at a facility—

8 “(i) which is a qualifying small power
9 production facility or a qualifying cogen-
10 eration facility (as such terms are defined
11 under section 3(17) of the Federal Power
12 Act on the date of the enactment of this
13 section), and

14 “(ii) which is exempt from the laws
15 referred to in section 210(e) of the Public
16 Utility Regulatory Policies Act of 1978 (as
17 so in effect), or

18 “(B) by an exempt wholesale generator (as
19 defined in section 32(a)(1) of the Public Utility
20 Holding Company Act of 1935).

21 “(4) QUALIFIED FIXED-PRICE CONTRACT.—For
22 purposes of this subsection, the term ‘qualified fixed-
23 price contract’ means any contract entered into be-
24 fore the date of the enactment of this section except
25 to the extent the contract purchaser of the electricity

1 establishes to the satisfaction of the Secretary that
2 the price paid for electricity is determined under a
3 formula which directly or indirectly includes the
4 taxes imposed by this subchapter.

5 “(5) FUEL USED TO PRODUCE ELECTRICITY
6 AND STEAM.—In the case of a facility which pro-
7 duces both steam and electricity, only the portion of
8 the fuel allocable to the production of electricity (de-
9 termined on the basis of the proportionate Btu con-
10 tent of the electricity and steam) shall be treated as
11 an exempt use under paragraph (1)(A).

12 “(c) FRACTIONAL PART OF UNIT.—In the case of a
13 fraction of a unit, the tax imposed by this subchapter shall
14 be the same fraction of the amount of such tax imposed
15 on a whole unit.

16 “(d) SPECIAL RULES RELATING TO PUERTO RICO
17 AND THE VIRGIN ISLANDS.—

18 “(1) LIKE TAX ON ARTICLES BROUGHT INTO
19 THE UNITED STATES FROM PUERTO RICO OR THE
20 VIRGIN ISLANDS.—For purposes of this subchapter,
21 articles brought into the United States from the
22 Commonwealth of Puerto Rico or the Virgin Islands
23 shall be treated as entered into the United States at
24 the time brought into the United States.

1 “(2) DISPOSITION OF REVENUES.—The provi-
2 sions of subsections (a)(3) and (b)(3) of section
3 7652 shall not apply to any tax imposed by this sub-
4 chapter.

5 “(e) NO EXEMPTION FROM TAX.—No person shall
6 be exempt from any tax imposed by this subchapter except
7 to the extent provided in this subchapter or in any provi-
8 sion of law enacted after the date of the enactment of this
9 subchapter which grants a specific exemption, by reference
10 to this subchapter, from a tax imposed by this subchapter.

11 “(f) NORMALIZATION OF TAX.—For purposes of sec-
12 tion 168, a taxpayer shall not be treated as using a nor-
13 malization method of accounting unless—

14 “(1) not later than the 1st ratemaking order
15 taking effect after the date of the enactment of this
16 subchapter, the ratemaking body permits the full
17 amount of—

18 “(A) the taxes imposed by this subchapter
19 on natural gas,

20 “(B) the taxes imposed by section 4444
21 and subsection (b) of this section on any elec-
22 tricity, and

23 “(C) the taxes imposed by this subchapter
24 on fuels used to generate electricity,

1 to be added to the otherwise permitted rate for the
2 furnishing or sale of the natural gas or electricity,
3 and

4 “(2) any amount of such tax which was not
5 fully reflected as provided in paragraph (1) by rea-
6 son of being imposed before the 1st ratemaking
7 order taking effect after the date of the enactment
8 of this subchapter is added to the base to which the
9 taxpayer’s rate of return for ratemaking purposes is
10 applied in such 1st order.

11 In determining for purposes of the preceding sentence
12 whether a ratemaking order is the 1st ratemaking order
13 referred to therein, there shall be taken into account only
14 ratemaking orders from proceedings in which the recovery
15 of tax expense is an issue that may be considered.”

16 (b) TECHNICAL AMENDMENTS.—

17 (1)(A) Subsection (a) of section 6675 is amend-
18 ed by inserting “section 4448 (relating to refunds of
19 Btu tax for certain sales and uses),” before “section
20 6420”.

21 (B) Subsection (b) of section 6675 is amended
22 by inserting “4448,” before “6420”.

23 (2) Section 6206 is amended—

24 (A) by inserting “(a) FUEL TAXES.—” be-
25 fore “Any portion of”, and

1 (B) by adding at the end thereof the fol-
2 lowing new subsection:

3 “(b) BTU TAXES.—Any portion of a payment made
4 under section 4448 which constitutes an excessive amount
5 (as defined in section 6675(b)), and any civil penalty pro-
6 vided by section 6675, may be assessed and collected as
7 if it were a tax imposed by subchapter A of chapter 36
8 and as if the person who made the claim were liable for
9 such tax. The period for assessing any such portion, and
10 for assessing any such penalty, shall be 3 years from the
11 last day prescribed for filing a claim under section 4448.”

12 (3)(A) The section heading for section 6206 is
13 amended by striking “UNDER SECTIONS 6420, 6421,
14 and 6427” and inserting “FOR CERTAIN FUELS TAX
15 REFUNDS AND ENERGY TAX REFUNDS”.

16 (B) The item relating to section 6206 in the
17 table of sections for subchapter A of chapter 63 is
18 amended by striking “under sections 6420, 6421,
19 and 6427” and inserting “for certain fuels tax re-
20 funds and energy tax refunds”.

21 (4) Subparagraph (B) of section 6724(d)(1) is
22 amended—

23 (A) by striking “or” at the end of clause
24 (xi),

1 (B) by striking the period at the end of the
2 clause (xii) relating to section 4101(d) and in-
3 serting a comma,

4 (C) by redesignating the clause (xii) relat-
5 ing to section 338(h)(10)(C) as clause (xiii) and
6 by striking the period at the end thereof and in-
7 serting “, or”, and

8 (D) by inserting after clause (xiii), as so
9 redesignated, the following new clause:

10 “(xiv) section 4453(c) (relating to in-
11 formation reporting with respect to energy
12 taxes).”

13 (5) Sections 7210, section 7603, subsections (b)
14 and (c)(2) of section 7604, section 7605, and
15 7610(c) are each amended by inserting
16 “4453(a)(3)(B),” before “6420(e)(2)” each place it
17 appears.

18 (6) Subparagraph (A) of section 9505(c)(3) is
19 amended by striking “subchapter A” and inserting
20 “subchapter B”.

21 (7) The table of subchapters for chapter 36 is
22 amended by striking the items relating to sub-
23 chapters A and B and inserting the following:

“Subchapter A. Energy taxes.
“Subchapter B. Harbor maintenance tax.
“Subchapter C. Transportation by water.”

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on July 1, 1994.

3 **SEC. 2402. EXTENSION OF MOTOR FUEL TAX RATES; IN-**
4 **CREASED DEPOSITS INTO HIGHWAY TRUST**
5 **FUND.**

6 (a) GASOLINE AND SPECIAL MOTOR FUELS.—

7 (1) IN GENERAL.—Clause (i) of section
8 4081(a)(2)(B) is amended by striking “11.5 cents”
9 and inserting “14 cents”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Subparagraph (A) of section
12 4081(c)(4) is amended to read as follows:

13 “(A) IN GENERAL.—In the case of the
14 Highway Trust Fund financing rate, the term
15 ‘otherwise applicable rate’ means—

16 “(i) 8.6 cents a gallon for 10 percent
17 alcohol,

18 “(ii) 9.842 cents a gallon for 7.7 per-
19 cent alcohol,

20 “(iii) 10.922 cents a gallon for 5.7
21 percent alcohol.

22 In the case of gasohol none of the alcohol in which
23 consists of ethanol, clauses (i), (ii), and (iii) shall be
24 applied by substituting ‘8.0 cents’ for ‘8.6 cents’,

1 '9.38 cents' for '9.842 cents', and '10.58 cents' for
2 '10.922'."

3 (B) Subparagraph (A) of section
4 4041(m)(1) is amended to read as follows:

5 "(A) under subsection (a)(2) the Highway
6 Trust Fund financing shall be 7 cents per gal-
7 lon, and".

8 (b) DIESEL FUEL.—

9 (1) IN GENERAL.—Paragraph (2) of section
10 4091(a) is amended by striking "17.5 cents" and in-
11 sserting "20 cents".

12 (2) FUEL USED IN TRAINS.—Subparagraph (B)
13 of section 4093(c)(2) is amended—

14 (A) by striking "the diesel fuel deficit re-
15 duction rate" and inserting "2.5 cents per gal-
16 lon of the Highway Trust Fund financing
17 rate", and

18 (B) by striking from the subparagraph
19 heading "DEFICIT REDUCTION TAX ON".

20 (3) CONFORMING AMENDMENTS.—

21 (A) Subsection (c) of section 4091 is
22 amended—

23 (i) by striking "12.1 cents" each place
24 it appears and inserting "14.6 cents", and

1 (ii) by striking “13.44 cents” in para-
2 graph (1)(B) and inserting “16.22”.

3 (B) Paragraph (4) of section 6427(l) is
4 amended—

5 (i) by striking “the diesel fuel deficit
6 reduction rate” and inserting “2.5 cents
7 per gallon of the Highway Trust Fund fi-
8 nancing rate”, and

9 (ii) by striking “DEFICIT REDUCTION
10 TAX” and inserting “PORTION OF TAX”.

11 (C) Subsection (b) of section 9503 is
12 amended by adding at the end thereof the fol-
13 lowing new paragraph:

14 “(6) RETENTION OF CERTAIN TAXES IN GEN-
15 ERAL FUND.—

16 “(A) IN GENERAL.—There shall not be
17 taken into account under paragraphs (1) and
18 (2)—

19 “(i) the tax imposed by section 4091
20 on diesel fuel used in any train, and

21 “(ii) so much of the following taxes as
22 are attributable to 2.5 cents of the High-
23 way Trust fund financing rate:

24 “(I) Motorboat fuel taxes (as de-
25 fined in subsection (c)(4)(D)).

1 “(II) Small-engine fuel taxes (as
2 defined in subsection (c)(5)(B)).

