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To make certain changes to improve the administration of the medicare program, to reform customs overtime pay practices, to prevent the payment of Federal benefits to deceased individuals, to require reports on employers with underfunded pension plans, to provide for increased taxpayer procedural protections, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. PICKLE (for himself, Mr. ROSTENKOWSKI, Mr. STARK, Mr. RANGEL, Mr. JACOBS, Mr. FORD of Tennessee, Mr. THOMAS of California, Mr. SUNDQUIST, and Mr. SHAW) introduced the following bill; which was referred jointly to the Committees on Ways and Means, Energy and Commerce, and Post Office and Civil Service

SEPTEMBER 14, 1993

Additional sponsors: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SWIFT, Mr. BARLOW, Mr. CRAMER, Mr. RICHARDSON, Mrs. LLOYD, Mr. GORDON, and Mr. STRICKLAND

A BILL

To make certain changes to improve the administration of the medicare program, to reform customs overtime pay practices, to prevent the payment of Federal benefits to deceased individuals, to require reports on employers with underfunded pension plans, to provide for increased taxpayer procedural protections, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal Program Im-
3 provement Act of 1993”.

4 **TITLE I—PROVISIONS RELATING**
5 **TO THE MEDICARE PROGRAM**

6 **SEC. 1000. REFERENCES IN TITLE.**

7 (a) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-
8 cept as otherwise specifically provided, whenever in this
9 title an amendment is expressed in terms of an amend-
10 ment to or repeal of a section or other provision, the ref-
11 erence shall be considered to be made to that section or
12 other provision of the Social Security Act.

13 (b) REFERENCES TO OBRA.—In this Act, the terms
14 “OBRA-1989” and “OBRA-1990” refer to the Omnibus
15 Budget Reconciliation Act of 1989 (Public Law 101-239)
16 and the Omnibus Budget Reconciliation Act of 1990 (Pub-
17 lic Law 101-508), respectively.

18 **Subtitle A—Durable Medical**
19 **Equipment**

20 **SEC. 1001. CERTIFICATION OF SUPPLIERS.**

21 (a) REQUIREMENTS.—

22 (1) IN GENERAL.—Section 1834 (42 U.S.C.
23 1395m) is amended by adding at the end the follow-
24 ing new subsection:

25 “(i) REQUIREMENTS FOR SUPPLIERS OF MEDICAL
26 EQUIPMENT AND SUPPLIES.—

1 “(1) ISSUANCE AND RENEWAL OF SUPPLIER
2 NUMBER.—

3 “(A) PAYMENT.—Except as provided in
4 subparagraph (C), no payment may be made
5 under this part after October 1, 1993, for items
6 furnished by a supplier of medical equipment
7 and supplies unless such supplier obtains (and
8 renews at such intervals as the Secretary may
9 require) a supplier number.

10 “(B) STANDARDS FOR POSSESSING A SUP-
11 PLIER NUMBER.—A supplier may not obtain a
12 supplier number unless—

13 “(i) for medical equipment and sup-
14 plies furnished on or after October 1,
15 1993, and on or before December 31,
16 1994, the supplier meets standards pre-
17 scribed by the Secretary; and

18 “(ii) for medical equipment and sup-
19 plies furnished on or after January 1,
20 1995, the supplier meets revised standards
21 prescribed by the Secretary (in consulta-
22 tion with representatives of suppliers of
23 medical equipment and supplies, carriers,
24 and consumers) that shall include require-
25 ments that the supplier—

1 “(I) comply with all applicable
2 State and Federal licensure and regu-
3 latory requirements;

4 “(II) maintain a physical facility
5 on an appropriate site;

6 “(III) have proof of appropriate
7 liability insurance; and

8 “(IV) meet such other require-
9 ments as the Secretary may specify.

10 “(C) EXCEPTION FOR ITEMS FURNISHED
11 AS INCIDENT TO A PHYSICIAN’S SERVICE.—
12 Subparagraph (A) shall not apply with respect
13 to medical equipment and supplies furnished as
14 an incident to a physician’s service.

15 “(D) PROHIBITION AGAINST MULTIPLE
16 SUPPLIER NUMBERS.—The Secretary may not
17 issue more than one supplier number to any
18 supplier of medical equipment and supplies un-
19 less the issuance of more than one number is
20 appropriate to identify subsidiary or regional
21 entities under the supplier’s ownership or con-
22 trol.

23 “(E) PROHIBITION AGAINST DELEGATION
24 OF SUPPLIER DETERMINATIONS.—The Sec-
25 retary may not delegate (other than by contract

1 under section 1842) the responsibility to deter-
2 mine whether suppliers meet the standards nec-
3 essary to obtain a supplier number.

4 “(2) CERTIFICATES OF MEDICAL NECESSITY.—

5 “(A) STANDARDIZED CERTIFICATES.—Not
6 later than October 1, 1993, the Secretary shall,
7 in consultation with carriers under this part,
8 develop one or more standardized certificates of
9 medical necessity (as defined in subparagraph
10 (C)) for medical equipment and supplies for
11 which the Secretary determines that such a cer-
12 tificate is necessary.