3 “(III) Nonhighway recreational
4 fuel taxes (as defined in subsection
5 (c)(6)(D)).

6 “(B) TRANSFERS FROM HIGHWAY TRUST
7 FUND.—For purposes of determining the
8 amount paid from the Highway Trust Fund
9 under paragraphs (4), (5), and (6) of sub-
10 section (c), the Highway Trust Fund financing
11 rates shall be treated as being 2.5 cents less
12 than the otherwise applicable rates.”

13 (c) INCREASE IN DEPOSITS IN MASS TRANSIT AC-
14 COUNT.—Paragraph (2) of section 9503(e) is amended by
15 striking “1.5 cents” and inserting “2 cents”.

16 (d) REPEAL OF EXPIRED PROVISIONS.—

17 (1) Subparagraph (A) of section 4081(a)(2)
18 (relating to rate of tax) is amended—

19 (A) by adding “and” at the end of clause
20 (i),

21 (B) by striking “, and” at the end of
22 clause (ii) and inserting a period, and

23 (C) by striking clause (iii).

24 (2) Subparagraph (B) of section 4081(a)(2) is
25 amended—

1 (A) by adding “and” at the end of clause
2 (i),

3 (B) by striking “, and” at the end of
4 clause (ii) and inserting a period, and

5 (C) by striking clause (iii).

6 (3) Subsection (d) of section 4081 is amended
7 by striking paragraph (3).

8 (4) Clause (i) of section 4091(b)(1)(A) is
9 amended by striking “and the diesel fuel deficit re-
10 duction rate”.

11 (5) Subsection (b) of section 4091 is amended
12 by striking paragraph (4) and by redesignating
13 paragraphs (5) and (6) as paragraphs (4) and (5),
14 respectively.

15 (6) Paragraph (5) of section 4091(b), as redес-
16 igned by paragraph (5), is amended by striking
17 subparagraph (D).

18 (7) Paragraphs (1) and (2) of section 4041(a),
19 and paragraph (3) of section 4041(c), are each
20 amended by striking “the sum of the Highway Trust
21 Fund financing rate and the diesel fuel deficit reduc-
22 tion rate” and by inserting “the Highway Trust
23 Fund financing rate”.

24 (e) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect October 1, 1995, but the

1 amendment made by subsection (c) shall apply only to
2 amounts attributable to taxes imposed on or after such
3 date.

4 **Subtitle E—Compliance Provisions**

5 **SEC. 2501. REPORTING REQUIRED FOR CERTAIN PAY-** 6 **MENTS TO CORPORATIONS.**

7 (a) SECTION 6041.—Section 6041 (relating to infor-
8 mation at source) is amended by adding at the end thereof
9 the following new subsection:

10 “(f) SPECIAL RULES FOR PAYMENTS FOR SERV-
11 ICES.—No payment for the performance of services shall
12 be exempt from the requirements of this section merely
13 because it is a payment to a corporation.”

14 (b) SECTION 6041A(a).—Subsection (a) of section
15 6041A is amended by adding at the end thereof the follow-
16 ing new sentence: “A payment shall not be exempt from
17 the requirements of this subsection merely because it is
18 a payment to a corporation.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to payments after December 31,
21 1993.

22 **SEC. 2502. MODIFICATIONS TO SUBSTANTIAL UNDERSTATE-** 23 **MENT AND RETURN-PREPARER PENALTIES.**

24 (a) REASONABLE BASIS REQUIRED.—

1 (1) SUBSTANTIAL UNDERSTATEMENT PEN-
2 ALTY.—Clause (ii) of section 6662(d)(2)(B) (relat-
3 ing to reduction for understatement due to position
4 of taxpayer or disclosed item) is amended to read as
5 follows:

6 “(ii) any item if—
7 “(I) the relevant facts affecting
8 the item’s tax treatment are ade-
9 quately disclosed in the return or in a
10 statement attached to the return, and
11 “(II) there is a reasonable basis
12 for the tax treatment of such item by
13 the taxpayer.”

14 (2) RETURN PREPARER PENALTY.—Paragraph
15 (3) of section 6694(a) (relating to understatement of
16 taxpayer’s liability by income tax return preparer) is
17 amended to read as follows:

18 “(3) the requirements of subclauses (I) and (II)
19 of section 6662(d)(2)(B)(ii) are not satisfied with
20 respect to such position.”.

21 (b) SPECIAL TAX SHELTER RULE.—Subclause (II)
22 of section 6662(d)(2)(C)(i) (relating to special rules for
23 tax shelters) is amended by inserting before the period at
24 the end thereof the following: “and the reasonably antici-
25 pated after-tax benefits from the taxpayer’s investment in

1 such shelter do not significantly exceed the reasonably an-
 2 ticipated pre-tax economic profit or loss from such invest-
 3 ment”.

4 (c) REASONABLE CAUSE EXCEPTION.—Paragraph
 5 (1) of section 6664(c) is revised by striking “this part”
 6 and inserting “section 6662”.

7 (d) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to returns the due dates for which
 9 (determined without regard to extensions) are after De-
 10 cember 31, 1993.

11 **Subtitle F—Miscellaneous**

12 **Provisions**

13 **SEC. 2601. SUBSTANTIATION REQUIREMENT FOR DEDUC-** 14 **TION OF CERTAIN CHARITABLE CONTRIBU-** 15 **TIONS.**

16 (a) SUBSTANTIATION REQUIREMENT.—Section
 17 170(f) (providing special rules relating to the deduction
 18 of charitable contributions and gifts) is amended by add-
 19 ing at the end the following new paragraph:

20 “(8) SUBSTANTIATION REQUIREMENT FOR CER-
 21 TAIN CONTRIBUTIONS.—

22 “(A) GENERAL RULE.—No deduction shall
 23 be allowed under subsection (a) for any con-
 24 tribution of \$750 or more unless the taxpayer
 25 substantiates the contribution by a contempora-

1 neous written acknowledgment of the contribu-
2 tion by the donee organization that meets the
3 requirements of subparagraph (B).

4 “(B) CONTENT OF ACKNOWLEDGMENT.—
5 An acknowledgment meets the requirements of
6 this subparagraph if it provides information
7 sufficient to substantiate the amount of the de-
8 ductible contribution. If the contribution was
9 made by means of a payment part of which con-
10 stituted consideration for goods or services pro-
11 vided by the donee organization, the acknowl-
12 edgment must provide a good faith estimate of
13 the value of such goods or services.

14 “(C) CONTEMPORANEOUS.—For purposes
15 of subparagraph (A), an acknowledgment shall
16 be considered to be contemporaneous if the tax-
17 payer obtains the acknowledgment on or before
18 the earlier of—

19 “(i) the date on which the taxpayer
20 files a return for the taxable year in which
21 the contribution was made, or

22 “(ii) the due date (including exten-
23 sions) for filing such return.

24 “(D) SUBSTANTIATION NOT REQUIRED
25 FOR CONTRIBUTIONS REPORTED BY THE

1 DONEE ORGANIZATION.—Subparagraph (A)
2 shall not apply to a contribution if the donee
3 organization files a return, on such form and in
4 accordance with such regulations as the Sec-
5 retary may prescribe, which includes the infor-
6 mation described in subparagraph (B) with re-
7 spect to the contribution.

8 “(E) REGULATIONS.—The Secretary shall
9 prescribe such regulations as may be necessary
10 or appropriate to carry out the purposes of this
11 paragraph, including regulations that may pro-
12 vide that some or all of the requirements of this
13 paragraph do not apply in appropriate cases.”

14 (b) EFFECTIVE DATE.—The provisions of this sec-
15 tion shall apply to contributions made on or after January
16 1, 1994.

17 **SEC. 2602. DISCLOSURE RELATED TO QUID PRO QUO**
18 **CONTRIBUTIONS.**

19 (a) DISCLOSURE REQUIREMENT.—Subchapter B of
20 chapter 61 (relating to information and returns) is amend-
21 ed by redesignating section 6115 as section 6116 and by
22 inserting after section 6114 the following new section:

1 **“SEC. 6115. DISCLOSURE RELATED TO QUID PRO QUO CON-**
2 **TRIBUTIONS.**

3 “(a) DISCLOSURE REQUIREMENT.—If an organiza-
4 tion described in section 170(c) (other than paragraph (1)
5 thereof) receives a quid pro quo contribution, the organi-
6 zation shall, in connection with the solicitation or receipt
7 of the contribution—

8 “(1) inform the donor that the amount of the
9 contribution that is deductible for Federal income
10 tax purposes is limited to the excess of the amount
11 of any money and the value of any property other
12 than money contributed by the donor over the value
13 of the goods or services provided by the organiza-
14 tion, and

15 “(2) provide the donor with a good faith esti-
16 mate of the value of such goods or services.

17 “(b) QUID PRO QUO CONTRIBUTION.—For purposes
18 of this section, the term ‘quid pro quo contribution’ means
19 a payment made partly as a contribution and partly in
20 consideration for goods or services provided to the payor
21 by the donee organization.”

22 (b) PENALTY FOR FAILURE TO DISCLOSE.—Part I
23 of subchapter B of chapter 68 (relating to assessable pen-
24 alties) is amended by inserting after section 6713 the fol-
25 lowing new section:

1 **“SEC. 6714. FAILURE TO MEET DISCLOSURE REQUIRE-**
2 **MENTS APPLICABLE TO QUID PRO QUO CON-**
3 **TRIBUTIONS.**

4 “(a) IMPOSITION OF PENALTY.—If an organization
5 fails to meet the disclosure requirement of section 6115
6 with respect to a quid pro quo contribution, such organiza-
7 tion shall pay a penalty of \$10 for each contribution in
8 respect of which the organization fails to make the re-
9 quired disclosure, except that the total penalty imposed
10 by this subsection with respect to a particular fundraising
11 event or mailing shall not exceed \$5,000.

12 “(b) REASONABLE CAUSE EXCEPTION.—No penalty
13 shall be imposed under this section with respect to any
14 failure if it is shown that such failure is due to reasonable
15 cause.”