13 “(B) PROHIBITION AGAINST DISTRIBUTION
14 BY SUPPLIERS OF CERTIFICATES OF MEDICAL
15 NECESSITY.—

16 “(i) IN GENERAL.—Except as pro-
17 vided in clause (ii), a supplier of medical
18 equipment and supplies may not distribute
19 to physicians or to individuals entitled to
20 benefits under this part for commercial
21 purposes any completed or partially com-
22 pleted certificates of medical necessity on
23 or after October 1, 1993.

24 “(ii) EXCEPTION FOR CERTAIN BILL-
25 ING INFORMATION.—Clause (i) shall not

1 apply with respect to a certificate of medi-
2 cal necessity for any item that is not con-
3 tained on the list of potentially overused
4 items developed by the Secretary under
5 subsection (a)(15)(A) to the extent that
6 such certificate contains only information
7 completed by the supplier of medical equip-
8 ment and supplies identifying such supplier
9 and the beneficiary to whom such medical
10 equipment and supplies are furnished, a
11 description of such medical equipment and
12 supplies, any product code identifying such
13 medical equipment and supplies, and any
14 other administrative information (other
15 than information relating to the bene-
16 ficiary's medical condition) identified by
17 the Secretary. In the event a supplier pro-
18 vides a certificate of medical necessity con-
19 taining information permitted under this
20 clause, such certificate shall also contain
21 the fee schedule amount and the supplier's
22 charge for the medical equipment or sup-
23 plies being furnished prior to distribution
24 of such certificate to the physician.

1 “(iii) PENALTY.—Any supplier of
2 medical equipment and supplies who know-
3 ingly and willfully distributes a certificate
4 of medical necessity in violation of clause
5 (i) is subject to a civil money penalty in an
6 amount not to exceed \$1,000 for each such
7 certificate of medical necessity so distrib-
8 uted. The provisions of section 1128A
9 (other than subsections (a) and (b)) shall
10 apply to civil money penalties under this
11 subparagraph in the same manner as they
12 apply to a penalty or proceeding under sec-
13 tion 1128A(a).

14 “(C) DEFINITION.—For purposes of this
15 paragraph, the term ‘certificate of medical ne-
16 cessity’ means a form or other document con-
17 taining information required by the Secretary to
18 be submitted to show that a covered item is
19 reasonable and necessary for the diagnosis or
20 treatment of illness or injury or to improve the
21 functioning of a malformed body member.

22 “(3) COVERAGE AND REVIEW CRITERIA.—

23 “(A) DEVELOPMENT AND ESTABLISH-
24 MENT.—Not later than January 1, 1995, the
25 Secretary, in consultation with representatives

1 of suppliers of medical equipment and supplies,
2 individuals enrolled under this part, and appro-
3 priate medical specialty societies, shall develop
4 and establish uniform national coverage and
5 utilization review criteria for 200 items of medi-
6 cal equipment and supplies selected in accord-
7 ance with the standards described in subpara-
8 graph (B). The Secretary shall publish the cri-
9 teria as part of the instructions provided to fis-
10 cal intermediaries and carriers under this part
11 and no further publication, including publica-
12 tion in the Federal Register, shall be required.

13 “(B) STANDARDS FOR SELECTING ITEMS
14 SUBJECT TO CRITERIA.—The Secretary may se-
15 lect an item for coverage under the criteria de-
16 veloped and established under subparagraph
17 (A) if the Secretary finds that—

18 “(i) the item is frequently purchased
19 or rented by beneficiaries;

20 “(ii) the item is frequently subject to
21 a determination that such item is not
22 medically necessary; or

23 “(iii) the coverage or utilization cri-
24 teria applied to the item (as of the date of

1 the enactment of this subsection) is not
2 consistent among carriers.

3 “(C) ANNUAL REVIEW AND EXPANSION OF
4 ITEMS SUBJECT TO CRITERIA.—The Secretary
5 shall annually review the coverage and utiliza-
6 tion of items of medical equipment and supplies
7 to determine whether items not included among
8 the items selected under subparagraph (A)
9 should be made subject to uniform national cov-
10 erage and utilization review criteria, and, if ap-
11 propriate, shall develop and apply such criteria
12 to such additional items.

13 “(4) DEFINITION.—The term ‘medical equip-
14 ment and supplies’ means—

15 “(A) durable medical equipment (as de-
16 fined in section 1861(n));

17 “(B) prosthetic devices (as described in
18 section 1861(s)(8));

19 “(C) orthotics and prosthetics (as de-
20 scribed in section 1861(s)(9));

21 “(D) surgical dressings (as described in
22 section 1861(s)(5));

23 “(E) such other items as the Secretary
24 may determine; and

1 “(F) for purposes of paragraphs (1) and
2 (3)—

3 “(i) home dialysis supplies and equip-
4 ment (as described in section
5 1861(s)(2)(F)), and

6 “(ii) immunosuppressive drugs (as de-
7 scribed in section 1861(s)(2)(J)).”.

8 (2) CONFORMING AMENDMENT.—Effective October
9 1, 1993, paragraph (16) of section 1834(a) (42 U.S.C.
10 1395m(a)) is repealed.

11 (b) REPORT ON EFFECT OF UNIFORM CRITERIA ON
12 UTILIZATION OF ITEMS.—Not later than July 1, 1995, the
13 Secretary shall submit a report to the Committee on Ways
14 and Means and the Committee on Energy and Commerce
15 of the House of Representatives and the Committee on
16 Finance of the Senate analyzing the impact of the uniform
17 criteria established under section 1834(i)(3)(A) of the So-
18 cial Security Act (as added by subsection (a)) on the utili-
19 zation of items of medical equipment and supplies by indi-
20 viduals enrolled under part B of the medicare program.

21 (c) USE OF COVERED ITEMS BY DISABLED BENE-
22 FICIARIES.—

23 (1) IN GENERAL.—The Secretary of Health and
24 Human Services, in consultation with representa-
25 tives of suppliers of durable medical equipment

1 under part B of the medicare program and individ-
2 uals entitled to benefits under such program on the
3 basis of disability, shall conduct a study of the ef-
4 fects of the methodology for determining payments
5 for items of such equipment under such part on the
6 ability of such individuals to obtain items of such
7 equipment, including customized items.

8 (2) REPORT.—Not later than May 1, 1994, the
9 Secretary shall submit a report to Congress on the
10 study conducted under paragraph (1), and shall in-
11 clude in the report such recommendations as the
12 Secretary considers appropriate to assure that dis-
13 abled medicare beneficiaries have access to items of
14 durable medical equipment.

15 (d) CRITERIA FOR TREATMENT OF ITEMS AS PROS-
16 THETICS DEVICES OR ORTHOTICS AND PROSTHETICS.—
17 Not later than July 1, 1994, the Secretary of Health and
18 Human Services shall submit a report to the Committees
19 on Ways and Means and Energy and Commerce of the
20 House of Representatives and the Committee on Finance
21 of the Senate describing prosthetic devices or orthotics
22 and prosthetics covered under part B of the medicare pro-
23 gram that do not require individualized or custom fitting
24 and adjustment to be used by a patient. Such report shall
25 include recommendations for an appropriate methodology

1 for determining the amount of payment for such items
2 under such program.

3 **SEC. 1002. PROHIBITION AGAINST CARRIER FORUM SHOP-**
4 **PING.**

5 (a) IN GENERAL.—Section 1834(a)(12) (42 U.S.C.
6 1395m(a)(12)) is amended to read as follows:

7 “(12) USE OF CARRIERS TO PROCESS
8 CLAIMS.—

9 “(A) DESIGNATION OF REGIONAL CAR-
10 RRIERS.—The Secretary may designate, by regu-
11 lation under section 1842, one carrier for one
12 or more entire regions to process all claims
13 within the region for covered items under this
14 section.

15 “(B) PROHIBITION AGAINST CARRIER
16 SHOPPING.—(i) No supplier of a covered item
17 may present or cause to be presented a claim
18 for payment under this part unless such claim
19 is presented to the appropriate regional carrier
20 (as designated by the Secretary).

21 “(ii) For purposes of clause (i), the term
22 ‘appropriate regional carrier’ means the carrier
23 having jurisdiction over the geographic area
24 that includes the permanent residence of the
25 patient to whom the item is furnished.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to items furnished on or after
3 October 1, 1993.

4 (c) CLARIFICATION OF AUTHORITY TO DESIGNATE
5 CARRIERS FOR OTHER ITEMS AND SERVICES.—Nothing
6 in this subsection or the amendment made by this sub-
7 section may be construed to restrict the authority of the
8 Secretary of Health and Human Services to designate re-
9 gional carriers or modify claims jurisdiction rules with re-
10 spect to items or services under part B of the medicare
11 program that are not covered items under section 1834(a)
12 of the Social Security Act or prosthetic devices or orthotics
13 and prosthetics under section 1834(h) of such Act.

14 **SEC. 1003. RESTRICTIONS ON CERTAIN MARKETING AND**
15 **SALES ACTIVITIES.**

16 (a) PROHIBITING UNSOLICITED TELEPHONE CON-
17 TACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIP-
18 MENT TO MEDICARE BENEFICIARIES.—

19 (1) IN GENERAL.—Section 1834(a) (42 U.S.C.
20 1395m(a)) is amended by adding at the end the fol-
21 lowing new paragraph:

22 “(17) PROHIBITION AGAINST UNSOLICITED
23 TELEPHONE CONTACTS BY SUPPLIERS.—

24 “(A) IN GENERAL.—A supplier of a cov-
25 ered item under this subsection may not contact

1 an individual enrolled under this part by tele-
2 phone regarding the furnishing of a covered
3 item to the individual (other than a covered
4 item the supplier has already furnished to the
5 individual) unless—

6 “(i) the individual gives permission to
7 the supplier to make contact by telephone
8 for such purpose; or

9 “(ii) the supplier has furnished a cov-
10 ered item under this subsection to the indi-
11 vidual during the 15-month period preced-
12 ing the date on which the supplier contacts
13 the individual for such purpose.