16 (c) CLERICAL AMENDMENTS.—

17 (1) The table for subchapter B of chapter 61
18 is amended by striking the item relating to section
19 6115 and inserting the following new item:

“Sec. 6115. Disclosure related to quid pro quo contributions.
“Sec. 6116. Cross reference.”

20 (2) The table for part I of subchapter B of
21 chapter 68 is amended by inserting after the item
22 for section 6713 the following new item:

“Sec. 6714. Failure to meet disclosure requirements applicable to
quid pro quo contributions.”

1 (d) EFFECTIVE DATE.—The provisions of this sec-
2 tion shall apply to quid pro quo contributions made on
3 or after January 1, 1994.

4 **SEC. 2603. DISALLOWANCE OF INTEREST ON CERTAIN**
5 **OVERPAYMENTS OF TAX.**

6 (a) GENERAL RULE.—Subsection (e) of section 6611
7 is amended to read as follows:

8 “(e) DISALLOWANCE OF INTEREST ON CERTAIN
9 OVERPAYMENTS.—

10 “(1) REFUNDS WITHIN 45 DAYS AFTER RETURN
11 IS FILED.—If any overpayment of tax imposed by
12 this title is refunded within 45 days after the last
13 day prescribed for filing the return of such tax (de-
14 termined without regard to any extension of time for
15 filing the return) or, in the case of a return filed
16 after such last date, is refunded within 45 days after
17 the date the return is filed, no interest shall be al-
18 lowed under subsection (a) on such overpayment.

19 “(2) REFUNDS AFTER CLAIM FOR CREDIT OR
20 REFUND.—If—

21 “(A) the taxpayer files a claim for a credit
22 or refund for any overpayment of tax imposed
23 by this title, and

24 “(B) such overpayment is refunded within
25 45 days after such claim is filed,

1 no interest shall be allowed on such overpayment
2 from the date the claim is filed until the day the re-
3 fund is made.

4 “(3) IRS INITIATED ADJUSTMENTS.—If an ad-
5 justment initiated by the Secretary, results in a re-
6 fund or credit of an overpayment, interest on such
7 overpayment shall be computed by subtracting 45
8 days from the number of days interest would other-
9 wise be allowed with respect to such overpayment.”

10 (b) EFFECTIVE DATES.—

11 (1) Paragraph (1) of section 6611(e) of the In-
12 ternal Revenue Code of 1986 (as amended by sub-
13 section (a)) shall apply in the case of returns the
14 due date for which (determined without regard to
15 extensions) is on or after January 1, 1994.

16 (2) Paragraph (2) of section 6611(e) of such
17 Code (as so amended) shall apply in the case of
18 claims for credit or refund of any overpayment filed
19 on or after January 1, 1995, regardless of the tax-
20 able period to which such refund relates.

21 (3) Paragraph (3) of section 6611(e) of such
22 Code (as so amended) shall apply in the case of any
23 refund paid on or after January 1, 1995, regardless
24 of the taxable period to which such refund relates.

1 **SEC. 2604. DENIAL OF DEDUCTION RELATING TO TRAVEL**
2 **EXPENSES.**

3 (a) IN GENERAL.—Section 274(m) (relating to addi-
4 tional limitations on travel expenses) is amended by add-
5 ing at the end thereof the following new paragraph:

6 “(3) TRAVEL EXPENSES OF SPOUSE, DEPEND-
7 ENT, OR OTHERS.—No deduction shall be allowed
8 under this chapter (other than section 217) for trav-
9 el expenses paid or incurred with respect to a
10 spouse, dependent, or other individual accompanying
11 the taxpayer (or an officer or employee of the tax-
12 payer) on business travel, unless—

13 “(A) the spouse, dependent, or other indi-
14 vidual is an employee of the taxpayer,

15 “(B) the travel of the spouse, dependent,
16 or other individual is for a bona fide business
17 purpose, and

18 “(C) such expenses would otherwise be de-
19 ductible by the spouse, dependent, or other indi-
20 vidual.”

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to amounts paid or incurred after
23 December 31, 1993.

1 **SEC. 2605. INCREASE IN WITHHOLDING FROM SUPPLE-**
 2 **MENTAL WAGE PAYMENTS.**

3 If an employer elects under Treasury Regulation
 4 31.3402 (g)-1 to determine the amount to be deducted
 5 and withheld from any supplemental wage payment by
 6 using a flat percentage rate, the rate to be used in deter-
 7 mining the amount to be so deducted and withheld shall
 8 not be less than 28 percent. The preceding sentence shall
 9 apply to payments made after December 31, 1993.

10 **TITLE III—EMPOWERMENT**
 11 **ZONES AND ENTERPRISE**
 12 **COMMUNITIES**

13 **SEC. 3101. DESIGNATION AND TREATMENT OF**
 14 **EMPOWERMENT ZONES AND ENTERPRISE**
 15 **COMMUNITIES.**

16 (a) IN GENERAL.—Chapter 1 (relating to normal
 17 taxes and surtaxes) is amended by inserting after sub-
 18 chapter T the following new subchapter:

19 **“Subchapter U—Designation and Treatment**
 20 **of Empowerment Zones and Enterprise**
 21 **Communities**

“Part I. Designation.

“Part II. Incentives for empowerment zones and enterprise com-
 munities.

“Part III. Additional incentives for empowerment zones.

“Part IV. Regulations.

22 **“PART I—DESIGNATION**

“Sec. 1391. Designation procedure.

“Sec. 1392. Eligibility criteria.

“Sec. 1393. Definitions and special rules.

1 **“SEC. 1391. DESIGNATION PROCEDURE.**

2 “(a) IN GENERAL.—From among the areas nomi-
3 nated for designation under this section, the appropriate
4 Secretaries may, in consultation with the Enterprise
5 Board, designate empowerment zones and enterprise com-
6 munities.

7 “(b) NUMBER OF DESIGNATIONS.—

8 “(1) ENTERPRISE COMMUNITIES.—The appro-
9 priate Secretaries may designate in the aggregate
10 100 nominated areas as enterprise communities
11 under this section, subject to the availability of eligi-
12 ble nominated areas. Of that number, not more than
13 65 may be designated in urban areas, not more than
14 30 may be designated in rural areas, and not more
15 than 5 may be designated by the Secretary of the
16 Interior in Indian reservations.

17 “(2) EMPOWERMENT ZONES.—The appropriate
18 Secretaries may designate in the aggregate 10 nomi-
19 nated areas as empowerment zones under this sec-
20 tion, subject to the availability of eligible nominated
21 areas. Of that number, not more than 6 may be des-
22 ignated in urban areas, not more than 3 may be des-
23 ignated in rural areas, and not more than 1 may be
24 designated by the Secretary of the Interior in an In-

1 dian reservation. If 6 empowerment zones are des-
2 ignated in urban areas, no less than 1 shall be des-
3 ignated in an urban area whose most populous city
4 has a population of 500,000 or less. The Secretary
5 of Housing and Urban Development shall designate
6 empowerment zones located in urban areas in such
7 a manner that the aggregate population of all such
8 zones does not exceed 750,000.

9 “(c) PERIOD DESIGNATIONS MAY BE MADE.—A des-
10 ignation may be made under this section only after 1993
11 and before 1996.

12 “(d) PERIOD FOR WHICH DESIGNATION IS IN EF-
13 FECT.—

14 “(1) IN GENERAL.—Any designation under this
15 section shall remain in effect during the period be-
16 ginning on the date of the designation and ending
17 on the earliest of—

18 “(A) the close of the 10th calendar year
19 beginning on or after such date of designation,

20 “(B) the termination date designated by
21 the State and local governments as provided for
22 in their nomination, or

23 “(C) the date the appropriate Secretary re-
24 vokes the designation.

25 “(2) REVOCATION OF DESIGNATION.—

1 “(A) IN GENERAL.—The appropriate Sec-
2 retary, in consultation with the Enterprise
3 Board, may revoke the designation under this
4 section of an area if such Secretary determines
5 that the local government or the State in which
6 it is located—

7 “(i) has modified the boundaries of
8 the area, or

9 “(ii) is not complying substantially
10 with, or fails to make progress in achieving
11 the benchmarks set forth in, the strategic
12 plan under subsection (f)(2).

13 “(B) APPLICABLE PROCEDURES.—A des-
14 ignation may be revoked by the appropriate
15 Secretary under subparagraph (A) only after a
16 hearing on the record involving officials of the
17 State or local government involved.

18 “(e) LIMITATIONS ON DESIGNATIONS.—An area may
19 be designated under subsection (a) only if—

20 “(1) the area is nominated by 1 or more local
21 governments and the State or States in which it is
22 located for designation under this section,

23 “(2) such State or States and the local govern-
24 ments have the authority—

1 “(A) to nominate the area for designation
2 under this section, and

3 “(B) to provide the assurances described in
4 paragraph (3),

5 “(3) such State or States and the local govern-
6 ments provide written assurances satisfactory to the
7 appropriate Secretary that the strategic plan de-
8 scribed in the application under subsection (f)(2) for
9 such area will be implemented,

10 “(4) the appropriate Secretary determines that
11 any information furnished is reasonably accurate,
12 and

13 “(5) such State or States and local govern-
14 ments certify that no portion of the area nominated
15 is already included in an empowerment zone or in an
16 enterprise community or in an area otherwise nomi-
17 nated to be designated under this section.