14 “(B) PROHIBITING PAYMENT FOR ITEMS
15 FURNISHED SUBSEQUENT TO UNSOLICITED
16 CONTACTS.—If a supplier knowingly contacts
17 an individual in violation of subparagraph (A),
18 no payment may be made under this part for
19 any item subsequently furnished to the individ-
20 ual by the supplier.

21 “(C) EXCLUSION FROM PROGRAM FOR
22 SUPPLIERS ENGAGING IN PATTERN OF UNSO-
23 LICITED CONTACTS.—If a supplier knowingly
24 contacts individuals in violation of subpara-
25 graph (A) to such an extent that the supplier’s

1 conduct establishes a pattern of contacts in vio-
2 lation of such subparagraph, the Secretary shall
3 exclude the supplier from participation in the
4 programs under this Act, in accordance with
5 the procedures set forth in subsections (c), (f),
6 and (g) of section 1128.”.

7 (2) REQUIRING REFUND OF AMOUNTS COL-
8 LECTED FOR DISALLOWED ITEMS.—Section 1834(a)
9 (42 U.S.C. 1395m(a)), as amended by paragraph
10 (1), is amended by adding at the end the following
11 new paragraph:

12 “(18) REFUND OF AMOUNTS COLLECTED FOR
13 CERTAIN DISALLOWED ITEMS.—

14 “(A) IN GENERAL.—If a nonparticipating
15 supplier furnishes to an individual enrolled
16 under this part a covered item for which no
17 payment may be made under this part by rea-
18 son of paragraph (17)(B), the supplier shall re-
19 fund on a timely basis to the patient (and shall
20 be liable to the patient for) any amounts col-
21 lected from the patient for the item, unless—

22 “(i) the supplier establishes that the
23 supplier did not know and could not rea-
24 sonably have been expected to know that

1 payment may not be made for the item by
2 reason of paragraph (17)(B), or

3 “(ii) before the item was furnished,
4 the patient was informed that payment
5 under this part may not be made for that
6 item and the patient has agreed to pay for
7 that item.

8 “(B) SANCTIONS.—If a supplier knowingly
9 and willfully fails to make refunds in violation
10 of subparagraph (A), the Secretary may apply
11 sanctions against the supplier in accordance
12 with section 1842(j)(2).

13 “(C) NOTICE.—Each carrier with a con-
14 tract in effect under this part with respect to
15 suppliers of covered items shall send any notice
16 of denial of payment for covered items by rea-
17 son of paragraph (17)(B) and for which pay-
18 ment is not requested on an assignment-related
19 basis to the supplier and the patient involved.

20 “(D) TIMELY BASIS DEFINED.—A refund
21 under subparagraph (A) is considered to be on
22 a timely basis only if—

23 “(i) in the case of a supplier who does
24 not request reconsideration or seek appeal
25 on a timely basis, the refund is made with-

1 in 30 days after the date the supplier re-
2 ceives a denial notice under subparagraph
3 (C), or

4 “(ii) in the case in which such a re-
5 consideration or appeal is taken, the re-
6 fund is made within 15 days after the date
7 the supplier receives notice of an adverse
8 determination on reconsideration or ap-
9 peal.”.

10 (b) CONFORMING AMENDMENT.—Section 1834(h)(3)
11 (42 U.S.C. 1395m(h)(3)) is amended by striking “Para-
12 graph (12)” and inserting “Paragraphs (12) and (17)”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 subsections (a) and (b) shall apply to items furnished after
15 the expiration of the 60-day period that begins on the date
16 of the enactment of this Act.

17 **SEC. 1004. BENEFICIARY LIABILITY FOR NONCOVERED**
18 **SERVICES.**

19 (a) IN GENERAL.—Section 1879 (42 U.S.C. 1395pp)
20 is amended by adding at the end the following new sub-
21 section:

22 “(h) If a supplier of medical equipment and supplies
23 (as defined in section 1834(i)(4))—

1 “(1) furnishes an item or service to a bene-
2 ficiary for which no payment may be made by reason
3 of section 1834(i)(1);

4 “(2) furnishes an item or service to a bene-
5 ficiary for which payment is denied in advance under
6 section 1834(a)(15); or

7 “(3) furnishes an item or service to a bene-
8 ficiary for which payment is denied under section
9 1862(a)(1);

10 any expenses incurred for items and services furnished to
11 an individual by such a supplier on an unassigned basis
12 shall be the responsibility of such supplier. The individual
13 shall have no financial responsibility for such expenses and
14 the supplier shall refund on a timely basis to the individual
15 (and shall be liable to the individual for) any amounts col-
16 lected from the individual for such items or services. The
17 provisions of section 1834(a)(18) shall apply to refunds
18 required under the previous sentence in the same manner
19 as such provisions apply to refunds under such section.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall apply to items or services furnished
22 on or after October 1, 1993.

1 **SEC. 1005. ADJUSTMENTS FOR INHERENT REASONABLE-**
2 **NESS.**

3 (a) ADJUSTMENTS MADE TO FINAL PAYMENT
4 AMOUNTS.—

5 (1) IN GENERAL.—Section 1834(a)(10)(B) (42
6 U.S.C. 1395m(a)(10)(B)) is amended by adding at
7 the end the following: “In applying such provisions
8 to payments for an item under this subsection, the
9 Secretary shall make adjustments to the payment
10 basis for the item described in paragraph (1)(B) if
11 the Secretary determines (in accordance with such
12 provisions and on the basis of prices and costs appli-
13 cable at the time the item is furnished) that such
14 payment basis is not inherently reasonable.”.

15 (2) EFFECTIVE DATE.—The amendment made
16 by paragraph (1) shall take effect on the date of the
17 enactment of this Act.

18 (b) ADJUSTMENT REQUIRED FOR CERTAIN ITEMS.—

19 (1) IN GENERAL.—In accordance with section
20 1834(a)(10)(B) of the Social Security Act (as
21 amended by subsection (a)), the Secretary of Health
22 and Human Services shall determine whether the
23 payment amounts for the items described in para-
24 graph (2) are not inherently reasonable, and shall
25 adjust such amounts in accordance with such section
26 if the amounts are not inherently reasonable.

1 (2) ITEMS DESCRIBED.—The items referred to
2 in paragraph (1) are decubitus care equipment,
3 transcutaneous electrical nerve stimulators, and any
4 other items considered appropriate by the Secretary.

5 **SEC. 1006. PAYMENT FOR OSTOMY SUPPLIES, TRACHE-**
6 **OSTOMY SUPPLIES, UROLOGICALS, AND SUR-**
7 **GICAL DRESSINGS.**

8 (a) OSTOMY SUPPLIES, TRACHEOSTOMY SUPPLIES,
9 AND UROLOGICALS.—

10 (1) IN GENERAL.—Section 1834(h)(1) (42
11 U.S.C. 1395m(h)(1)) is amended by adding at the
12 end the following new subparagraph:

13 “(E) EXCEPTION FOR CERTAIN ITEMS.—
14 Payment for ostomy supplies, tracheostomy
15 supplies, and urologicals shall be made in ac-
16 cordance with subparagraphs (B) and (C) of
17 section 1834(a)(2).”.

18 (2) CONFORMING AMENDMENT.—Section
19 1834(h)(1)(B) (42 U.S.C. 1395m(h)(1)(B)) is
20 amended by striking “subparagraph (C),” and in-
21 serting “subparagraphs (C) and (E),”.

22 (3) EFFECTIVE DATE.—The amendments made
23 by this subsection shall apply to items furnished on
24 or after January 1, 1994.

25 (b) SURGICAL DRESSINGS.—

1 (1) IN GENERAL.—Section 1834 (42 U.S.C.
2 1395m), as amended by section 1001(a), is amended
3 by adding at the end the following new subsection:

4 “(j) PAYMENT FOR SURGICAL DRESSINGS.—

5 “(1) IN GENERAL.—Payment under this sub-
6 section for surgical dressings (described in section
7 1861(s)(5)) shall be made in a lump sum amount
8 for the purchase of the item in an amount equal to
9 80 percent of the lesser of—

10 “(A) the actual charge for the item; or

11 “(B) a payment amount determined in ac-
12 cordance with the methodology described in
13 subparagraphs (B) and (C) of subsection (a)(2)
14 (except that in applying such methodology, the
15 national limited payment amount referred to in
16 such subparagraphs shall be initially computed
17 based on local payment amounts using average
18 reasonable charges for the 12-month period
19 ending December 31, 1992, increased by the
20 covered item updates described in such sub-
21 section for 1993 and 1994)

22 “(2) EXCEPTIONS.—Paragraph (1) shall not
23 apply to surgical dressings that are—

24 “(A) furnished as an incident to a physi-
25 cian’s professional service; or

1 “(B) furnished by a home health agency.”.

2 (2) CONFORMING AMENDMENT.—Section
3 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

4 (A) by striking “and” before “(N)”;

5 (B) with respect to the matter inserted by
6 section 4155(b)(2)(B) of OBRA–1990—

7 (i) by striking “(M)” and inserting “,
8 and (O)”, and

9 (ii) by transferring and inserting it
10 (as amended) immediately before the semi-
11 colon at the end;

12 (C) by striking “and” before “(O)”;

13 (D) by inserting before the semicolon at
14 the end the following: “, and (P) with respect
15 to surgical dressings, the amounts paid shall be
16 the amounts determined under section
17 1834(j)”.