18 “(f) APPLICATION.—An application for designation
19 as an empowerment zone or as an enterprise community
20 shall—

21 “(1) demonstrate that the nominated area sat-
22 isfies the eligibility criteria described in section
23 1392,

24 “(2) include a strategic plan for accomplishing
25 the purposes of this subchapter that—

1 “(A) describes the coordinated economic,
2 human, community, and physical development
3 plan and related activities proposed for the
4 nominated area,

5 “(B) describes the process by which the af-
6 fected community is a full partner in the proc-
7 ess of developing and implementing the plan
8 and the extent to which local institutions and
9 organizations have contributed to the planning
10 process,

11 “(C) identifies the amount of State, local,
12 and private resources that will be available in
13 the nominated area and the private/public part-
14 nerships to be used, which may include partici-
15 pation by, and cooperation with, universities,
16 medical centers, and other private and public
17 entities,

18 “(D) identifies the funding requested
19 under any Federal program in support of the
20 proposed economic, human, community, and
21 physical development and related activities,

22 “(E) identifies baselines, methods, and
23 benchmarks for measuring the success of carry-
24 ing out the strategic plan, including the extent
25 to which poor persons and families will be em-

1 powered to become economically self-sufficient,
2 and

3 “(F) does not include any action to assist
4 any establishment in relocating from one area
5 outside the nominated area to the nominated
6 area, except that assistance for the expansion of
7 an existing business entity through the estab-
8 lishment of a new branch, affiliate, or subsidi-
9 ary is permitted if—

10 “(i) the establishment of the new
11 branch, affiliate, or subsidiary will not re-
12 sult in a decrease in employment in the
13 area of original location or in any other
14 area where the existing business entity
15 conducts business operations, and

16 “(ii) there is no reason to believe that
17 the new branch, affiliate, or subsidiary is
18 being established with the intention of clos-
19 ing down the operations of the existing
20 business entity in the area of its original
21 location or in any other area where the ex-
22 isting business entity conducts business op-
23 eration, and

1 “(3) include such other information as may be
2 required by the appropriate Secretary or the Enter-
3 prise Board.

4 **“SEC. 1392. ELIGIBILITY CRITERIA.**

5 “(a) IN GENERAL.—A nominated area shall be eligi-
6 ble for designation under section 1391 only if it meets the
7 following criteria:

8 “(1) POPULATION.—The nominated area has a
9 maximum population of—

10 “(A) in the case of an urban area, the
11 lesser of—

12 “(i) 200,000, or

13 “(ii) the greater of 50,000 or 10 per-
14 cent of the population of the most popu-
15 lous city located within the nominated
16 area, and

17 “(B) in the case of a rural area, 30,000.

18 “(2) DISTRESS.—The nominated area is one of
19 pervasive poverty, unemployment, and general dis-
20 tress.

21 “(3) SIZE.—The nominated area—

22 “(A) does not exceed 20 square miles if an
23 urban area or 1,000 square miles if a rural
24 area or an Indian reservation,

1 “(B) has a boundary which is continuous,
2 or, except in the case of a rural area located in
3 more than 1 State, consists of not more than
4 3 noncontiguous parcels,

5 “(C)(i) in the case of an urban area, is lo-
6 cated entirely within no more than 2 contiguous
7 States, and

8 “(ii) in the case of a rural area, is located
9 entirely within no more than 3 contiguous
10 States, and

11 “(D) does not include any portion of a
12 central business district (as such term is used
13 for purposes of the most recent Census of Re-
14 tail Trade) unless the poverty rate for each
15 population census tract in such district is not
16 less than 35 percent.

17 “(4) POVERTY RATE.—The poverty rate—

18 “(A) for each population census tract with-
19 in the nominated area is not less than 20 per-
20 cent,

21 “(B) for at least 90 percent of the popu-
22 lation census tracts within the nominated area
23 is not less than 25 percent, and

1 “(C) for at least 50 percent of the popu-
2 lation census tracts within the nominated area
3 is not less than 35 percent.

4 “(b) SPECIAL RULES RELATING TO DETERMINATION
5 OF POVERTY RATE.—For purposes of subsection (a)(4)—

6 “(1) TREATMENT OF CENSUS TRACTS WITH
7 SMALL POPULATIONS.—

8 “(A) TRACTS WITH NO POPULATION.—In
9 the case of a population census tract with no
10 population—

11 “(i) such tract shall be treated as hav-
12 ing a poverty rate which meets the require-
13 ments of subparagraphs (A) and (B) of
14 subsection (a)(4), but

15 “(ii) such tract shall be treated as
16 having a zero poverty rate for purposes of
17 applying subparagraph (C) thereof.

18 “(B) TRACTS WITH POPULATIONS OF LESS
19 THAN 2,000.—A population census tract with a
20 population of less than 2,000 shall be treated as
21 having a poverty rate which meets the require-
22 ments of subparagraphs (A) and (B) of sub-
23 section (a)(4) if more than 75 percent of such
24 tract is zoned for commercial or industrial use.

1 “(2) DISCRETION TO ADJUST REQUIRE-
2 MENTS.—Where necessary to carry out the purposes
3 of this subchapter, the appropriate Secretary may
4 reduce by 5 percentage points one of the following
5 thresholds for not more than 10 percent of the popu-
6 lation census tracts (or, if fewer, 5 population cen-
7 sus tracts) in the nominated area:

8 “(A) The 20 percent threshold in sub-
9 section (a)(4)(A).

10 “(B) The 25 percent threshold in sub-
11 section (a)(4)(B).

12 “(C) The 35 percent threshold in sub-
13 section (a)(4)(C).

14 “(3) EACH NONCONTIGUOUS AREA MUST SAT-
15 ISFY POVERTY RATE RULE.—A nominated area may
16 not include a noncontiguous parcel unless such par-
17 cel separately meets (subject to paragraphs (1) and
18 (2)) the criteria set forth in subsection (a)(4).

19 “(4) AREAS NOT WITHIN CENSUS TRACTS.—In
20 the case of an area which is not tracted for popu-
21 lation census tracts, the equivalent county divisions
22 (as defined by the Bureau of the Census for pur-
23 poses of defining poverty areas) shall be used for
24 purposes of determining poverty rates.

1 “(c) FACTORS TO CONSIDER.—From among the
2 nominated areas eligible for designation under section
3 1391 by the appropriate Secretary, such appropriate Sec-
4 retary shall make designations of empowerment zones and
5 enterprise communities on the basis of—

6 “(1) the effectiveness of the strategic plan sub-
7 mitted pursuant to section 1391(f)(2) and the assur-
8 ances made pursuant to section 1391(e)(3), and

9 “(2) criteria specified by the Enterprise Board.

10 **“SEC. 1393. DEFINITIONS AND SPECIAL RULES.**

11 “(a) IN GENERAL.—For purposes of this sub-
12 chapter—

13 “(1) APPROPRIATE SECRETARY.—The term ‘ap-
14 propriate Secretary’ means—

15 “(A) the Secretary of Housing and Urban
16 Development in the case of any nominated area
17 which is located in an urban area,

18 “(B) the Secretary of Agriculture in the
19 case of any nominated area which is located in
20 a rural area, and

21 “(C) the Secretary of the Interior in the
22 case of any nominated area which is located in
23 an Indian reservation.

24 “(2) ENTERPRISE BOARD.—The term ‘Enter-
25 prise Board’ means any board hereafter established

1 and designated for purposes of this subchapter as
2 the ‘Enterprise Board’.

3 “(3) RURAL AREA.—The term ‘rural area’
4 means any area which is—

5 “(A) outside of a metropolitan statistical
6 area (within the meaning of section
7 143(k)(2)(B)), or

8 “(B) determined by the Secretary of Agri-
9 culture, after consultation with the Secretary of
10 Commerce, to be a rural area.

11 “(4) URBAN AREA.—The term ‘urban area’
12 means an area which is not a rural area.

13 “(5) INDIAN RESERVATION.—

14 “(A) IN GENERAL.—The term ‘Indian res-
15 ervation’ means a reservation as defined in—

16 “(i) section 3(d) of the Indian Financ-
17 ing Act of 1974 (25 U.S.C. 1452(d)), or

18 “(ii) section 4(10) of the Indian Child
19 Welfare Act of 1978 (25 U.S.C. 1903(10)).

20 “(B) GOVERNMENTS.—In the case of an
21 area in an Indian reservation, the reservation
22 governing body (as determined by the Secretary
23 of the Interior) shall be deemed to be both the
24 State and local governments with respect to
25 such area.

1 “(6) LOCAL GOVERNMENT.—The term ‘local
2 government’ means—

3 “(A) any county, city, town, township, par-
4 ish, village, or other general purpose political
5 subdivision of a State, and

6 “(B) any combination of political subdivi-
7 sions described in subparagraph (A) recognized
8 by the appropriate Secretary.

9 “(7) NOMINATED AREA.—The term ‘nominated
10 area’ means an area which is nominated by 1 or
11 more local governments and the State or States in
12 which it is located for designation under section
13 1391.

14 “(8) GOVERNMENTS.—If more than 1 State or
15 local government seeks to nominate an area as a tax
16 enterprise zone, any reference to, or requirement of,
17 this subchapter shall apply to all such governments.

18 “(9) SPECIAL RULE.—An area shall be treated
19 as nominated by a State and a local government if
20 it is nominated by such other entity as may be speci-
21 fied by the Enterprise Board.

22 “(10) USE OF CENSUS DATA.—Population and
23 poverty rate shall be determined by the most recent
24 decennial census data available.

1 “(b) EMPOWERMENT ZONE; ENTERPRISE COMMU-
 2 NITY.—For purposes of this title, the terms ‘empowerment
 3 zone’ and ‘enterprise community’ mean areas designated
 4 as such under section 1391.

5 **“PART II—INCENTIVES FOR EMPOWERMENT**
 6 **ZONES AND ENTERPRISE COMMUNITIES**

 “Sec. 1394. Zone resident empowerment savings credit.

 “Sec. 1395. Additional benefits.

7 **“SEC. 1394. ZONE RESIDENT EMPOWERMENT SAVINGS**
 8 **CREDIT.**

9 “(a) GENERAL RULE.—For purposes of section 38,
 10 the amount of the zone resident empowerment savings
 11 credit determined under this section with respect to any
 12 employer for any taxable year is 50 percent of the quali-
 13 fied savings contributions for the taxable year.

14 “(b) QUALIFIED SAVINGS CONTRIBUTIONS.—For
 15 purposes of this section—

16 “(1) IN GENERAL.—The term ‘qualified savings
 17 contribution’ means any contribution by an employer
 18 to a defined contribution plan—

19 “(A) which is made on behalf of an em-
 20 ployee in connection with services performed by
 21 such employee while such employee is a quali-
 22 fied zone employee, and

23 “(B) with respect to which the employee
 24 has a nonforfeitable right.