18 (3) EFFECTIVE DATE.—The amendments made
19 by this subsection shall apply to items furnished on
20 or after January 1, 1994.

21 **SEC. 1007. PAYMENTS FOR TENS DEVICES.**

22 (a) IN GENERAL.—Section 1834(a)(1)(D) (42 U.S.C.
23 1395m(a)(1)(D)) is amended by striking “15 percent” the
24 second place it appears and inserting “45 percent”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to items furnished on or after
3 January 1, 1994.

4 **SEC. 1008. MISCELLANEOUS AND TECHNICAL CORREC-**
5 **TIONS.**

6 (a) UPDATES TO PAYMENT AMOUNTS.—Subpara-
7 graph (A) of section 1834(a)(14) (42 U.S.C.
8 1395m(a)(14)) is amended to read as follows:

9 “(A) for 1991 and 1992, the percentage
10 increase in the consumer price index for all
11 urban consumers (U.S. city average) for the 12-
12 month period ending with June of the previous
13 year reduced by 1 percentage point; and”.

14 (b) TREATMENT OF POTENTIALLY OVERUSED ITEMS
15 AND ADVANCED DETERMINATIONS OF COVERAGE.—(1)
16 Effective on the date of the enactment of this Act, section
17 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended to
18 read as follows:

19 “(15) SPECIAL TREATMENT FOR POTENTIALLY
20 OVERUSED ITEMS.—

21 “(A) DEVELOPMENT OF LIST OF ITEMS BY
22 SECRETARY.—The Secretary shall develop and
23 periodically update a list of items for which
24 payment may be made under this subsection
25 that are potentially overused, and shall include

1 in such list seat-lift mechanisms, transcutane-
2 ous electrical nerve stimulators, motorized
3 scooters, decubitus care mattresses, and any
4 such other item determined by the Secretary to
5 be potentially overused on the basis of any of
6 the following criteria—

7 “(i) the item is marketed directly to
8 potential patients;

9 “(ii) the item is marketed with an
10 offer to potential patients to waive the
11 costs of coinsurance associated with the
12 item or is marketed as being available at
13 no cost to policyholders of a medicare sup-
14 plemental policy (as defined in section
15 1882(g)(1));

16 “(iii) the item has been subject to a
17 consistent pattern of overutilization; or

18 “(iv) a high proportion of claims for
19 payment for such item under this part may
20 not be made because of the application of
21 section 1862(a)(1).

22 “(B) ITEMS SUBJECT TO SPECIAL CARRIER
23 SCRUTINY.—Payment may not be made under
24 this part for any item contained in the list de-
25 veloped by the Secretary under subparagraph

1 (A) unless the carrier has subjected the claim
2 for payment for the item to special scrutiny or
3 has followed the procedures described in para-
4 graph (11)(C) with respect to the item.”.

5 (2) Effective January 1, 1994, section 1834(a)(11)
6 (42 U.S.C. 1395m(a)) is amended by adding at the end
7 the following new subparagraph:

8 “(C) CARRIER DETERMINATIONS FOR CER-
9 TAIN ITEMS IN ADVANCE.—A carrier shall de-
10 termine in advance whether payment for an
11 item may not be made under this subsection be-
12 cause of the application of section 1862(a)(1)
13 if—

14 “(i) the item is a customized item
15 (other than inexpensive items specified by
16 the Secretary); or

17 “(ii) the item is a specified covered
18 item under subparagraph (B).”.

19 (3) Effective for standards applied for contract years
20 beginning after the date of the enactment of this Act, sec-
21 tion 1842(c) (42 U.S.C. 1395u(c)) is amended by adding
22 at the end the following new paragraph:

23 “(4) Each contract under this section which provides
24 for the disbursement of funds, as described in subsection
25 (a)(1)(B), shall require the carrier to meet criteria devel-

1 oped by the Secretary to measure the timeliness of carrier
2 responses to requests for payment of items described in
3 section 1834(a)(11)(C).”.

4 (4) Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is
5 amended by striking “paragraph (10) and paragraph
6 (11)” and inserting “paragraphs (10) and (11)”.

7 (c) STUDY OF VARIATIONS IN DURABLE MEDICAL
8 EQUIPMENT SUPPLIER COSTS.—

9 (1) COLLECTION AND ANALYSIS OF SUPPLIER
10 COST DATA.—The Administration of the Health
11 Care Financing Administration shall, in consultation
12 with appropriate organizations, collect data on sup-
13 plier costs of durable medical equipment for which
14 payment may be made under part B of the medicare
15 program, and shall analyze such data to determine
16 the proportions of such costs attributable to the
17 service and product components of furnishing such
18 equipment and the extent to which such proportions
19 vary by type of equipment and by the geographic re-
20 gion in which the supplier is located.