1 “(2) LIMITATION BASED ON COMPENSATION.—

2 “(A) IN GENERAL.—The qualified savings
3 contributions taken into account with respect to
4 any qualified zone employee for any taxable
5 year shall not exceed an amount equal to 2 per-
6 cent of so much of the employee’s compensation
7 (as defined in section 414(s)) as does not
8 exceed \$35,000.

9 “(B) ZONE DESIGNATION IN EFFECT FOR
10 PARTIAL YEAR.—If a designation of an area as
11 an empowerment zone or an enterprise commu-
12 nity is in effect for less than the entire taxable
13 year, the \$35,000 amount under subparagraph
14 (A) shall be ratably reduced to reflect the por-
15 tion of the year such designation is not in
16 effect.

17 “(3) CERTAIN CONTRIBUTIONS EXCLUDED.—
18 The term ‘qualified savings contribution’ shall not
19 include any contribution—

20 “(A) to a plan subject to the funding re-
21 quirements of section 412,

22 “(B) to a tax credit employee stock owner-
23 ship plan (as defined in section 409(a)) or to an
24 employee stock ownership plan (as defined in
25 section 4975(e)(7)),

1 “(C) to a stock bonus plan, or

2 “(D) which is an elective deferral (within
3 the meaning of section 402(g)(3)).

4 “(4) SIMPLIFIED EMPLOYEE PENSION.—A con-
5 tribution to an individual savings plan pursuant to
6 a simplified employee pension (as defined in section
7 408(k)) shall be treated as a contribution to a de-
8 fined contribution plan.

9 “(c) EMPLOYER REQUIREMENTS.—This section shall
10 apply to an employer for any taxable year only if—

11 “(1) the employer elects the application of this
12 section, and

13 “(2) the plan pursuant to which any qualified
14 savings contribution is made provides that any con-
15 tribution to such plan (whether or not a qualified
16 savings contribution) may be withdrawn by a quali-
17 fied zone employee for the purposes described in sec-
18 tion 72(t)(2) (B) or (D).

19 “(d) DEFINITIONS.—For purposes of this section—

20 “(1) QUALIFIED ZONE EMPLOYEE.—The term
21 ‘qualified zone employee’ has the meaning given such
22 term by section 1396(d), except that the references
23 to empowerment zones shall be treated as including
24 references to enterprise communities.

1 “(2) DEFINED CONTRIBUTION PLAN.—The
2 term ‘defined contribution plan’ means a defined
3 contribution plan (as defined in section 414(i))
4 which is described in section 401(a) and includes a
5 trust exempt from tax under section 501(a).

6 “(e) TREATMENT OF PLANS.—A plan shall not be
7 treated as failing to meet any requirement of part I of
8 subchapter D of chapter 1 by reason of permitting with-
9 draws for the purposes described in section 72(t)(2) (B)
10 or (D).

11 **“SEC. 1395. ADDITIONAL BENEFITS.**

12 “(a) INCREASE IN LOW INCOME HOUSING CREDIT.—
13 For purposes of section 42(d)(5)(C), a building shall be
14 treated as located in a qualified census tract if—

15 “(1) such building is located in a census tract
16 having a poverty rate of at least 30 percent (deter-
17 mined in accordance with section 1393(a)(10)), and

18 “(2) such building is located in an
19 empowerment zone or an enterprise community.

20 “(b) TAX EXEMPT ENTERPRISE ZONE FACILITY
21 BONDS.—

22 “(1) IN GENERAL.—For purposes of part IV of
23 subchapter B of chapter 1 (relating to tax exemption
24 requirements for State and local bonds), the term
25 ‘exempt facility bond’ includes any bond issued as

1 part of an issue 95 percent or more of the net pro-
2 ceeds (as defined in section 150(a)(3)) of which are
3 to be used to provide any enterprise zone facility.

4 “(2) ENTERPRISE ZONE FACILITY.—For pur-
5 poses of this subsection—

6 “(A) IN GENERAL.—The term ‘enterprise
7 zone facility’ means any qualified zone property
8 the principal user of which is an enterprise zone
9 business (as defined in section 1399A), and any
10 land which is functionally related and subordi-
11 nated to such property.

12 “(B) QUALIFIED ZONE PROPERTY.—The
13 term ‘qualified zone property’ has the meaning
14 given such term by section 1398(c); except
15 that—

16 “(i) section 1398(c)(3) shall not
17 apply, and

18 “(ii) the references to empowerment
19 zones shall be treated as including ref-
20 erences to enterprise communities.

21 “(3) LIMITATION ON AMOUNT OF BONDS.—

22 “(A) IN GENERAL.—Paragraph (1) shall
23 not apply to any issue if the aggregate amount
24 of outstanding enterprise zone facility bonds al-

1 locable to any enterprise zone business (taking
2 into account such issue) exceeds—

3 “(i) \$3,000,000 with respect to any 1
4 empowerment zone or enterprise commu-
5 nity, or

6 “(ii) \$20,000,000 with respect to all
7 empowerment zones and enterprise com-
8 munities.

9 “(B) AGGREGATE ENTERPRISE ZONE FA-
10 CILITY BOND BENEFIT.—For purposes of sub-
11 paragraph (A), the aggregate amount of out-
12 standing enterprise zone facility bonds allocable
13 to any business shall be determined under rules
14 similar to the rules of section 144(a)(10), tak-
15 ing into account only bonds to which paragraph
16 (1) applies.

17 “(4) ACQUISITION OF LAND AND EXISTING
18 PROPERTY PERMITTED.—The requirements of sec-
19 tions 147(c)(1)(A) and 147(d) shall not apply to any
20 bond described in paragraph (1).

21 “(5) PARTIAL EXEMPTION FROM VOLUME
22 CAP.—Only for purposes of section 146, the term
23 ‘private activity bond’ shall not include 50 percent of
24 any bond issued as part of an issue described in
25 paragraph (1).

1 “(6) PENALTY FOR CEASING TO MEET RE-
2 QUIREMENTS.—

3 “(A) FAILURES CORRECTED.—An issue
4 which fails to meet 1 or more of the require-
5 ments of paragraphs (1) and (2) shall be
6 treated as meeting such requirements if—

7 “(i) the issuer and any principal user
8 in good faith attempted to meet such re-
9 quirements, and

10 “(ii) any failure to meet such require-
11 ments is corrected within a reasonable pe-
12 riod after such failure is first discovered.

13 “(B) LOSS OF DEDUCTIONS WHERE FACIL-
14 ITY CEASES TO BE QUALIFIED.—No deduction
15 shall be allowed under this chapter for interest
16 on any financing provided from any bond to
17 which paragraph (1) applies with respect to any
18 facility to the extent such interest accrues dur-
19 ing the period beginning on the first day of the
20 calendar year which includes the date on
21 which—

22 “(i) substantially all of the facility
23 with respect to which the financing was
24 provided ceases to be used in an

1 empowerment zone or enterprise commu-
2 nity, or

3 “(ii) the principal user of such facility
4 ceases to be an enterprise zone business
5 (as defined in section 1399A, but treating
6 references to empowerment zones as in-
7 cluding references to enterprise commu-
8 nities).

9 “(C) EXCEPTION IF ZONE CEASES.—Sub-
10 paragraphs (A) and (B) shall not apply solely
11 by reason of the termination or revocation of a
12 designation as an empowerment zone or an en-
13 terprise community.

14 “(D) EXCEPTION FOR BANKRUPTCY.—
15 Subparagraphs (A) and (B) shall not apply to
16 any cessation resulting from bankruptcy.

17 “(c) ENTERPRISE ZONE FACILITY BONDS NOT SUB-
18 JECT TO INTEREST DEDUCTION LIMITATIONS ON FINAN-
19 CIAL INSTITUTIONS.—Any tax-exempt bond described in
20 paragraph (1)—

21 “(1) shall be treated as acquired before August
22 8, 1986, for purposes of sections 265(b) and
23 291(e)(1)(B), and

1 “(2) shall not be taken into account in deter-
 2 mining whether any issuer is a qualified small issuer
 3 for purposes of section 265(b).

4 **“PART III—ADDITIONAL INCENTIVES FOR**
 5 **EMPOWERMENT ZONES**

 “SUBPART A. Empowerment zone employment credit.

 “SUBPART B. Depreciation and other incentives.

6 **“Subpart A—Empowerment Zone Employment Credit**

 “Sec. 1396. Empowerment zone employment credit.

 “Sec. 1397. Other definitions and special rules.

7 **“SEC. 1396. EMPOWERMENT ZONE EMPLOYMENT CREDIT.**

8 “(a) AMOUNT OF CREDIT.—For purposes of section
 9 38, the amount of the empowerment zone employment
 10 credit determined under this section with respect to any
 11 employer for any taxable year is the applicable percentage
 12 of the qualified zone wages paid or incurred during the
 13 calendar year which ends with or within such taxable year.

14 “(b) APPLICABLE PERCENTAGE.—For purposes of
 15 this section, the term ‘applicable percentage’ means the
 16 percentage determined in accordance with the following
 17 table:

“In the case of wages paid or incurred during calendar year:	The applicable percentage is:
1994 through 2000	25
2001	20
2002	15
2003	10
2004	5

18 “(c) QUALIFIED ZONE WAGES.—

1 “(1) IN GENERAL.—For purposes of this sec-
2 tion, the term ‘qualified zone wages’ means any
3 wages paid or incurred by an employer for services
4 performed by an employee while such employee is a
5 qualified zone employee.

6 “(2) ONLY FIRST \$20,000 OF WAGES PER YEAR
7 TAKEN INTO ACCOUNT.—With respect to each quali-
8 fied zone employee, the amount of qualified zone
9 wages which may be taken into account for a cal-
10 endar year shall not exceed \$20,000.

11 “(3) COORDINATION WITH TARGETED JOBS
12 CREDIT.—

13 “(A) IN GENERAL.—The term ‘qualified
14 zone wages’ shall not include wages attributable
15 to service rendered during the 1-year period be-
16 ginning with the day the individual begins work
17 for the employer if any portion of such wages
18 is taken into account in determining the credit
19 under section 51.