21 (2) DEVELOPMENT OF GEOGRAPHIC ADJUST-
22 MENT INDEX; REPORTS.—Not later than January 1,
23 1995—

24 (A) the Administrator shall submit a re-
25 port to the Committees on Energy and Com-

1 merce and Ways and Means of the House of
2 Representatives and the Committee on Finance
3 of the Senate on the data collected and the
4 analysis conducted under paragraph (1), and
5 shall include in such report the Administrator’s
6 recommendations for a geographic cost adjust-
7 ment index for suppliers of durable medical
8 equipment under the medicare program and an
9 analysis of the impact of such proposed index
10 on payments under the medicare program; and

11 (B) the Comptroller General shall submit a
12 report to the Committees on Energy and Com-
13 merce and Ways and Means of the House of
14 Representatives and the Committee on Finance
15 of the Senate analyzing on a geographic basis
16 the supplier costs of durable medical equipment
17 under the medicare program.

18 (d) OXYGEN RETESTING.—Section 1834(a)(5)(E)
19 (42 U.S.C. 1395m(a)(5)(E)) is amended by striking “55”
20 and inserting “56”.

21 (e) OTHER MISCELLANEOUS AND TECHNICAL
22 AMENDMENTS.—(1) Section 4152(a)(3) of OBRA–1990
23 is amended by striking “amendment made by subsection
24 (a)” and inserting “amendments made by this sub-
25 section”.

1 (2) Section 4152(c)(2) of OBRA-1990 is amended
2 by striking “1395m(a)(7)(A)” and inserting
3 “1395m(a)(7)”.

4 (3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C.
5 1395m(a)(7)(A)(iii)(II)) is amended by striking “clause
6 (v)” and inserting “clause (vi)”.

7 (4) Section 1834(a)(7)(C)(i) (42 U.S.C.
8 1395m(a)(7)(C)(i)) is amended by striking “or paragraph
9 (3)”.

10 (5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is
11 amended by striking subparagraph (D).

12 (6) Section 4153(c)(1) of OBRA-1990 is amended
13 by striking “1834(a)” and inserting “1834(h)”.

14 (7) Section 4153(d)(2) of OBRA-1990 is amended
15 by striking “Reconciliation” and inserting “Reconcili-
16 ation”.

17 (8)(A) Section 1834(a) (42 U.S.C. 1395m(a)) is
18 amended by striking paragraph (6).

19 (B) Section 1834(a) (42 U.S.C. 1395m(a)) is amend-
20 ed—

21 (i) in subparagraphs (A) and (B) of paragraph
22 (1), by striking “(2) through (7)” each place it ap-
23 pears and inserting “(2) through (5) and (7)”;

24 (ii) in paragraph (7), by striking “(2) through
25 (6)” and inserting “(2) through (5)”;

1 (iii) in paragraph (8), by striking “paragraphs
2 (6) and (7)” each place it appears in the matter pre-
3 ceding subparagraph (A) and in subparagraph (C)
4 and inserting “paragraph (7)”; and

5 (iv) in paragraph (8)(A)(i), by striking “de-
6 scribed—” and all that follows and inserting “de-
7 scribed in paragraph (7) equal to the average of the
8 purchase prices on the claims submitted on an as-
9 signment-related basis for the unused item supplied
10 during the 6-month period ending with December
11 1986.”.

12 (9) The amendments made by this subsection shall
13 take effect as if included in the enactment of OBRA-1990.

14 **Subtitle B—Medicare Secondary** 15 **Payer**

16 **SEC. 1101. MEDICARE SECONDARY PAYER.**

17 (a) SECONDARY PAYER EXEMPTION FOR MEMBERS
18 OF RELIGIOUS ORDERS.—Effective as if included in the
19 enactment of OBRA-1989, section 6202(e)(2) of such Act
20 is amended by adding at the end the following: “Such
21 amendment also shall apply to items and services fur-
22 nished before such date with respect to secondary payor
23 cases which the Secretary of Health and Human Services
24 had not identified as of such date.”.

1 (b) IMPROVING IDENTIFICATION OF MEDICARE SEC-
2 ONDARY PAYER SITUATIONS.—

3 (1) SURVEY OF BENEFICIARIES.—

4 (A) IN GENERAL.—Section 1862(b)(5) (42
5 U.S.C. 1395y(b)(5)) is amended by adding at
6 the end the following new subparagraph:

7 “(D) OBTAINING INFORMATION FROM
8 BENEFICIARIES.—Before an individual applies
9 for benefits under part A or enrolls under part
10 B, the Administrator shall mail the individual a
11 questionnaire to obtain information on whether
12 the individual is covered under a primary plan
13 and the nature of the coverage provided under
14 the plan, including the name, address, and iden-
15 tifying number of the plan.”.