20 “(B) COORDINATION WITH PARAGRAPH
21 (2).—In the case of the calendar year in which
22 the 1-year period referred to in subparagraph
23 (A) ends, the \$20,000 amount in paragraph (2)
24 shall be reduced by the amount of wages attrib-
25 utable to service rendered during the portion of

1 such 1-year period which is within such cal-
2 endar year.

3 “(d) QUALIFIED ZONE EMPLOYEE.—For purposes of
4 this section—

5 “(1) IN GENERAL.—Except as otherwise pro-
6 vided in this subsection, the term ‘qualified zone em-
7 ployee’ means, with respect to any period, any em-
8 ployee of an employer if—

9 “(A) substantially all of the services per-
10 formed during such period by such employee for
11 such employer are performed within an
12 empowerment zone in a trade or business of the
13 employer, and

14 “(B) the principal place of abode of such
15 employee while performing such services is
16 within such empowerment zone.

17 “(2) CERTAIN INDIVIDUALS NOT ELIGIBLE.—
18 The term ‘qualified zone employee’ shall not in-
19 clude—

20 “(A) any individual described in subpara-
21 graph (A), (B), or (C) of section 51(i)(1),

22 “(B) any 5-percent owner (as defined in
23 section 416(i)(1)(B)),

24 “(C) any individual employed by the em-
25 ployer for less than 90 days,

1 “(D) any individual employed by the em-
2 ployer at any facility described in section
3 144(c)(6)(B), and

4 “(E) any individual employed by the em-
5 ployer in a trade or business the principal activ-
6 ity of which is farming (within the meaning of
7 subparagraphs (A) or (B) of section
8 2032A(e)(5)), but only if, as of the close of the
9 taxable year, the sum of—

10 “(i) the aggregate unadjusted bases
11 (or, if greater, the fair market value) of
12 the assets owned by the employer which
13 are used in such a trade or business, and

14 “(ii) the aggregate value of assets
15 leased by the employer which are used in
16 such a trade or business (as determined
17 under regulations prescribed by the Sec-
18 retary),

19 exceeds \$500,000.

20 “(3) SPECIAL RULES RELATED TO TERMI-
21 NATION OF EMPLOYMENT.—

22 “(A) IN GENERAL.—Paragraph (2)(C)
23 shall not apply to—

24 “(i) a termination of employment of
25 an individual who before the close of the

1 period referred to in paragraph (2)(C) be-
2 comes disabled to perform the services of
3 such employment unless such disability is
4 removed before the close of such period
5 and the taxpayer fails to offer reemploy-
6 ment to such individual, or

7 “(ii) a termination of employment of
8 an individual if it is determined under the
9 applicable State unemployment compensa-
10 tion law that the termination was due to
11 the misconduct of such individual.

12 “(B) CHANGES IN FORM OF BUSINESS.—
13 For purposes of paragraph (2)(C), the employ-
14 ment relationship between the taxpayer and an
15 employee shall not be treated as terminated—

16 “(i) by a transaction to which section
17 381(a) applies if the employee continues to
18 be employed by the acquiring corporation,
19 or

20 “(ii) by reason of a mere change in
21 the form of conducting the trade or busi-
22 ness of the taxpayer if the employee con-
23 tinues to be employed in such trade or
24 business and the taxpayer retains a sub-
25 stantial interest in such trade or business.

1 **“SEC. 1397. OTHER DEFINITIONS AND SPECIAL RULES.**

2 “(a) WAGES.—For purposes of this subpart—

3 “(1) IN GENERAL.—The term ‘wages’ has the
4 same meaning as when used in section 51.

5 “(2) CERTAIN TRAINING AND EDUCATIONAL
6 BENEFITS.—

7 “(A) IN GENERAL.—The following
8 amounts shall be treated as wages paid to an
9 employee:

10 “(i) Any amount paid or incurred by
11 an employer which is excludable from the
12 gross income of an employee under section
13 127, but only to the extent paid or in-
14 curred to a person not related to the em-
15 ployer.

16 “(ii) In the case of an employee who
17 has not attained the age of 19, any
18 amount paid or incurred by an employer
19 for any youth training program operated
20 by such employer in conjunction with local
21 education officials.

22 “(B) RELATED PERSON.—A person is re-
23 lated to any other person if the person bears a
24 relationship to such other person specified in
25 section 267(b) or 707(b)(1), or such person and
26 such other person are engaged in trades or

1 businesses under common control (within the
2 meaning of subsections (a) and (b) of section
3 52). For purposes of the preceding sentence, in
4 applying section 267(b) or 707(b)(1), ‘10 per-
5 cent’ shall be substituted for ‘50 percent’.

6 “(b) CONTROLLED GROUPS.—For purposes of this
7 subpart—

8 “(1) all employers treated as a single employer
9 under subsection (a) or (b) of section 52 shall be
10 treated as a single employer for purposes of this
11 subpart, and

12 “(2) the credit (if any) determined under sec-
13 tion 1396 with respect to each such employer shall
14 be its proportionate share of the wages giving rise
15 to such credit.

16 “(c) CERTAIN OTHER RULES MADE APPLICABLE.—
17 For purposes of this subpart, rules similar to the rules
18 of section 51(k) and subsections (c), (d), and (e) of section
19 52 shall apply.

20 “(d) NOTICE OF AVAILABILITY OF ADVANCE PAY-
21 MENT OF EARNED INCOME CREDIT.—Each employer
22 shall take reasonable steps to notify all qualified zone em-
23 ployees of the availability to eligible individuals of receiv-
24 ing advanced payments of the credit under section 32 (re-
25 lating to the earned income credit).

1 **“Subpart B—Depreciation and Other Incentives**

 “Sec. 1398. Depreciation benefits.

 “Sec. 1399. Additional exclusion from volume cap for certain enterprise zone facility bonds.

 “Sec. 1399A. Enterprise zone business.

2 **“SEC. 1398. DEPRECIATION BENEFITS.**

3 “(a) INCREASE IN EXPENSING UNDER SECTION
4 179.—

5 “(1) IN GENERAL.—In the case of an enterprise
6 zone business, for purposes of section 179—

7 “(A) qualified zone property shall be treat-
8 ed as section 179 property,

9 “(B) the limitation under section
10 179(b)(1) shall be increased by the lesser of—

11 “(i) \$65,000, or

12 “(ii) the cost of qualified zone prop-
13 erty placed in service during the taxable
14 year, and

15 “(C) section 179(b)(2) shall be applied by
16 substituting ‘by one-half of the amount by
17 which the cost of qualified zone property (other
18 than real property)’ for ‘by the amount by
19 which the cost of section 179 property’.

20 “(b) ACCELERATED DEPRECIATION.—

21 “(1) IN GENERAL.—For purposes of section
22 168(a), with respect to qualified zone property of an
23 enterprise zone business, the applicable recovery pe-

1 riod shall be determined in accordance with the table
 2 contained in paragraph (2) in lieu of the table con-
 3 tained in section 168(c).

4 “(2) APPLICABLE RECOVERY PERIOD FOR
 5 QUALIFIED ZONE PROPERTY.—For purposes of para-
 6 graph (1)—

“In the case of:	The applicable recovery period is:
3-year property	2 years
5-year property	3 years
7-year property	4 years
10-year property	6 years
15-year property	9 years
20-year property	12 years
Nonresidential real property	22 years.

7 “(3) DEDUCTION ALLOWED IN COMPUTING
 8 MINIMUM TAX.—Paragraph (1) shall apply for pur-
 9 poses of determining alternative minimum taxable
 10 income under section 55.

11 “(4) COORDINATION WITH INVESTMENT CRED-
 12 IT.—This subsection shall not apply to any property
 13 with respect to which a credit is determined under
 14 section 46A or 50A. If the lessee of any property is
 15 treated as the owner of such property for purposes
 16 of such credit, this subsection shall not apply to
 17 such property in the hands of the lessor.

18 “(c) QUALIFIED ZONE PROPERTY.—For purposes of
 19 this section—

1 “(1) IN GENERAL.—The term ‘qualified zone
2 property’ means any property to which section 168
3 applies (or would apply but for section 179) if—

4 “(A) such property was acquired by the
5 taxpayer by purchase (as defined in section
6 179(d)(2)) after the date on which the designa-
7 tion of the empowerment zone took effect,

8 “(B) the original use of which in an
9 empowerment zone commences with the tax-
10 payer, and

11 “(C) substantially all of the use of which
12 is in an empowerment zone and is in the active
13 conduct of a trade or business by the taxpayer
14 in such zone.

15 “(2) SPECIAL RULE FOR SUBSTANTIAL REN-
16 OVATIONS.—In the case of any property which is
17 substantially renovated by the taxpayer, the require-
18 ments of subparagraphs (A) and (B) of paragraph
19 (1) shall be treated as satisfied. For purposes of the
20 preceding sentence, property shall be treated as sub-
21 stantially renovated by the taxpayer if, during any
22 24-month period beginning after the date on which
23 the designation of the empowerment zone took ef-
24 fect, additions to basis with respect to such property
25 in the hands of the taxpayer exceed the greater of

1 (i) an amount equal to the adjusted basis at the be-
2 ginning of such 24-month period in the hands of the
3 taxpayer, or (ii) \$5,000.

4 “(3) EXCEPTION FOR ALTERNATIVE DEPRECIA-
5 TION PROPERTY.—The term ‘qualified zone prop-
6 erty’ does not include any property to which the al-
7 ternative depreciation system under section 168(g)
8 applies, determined—

9 “(A) without regard to section 168(g)(7)
10 (relating to election to use alternative deprecia-
11 tion system), and

12 “(B) after the application of section
13 280F(b) (relating to listed property with limited
14 business use).

15 “(d) SPECIAL RULES FOR SALE-LEASEBACKS.—For
16 purposes of subsection (c)(1)(B), if property is sold and
17 leased back by the taxpayer within 3 months after the date
18 such property was originally placed in service, such prop-
19 erty shall be treated as originally placed in service not ear-
20 lier than the date on which such property is used under
21 the leaseback.

22 “(e) RECAPTURE.—Rules similar to the rules under
23 section 179(d)(10) shall apply with respect to any quali-
24 fied zone property of any business which ceases to be an
25 enterprise zone business.

1 **“SEC. 1399. ADDITIONAL EXCLUSION FROM VOLUME CAP**
2 **FOR CERTAIN ENTERPRISE ZONE FACILITY**
3 **BONDS.**

4 “(a) IN GENERAL.—Section 1395(b)(5) shall be ap-
5 plied by substituting ‘75 percent’ for ‘50 percent’ in the
6 case of any bond described in section 1395(b)(1) issued
7 as part of an issue 95 percent or more of the net proceeds
8 (as defined in section 150(a)(3)) of which are used to pro-
9 vide qualified zone property the principal user of which
10 is any enterprise zone business if the ownership require-
11 ments of subsection (b) are met with respect to such busi-
12 ness.

13 “(b) OWNERSHIP REQUIREMENTS.—The ownership
14 requirements of this subsection are met with respect to
15 an enterprise zone business if—

16 “(1) in the case of a sole proprietorship, the
17 principal place of abode of the proprietor is in an
18 empowerment zone,

19 “(2) in the case of a corporation, more than 50
20 percent of the stock (by vote and value) in the cor-
21 poration is owned by individuals whose principal
22 place of abode is in an empowerment zone, and

23 “(3) in the case of a partnership, more than 50
24 percent of the capital and profits interests in the
25 partnership is owned by individuals whose principal
26 place of abode is in an empowerment zone.

1 **“SEC. 1399A. ENTERPRISE ZONE BUSINESS DEFINED.**

2 “(a) IN GENERAL.—For purposes of this subpart, the
3 term ‘enterprise zone business’ means—

4 “(1) any qualified business entity, and

5 “(2) any qualified proprietorship.

6 “(b) QUALIFIED BUSINESS ENTITY.—For purposes
7 of this section, the term ‘qualified business entity’ means,
8 with respect to any taxable year, any corporation or part-
9 nership if for such year—

10 “(1) every trade or business of such entity is
11 the active conduct of a qualified business within an
12 empowerment zone,

13 “(2) at least 80 percent of the total gross in-
14 come of such entity is derived from the active con-
15 duct of such business,

16 “(3) substantially all of the use of the tangible
17 property of such entity (whether owned or leased) is
18 within an empowerment zone,

19 “(4) substantially all of the intangible property
20 of such entity is used in, and exclusively related to,
21 the active conduct of any such business,

22 “(5) substantially all of the services performed
23 for such entity by its employees are performed in an
24 empowerment zone,

25 “(6) at least 35 percent of its employees are
26 residents of an empowerment zone,

1 “(7) less than 5 percent of the average of the
2 aggregate unadjusted bases of the property of such
3 entity is attributable to collectibles (as defined in
4 section 408(m)(2)) other than collectibles that are
5 held primarily for sale to customers in the ordinary
6 course of such business, and

7 “(8) less than 5 percent of the average of the
8 aggregate unadjusted bases of the property of such
9 entity is attributable to nonqualified financial prop-
10 erty.

11 “(c) QUALIFIED PROPRIETORSHIP.—For purposes of
12 this section, the term ‘qualified proprietorship’ means,
13 with respect to any taxable year, any qualified business
14 carried on by an individual as a proprietorship if for such
15 year—

16 “(1) at least 80 percent of the total gross in-
17 come of such individual from such business is de-
18 rived from the active conduct of such business in an
19 empowerment zone,

20 “(2) substantially all of the use of the tangible
21 property of such individual in such business (wheth-
22 er owned or leased) is within an empowerment zone,

23 “(3) substantially all of the intangible property
24 of such business is used in, and exclusively related
25 to, the active conduct of such business,

1 “(4) substantially all of the services performed
2 for such individual in such business by employees of
3 such business are performed in an empowerment
4 zone,

5 “(5) at least 35 percent of such employees are
6 residents of an empowerment zone,

7 “(6) less than 5 percent of the average of the
8 aggregate unadjusted bases of the property of such
9 individual which is used in such business is attrib-
10 utable to collectibles (as defined in section
11 408(m)(2)) other than collectibles that are held pri-
12 marily for sale to customers in the ordinary course
13 of such business, and

14 “(7) less than 5 percent of the average of the
15 aggregate unadjusted bases of the property of such
16 individual which is used in such business is attrib-
17 utable to nonqualified financial property.

18 For purposes of this subsection, the term ‘employee’ in-
19 cludes the proprietor.

20 “(d) QUALIFIED BUSINESS.—For purposes of this
21 section—

22 “(1) IN GENERAL.—Except as otherwise pro-
23 vided in this subsection, the term ‘qualified business’
24 means any trade or business.

1 “(2) RENTAL OF REAL PROPERTY.—The rental
2 to others of real property located in an
3 empowerment zone shall be treated as a qualified
4 business if and only if—

5 “(A) the property is not residential rental
6 property (as defined in section 168(e)(2)), and

7 “(B) at least 50 percent of the gross rental
8 income from the real property is from enter-
9 prise zone businesses.

10 “(3) RENTAL OF TANGIBLE PERSONAL PROP-
11 erty.—The rental to others of tangible personal
12 property shall be treated as a qualified business if
13 and only if substantially all of the rental of such
14 property is by enterprise zone businesses or by resi-
15 dents of an empowerment zone.

16 “(4) TREATMENT OF BUSINESS HOLDING IN-
17 tangibles.—The term ‘qualified business’ shall not
18 include any trade or business consisting predomi-
19 nantly of the development or holding of intangibles
20 for sale or license.

21 “(5) CERTAIN BUSINESSES EXCLUDED.—The
22 term ‘qualified business’ shall not include—

23 “(A) any trade or business consisting of
24 the operation of any facility described in section
25 144(c)(6)(B), and

1 “(B) any trade or business the principal
2 activity of which is farming (within the meaning
3 of subparagraphs (A) or (B) of section
4 2032A(e)(5)), but only if, as of the close of the
5 preceding taxable year, the sum of—

6 “(i) the aggregate unadjusted bases
7 (or, if greater, the fair market value) of
8 the assets owned by the taxpayer which are
9 used in such a trade or business, and

10 “(ii) the aggregate value of assets
11 leased by the taxpayer which are used in
12 such a trade or business,

13 exceeds \$500,000.

14 For purposes of subparagraph (B), rules similar to
15 the rules of section 1397(b) shall apply.

16 “(e) NONQUALIFIED FINANCIAL PROPERTY.—For
17 purposes of this section, the term ‘nonqualified financial
18 property’ means debt, stock, partnership interests, op-
19 tions, futures contracts, forward contracts, warrants, no-
20 tional principal contracts, annuities, and other similar
21 property specified in regulations; except that such term
22 shall not include—

23 “(1) reasonable amounts of working capital
24 held in cash, cash equivalents, or debt instruments
25 with a term of 18 months or less, or

1 “(2) debt instruments described in section
2 1221(4).

3 **“PART IV—REGULATIONS**

 “Sec. 1399B. Regulations.

4 **“SEC. 1399B. REGULATIONS.**

5 “The Secretary shall prescribe such regulations as
6 may be necessary or appropriate to carry out the purposes
7 of parts II and III, including—

8 “(1) regulations limiting the benefit of parts II
9 and III in circumstances where such benefits, in
10 combination with benefits provided under other Fed-
11 eral programs, would result in an activity being 100
12 percent or more subsidized by the Federal Govern-
13 ment,

14 “(2) regulations preventing abuse of the provi-
15 sions of parts II and III, and

16 “(3) regulations dealing with inadvertent fail-
17 ures of entities to be enterprise zone businesses.”

18 (b) CLERICAL AMENDMENT.—The table of sub-
19 chapters for chapter 1 is amended by inserting after the
20 item relating to subchapter T the following new item:

 “Subchapter U. Designation and treatment of empowerment
 zones and enterprise communities.”

21 **SEC. 3102. EXPANSION OF TARGETED JOBS CREDIT.**

22 (a) ALLOWANCE OF CREDIT FOR HIRING
23 EMPOWERMENT ZONE RESIDENT.—Paragraph (1) of sec-

1 tion 51(d) (defining members of targeted groups) is
2 amended by striking “or” at the end of subparagraph (I),
3 by striking the period at the end of subparagraph (J) and
4 inserting “, or”, and by adding at the end the following
5 new subparagraph:

6 “(K) an empowerment zone resident.”

7 (b) EMPOWERMENT ZONE RESIDENT.—Section
8 51(d) is amended by redesignating paragraphs (13)
9 through (16) as paragraphs (14) through (17), respec-
10 tively, and by inserting after paragraph (12) the following
11 new paragraph:

12 “(13) EMPOWERMENT ZONE RESIDENT.—The
13 term ‘empowerment zone resident’ means an individ-
14 ual whose principal place of abode while performing
15 services for the employer is within an empowerment
16 zone.”

17 (c) CONFORMING AMENDMENT.—Subparagraph (C)
18 of section 51(d)(12) is amended by striking “paragraph
19 (11)” and inserting “paragraph (12)”.

20 **SEC. 3103. TECHNICAL AND CONFORMING AMENDMENTS.**

21 (a) CERTAIN CREDITS PART OF GENERAL BUSINESS
22 CREDIT.—

23 (1) Subsection (b) of section 38 (relating to
24 current year business credit) is amended by striking
25 “plus” at the end of paragraph (7), by striking the

1 period at the end of paragraph (8) and inserting a
2 comma, and by adding at the end the following new
3 paragraphs:

4 “(9) the zone resident empowerment savings
5 credit determined under section 1394, plus

6 “(10) the empowerment zone employment credit
7 determined under section 1396(a).”

8 (2) Subsection (d) of section 39, as amended by
9 section 1201(e)(2), is amended by adding at the end
10 the following new paragraph:

11 “(5) ENTERPRISE ZONE CREDITS.—No portion
12 of the unused business credit which is attributable to
13 the credit determined under section 1394 (relating
14 to zone resident empowerment savings credit) or sec-
15 tion 1396 (relating to empowerment zone employ-
16 ment credit) may be carried to any taxable year end-
17 ing before January 1, 1994.”

18 (b) DENIAL OF DEDUCTION FOR PORTION OF WAGES
19 EQUAL TO EMPOWERMENT ZONE EMPLOYMENT CRED-
20 IT.—

21 (1) Subsection (a) of section 280C (relating to
22 rule for targeted jobs credit) is amended—

23 (A) by striking “the amount of the credit
24 determined for the taxable year under section
25 51(a)” and inserting “the sum of the credits

1 determined for the taxable year under sections
2 51(a) and 1396(a)”, and

3 (B) by striking “TARGETED JOBS CRED-
4 IT” in the subsection heading and inserting
5 “EMPLOYMENT CREDITS”.

6 (2) Subsection (c) of section 196 (relating to
7 deduction for certain unused business credits) is
8 amended by striking “and” at the end of paragraph
9 (4), by striking the period at the end of paragraph
10 (5) and inserting “, and”, and by adding at the end
11 the following new paragraph:

12 “(6) the empowerment zone employment credit
13 determined under section 1396(a).”

14 (c) EMPLOYMENT AND SAVINGS CREDITS MAY OFF-
15 SET 25 PERCENT OF MINIMUM TAX.—

16 (1) Subparagraph (A) of section 38(c)(2), as
17 added by section 1201(c) of this Act, is amended—

18 (A) by inserting “and the empowerment
19 zone credits” after “the regular investment tax
20 credit” each place it appears, and

21 (B) by striking “such credit” in clause (ii)
22 and inserting “such credits”.

23 (2) Paragraph (2) of section 38(c), as so added,
24 is amended by adding at the end thereof the follow-
25 ing new subparagraph:

1 “(C) EMPOWERMENT ZONE CREDITS.—For
2 purposes of this paragraph, the term
3 ‘empowerment zone credits’ means the portion
4 of the credit under subsection (a) which is at-
5 tributable to the credits determined under sec-
6 tion 1394 (relating to zone resident
7 empowerment savings credit) and section 1396
8 (relating to empowerment zone employment
9 credit).”

10 (d) CHANGES RELATING TO EMPOWERMENT ZONE
11 RESIDENT EMPOWERMENT SAVINGS CREDIT.—

12 (1) DISALLOWANCE OF DEDUCTION.—Section
13 404 (relating to deduction for certain employer con-
14 tributions) is amended by adding at the end the fol-
15 lowing new subsection:

16 “(m) COORDINATION WITH EMPOWERMENT ZONE
17 CREDIT.—No deduction shall be allowed under this sec-
18 tion for any qualified employer contribution taken into ac-
19 count in computing the credit determined under section
20 1394.”

21 (2) PENALTY-FREE DISTRIBUTIONS.—

22 (A) IN GENERAL.—Paragraph (2) of sec-
23 tion 72(t) (relating to exceptions to 10-percent
24 additional tax on early distributions from quali-
25 fied retirement plans) is amended by adding at

1 the end thereof the following new subpara-
2 graph:

3 “(D) DISTRIBUTIONS FROM CERTAIN
4 PLANS FOR FIRST HOME PURCHASES OR EDU-
5 CATIONAL EXPENSES.—

6 “(i) IN GENERAL.—Distributions to
7 an individual from a qualified retirement
8 plan—

9 “(I) which are qualified first-time
10 homebuyer distributions (as defined in
11 paragraph (6)),

12 “(II) to the extent such distribu-
13 tions do not exceed the qualified high-
14 er education expenses (as defined in
15 paragraph (7)) of the taxpayer for the
16 taxable year, or

17 “(III) to the extent such distribu-
18 tions do not exceed an amount equal
19 to the aggregate investment made by
20 the taxpayer during the taxable year
21 in any enterprise zone business (as
22 defined in section 1399A) that meets
23 the ownership requirements of section
24 1399(b).

1 “(ii) LIMITATION.—Clause (i) shall
2 not apply to the extent that the aggregate
3 amount of the distributions described in
4 clause (i) are greater than the excess of—

5 “(I) the qualified retirement con-
6 tributions (as defined in section
7 1394(b)) of the taxpayer, and any
8 earnings thereon, over

9 “(II) the aggregate amounts to
10 which clause (i) and the last sentence
11 of paragraph (3)(A) applied for pre-
12 ceding taxable years.”

13 (B) DEFINITIONS.—Section 72(t) is
14 amended by adding at the end thereof the fol-
15 lowing new paragraphs:

16 “(6) QUALIFIED FIRST-TIME HOMEBUYER DIS-
17 TRIBUTIONS.—For purposes of paragraph
18 (2)(D)(i)(I)—

19 “(A) IN GENERAL.—The term ‘qualified
20 first-time homebuyer distribution’ means any
21 payment or distribution received by an individ-
22 ual to the extent such payment or distribution
23 is used by the individual before the close of the
24 60th day after the day on which such payment
25 or distribution is received to pay qualified ac-

1 quisition costs with respect to a principal resi-
2 dence of a first-time homebuyer who is such in-
3 dividual or the spouse of such individual.

4 “(B) QUALIFIED ACQUISITION COSTS.—
5 For purposes of this paragraph, the term
6 ‘qualified acquisition costs’ means the costs of
7 acquiring, constructing, or reconstructing a res-
8 idence. Such term includes any usual or reason-
9 able settlement, financing, or other closing
10 costs.

11 “(C) FIRST-TIME HOMEBUYER; OTHER
12 DEFINITIONS.—For purposes of this para-
13 graph—

14 “(i) FIRST-TIME HOMEBUYER.—The
15 term ‘first-time homebuyer’ means any in-
16 dividual if—

17 “(I) such individual (and if mar-
18 ried, such individual’s spouse) had no
19 present ownership interest in a prin-
20 cipal residence during the 3-year pe-
21 riod ending on the date of acquisition
22 of the principal residence to which
23 this paragraph applies, and

24 “(II) subsection (a)(6), (h), or
25 (k) of section 1034 did not suspend

1 the running of any period of time
2 specified in section 1034 with respect
3 to such individual on the day before
4 the date the distribution is applied
5 pursuant to subparagraph (A)(ii).

6 “(ii) PRINCIPAL RESIDENCE.—The
7 term ‘principal residence’ has the same
8 meaning as when used in section 1034.

9 “(iii) DATE OF ACQUISITION.—The
10 term ‘date of acquisition’ means the date—

11 “(I) on which a binding contract
12 to acquire the principal residence to
13 which subparagraph (A) applies is en-
14 tered into, or

15 “(II) on which construction or re-
16 construction of such a principal resi-
17 dence is commenced.

18 “(D) SPECIAL RULE WHERE DELAY IN AC-
19 QUISSION.—If any distribution from any quali-
20 fied retirement plan fails to meet the require-
21 ments of subparagraph (A) solely by reason of
22 a delay or cancellation of the purchase or con-
23 struction of the residence, the amount of the
24 distribution may be recontributed to the plan

1 from which it was distributed within 120 days
2 after the date of such distribution.

3 “(7) QUALIFIED HIGHER EDUCATION EX-
4 PENSES.—For purposes of paragraph
5 (2)(D)(ii)(II)—

6 “(A) IN GENERAL.—The term ‘qualified
7 higher education expenses’ means tuition, fees,
8 books, supplies, and equipment required for the
9 enrollment or attendance of—

10 “(i) the taxpayer,

11 “(ii) the taxpayer’s spouse, or

12 “(iii) the taxpayer’s child (as defined
13 in section 151(c)(3)) or grandchild,

14 at an eligible educational institution (as defined
15 in section 135(c)(3)).

16 “(B) COORDINATION WITH SAVINGS BOND
17 PROVISIONS.—The amount of qualified higher
18 education expenses for any taxable year shall be
19 reduced by any amount excludable from gross
20 income under section 135.”

21 (C) CONFORMING AMENDMENTS.—

22 (i) Subparagraph (B) of section
23 72(t)(2) is amended by striking “or (C)”
24 and inserting “, (C), or (D)”.

1 (ii) Section 401(k)(2)(B)(i) is amend-
2 ed by striking “or” at the end of subclause
3 (III), by striking “and” at the end of
4 subclause (IV) and inserting “or”, and by
5 inserting after subclause (IV) the following
6 new subclause:

7 “(V) subject to the limitation of
8 section 72(t)(2)(D)(ii), the date on
9 which qualified first-time homebuyer
10 distributions (as defined in section
11 72(t)(6)), distributions for qualified
12 higher education expenses (as defined
13 in section 72(t)(7)), or distributions
14 for investments described in section
15 72(t)(2)(D)(i)(III) are made, and”.

16 (e) AMENDMENT OF TARGETED JOBS CREDIT.—
17 Subparagraph (A) of section 51(i)(1) is amended by in-
18 serting “, or, if the taxpayer is an entity other than a
19 corporation, to any individual who owns, directly or indi-
20 rectly, more than 50 percent of the capital and profits in-
21 terests in the entity,” after “of the corporation”.

22 (f) CARRYOVERS.—Subsection (c) of section 381 (re-
23 lating to carryovers in certain corporate acquisitions) is
24 amended by adding at the end the following new para-
25 graph:

1 “(26) ENTERPRISE ZONE PROVISIONS.—The
 2 acquiring corporation shall take into account (to the
 3 extent proper to carry out the purposes of this sec-
 4 tion and subchapter U, and under such regulations
 5 as may be prescribed by the Secretary) the items re-
 6 quired to be taken into account for purposes of sub-
 7 chapter U in respect of the distributor or transferor
 8 corporation.”

9 **SEC. 3104. EFFECTIVE DATE.**

10 The amendments made by this title shall take effect
 11 on the date of the enactment of this Act.

J 69-001A—O—2

J 69-001A—O—3

J 69-001A—O—4

J 69-001A—O—5

J 69-001A—O—6

J 69-001A—O—7

J 69-001A—O—8

J 69-001A—O—9

J 69-001A—O—10

J 69-001A—O—11

J 69-001A—O—12

J 69-001A—O—13

J 69-001A—O—14

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J 69-001A—O—20

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J 69-001A—O—25