16 (B) DISTRIBUTION OF QUESTIONNAIRE BY
17 CONTRACTOR.—The Secretary of Health and
18 Human Services shall enter into an agreement
19 with an entity not later than November 1,
20 1993, to distribute the questionnaire described
21 in section 1862(b)(5)(D) of the Social Security
22 Act (as added by subparagraph (A)).

23 (C) NO MEDICARE SECONDARY PAYOR DE-
24 NIAL BASED ON FAILURE TO COMPLETE QUES-
25 TIONNAIRE.—Section 1862(b)(2) (42 U.S.C.

1 1395y(b)(2)) is amended by adding at the end
2 the following new subparagraph:

3 “(C) TREATMENT OF QUESTIONNAIRES.—
4 The Secretary may not fail to make payment
5 under subparagraph (A) solely on the ground
6 that an individual failed to complete a question-
7 naire concerning the existence of a primary
8 plan.”.

9 (2) MANDATORY SCREENING BY PROVIDERS
10 AND SUPPLIERS UNDER PART B.—

11 (A) IN GENERAL.—Section 1862(b) (42
12 U.S.C. 1395y(b)) is amended by adding at the
13 end the following new paragraph:

14 “(6) SCREENING REQUIREMENTS FOR PROVID-
15 ERS AND SUPPLIERS.—

16 “(A) IN GENERAL.—Notwithstanding any
17 other provision of this title, no payment may be
18 made for any item or service furnished under
19 part B unless the entity furnishing such item or
20 service completes (to the best of its knowledge
21 and on the basis of information obtained from
22 the individual to whom the item or service is
23 furnished) the portion of the claim form relat-
24 ing to the availability of other health benefit
25 plans.

1 “(B) PENALTIES.—An entity that know-
2 ingly, willfully, and repeatedly fails to complete
3 a claim form in accordance with subparagraph
4 (A) or provides inaccurate information relating
5 to the availability of other health benefit plans
6 on a claim form under such subparagraph shall
7 be subject to a civil money penalty of not to ex-
8 ceed \$2,000 for each such incident. The provi-
9 sions of section 1128A (other than subsections
10 (a) and (b)) shall apply to a civil money penalty
11 under the previous sentence in the same man-
12 ner as such provisions apply to a penalty or
13 proceeding under section 1128A(a).”.

14 (B) EFFECTIVE DATE.—The amendment
15 made by subparagraph (A) shall apply with re-
16 spect to items and services furnished on or
17 after July 1, 1993.

18 (c) IMPROVEMENTS IN RECOVERY OF PAYMENTS
19 FROM PRIMARY PAYERS.—

20 (1) SUBMISSION OF REPORTS ON EFFORTS TO
21 RECOVER ERRONEOUS PAYMENTS.—

22 (A) FISCAL INTERMEDIARIES UNDER PART
23 A.—Section 1816 (42 U.S.C. 1396h) is amend-
24 ed by adding at the end the following new sub-
25 section:

1 “(k) An agreement with an agency or organization
2 under this section shall require that such agency or orga-
3 nization submit an annual report to the Secretary describ-
4 ing the steps taken to recover payments made for items
5 or services for which payment has been or could be made
6 under a primary plan (as defined in section
7 1862(b)(2)(A)).”.

8 (B) CARRIERS UNDER PART B.—Section
9 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amend-
10 ed—

11 (i) by striking “and” at the end of
12 subparagraphs (G) and (H); and

13 (ii) by inserting after subparagraph
14 (H) the following new subparagraph:

15 “(I) will submit annual reports to the Secretary
16 describing the steps taken to recover payments made
17 under this part for items or services for which pay-
18 ment has been or could be made under a primary
19 plan (as defined in section 1862(b)(2)(A)).”.

20 (2) REQUIREMENTS UNDER CARRIER PERFORM-
21 ANCE EVALUATION PROGRAM.—

22 (A) FISCAL INTERMEDIARIES UNDER PART
23 A.—Section 1816(f)(1)(A) (42 U.S.C.
24 1396h(f)(1)(A)) is amended by striking “proc-
25 essing” and inserting “processing (including the

1 agency's or organization's success in recovering
2 payments made under this title for services for
3 which payment has been or could be made
4 under a primary plan (as defined in section
5 1862(b)(2)(A))”.

6 (B) CARRIERS UNDER PART B.—Section
7 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended
8 by adding at the end the following new sub-
9 paragraph:

10 “(D) In addition to any other standards and criteria
11 established by the Secretary for evaluating carrier per-
12 formance under this paragraph relating to avoiding erro-
13 neous payments, the Secretary shall establish standards
14 and criteria relating to the carrier's success in recovering
15 payments made under this part for items or services for
16 which payment has been or could be made under a pri-
17 mary plan (as defined in section 1862(b)(2)(A)).”.

18 (3) DEADLINE FOR REIMBURSEMENT BY PRI-
19 MARY PLANS.—

20 (A) IN GENERAL.—Section
21 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i))
22 is amended by adding at the end the following
23 sentence: “If reimbursement is not made to the
24 appropriate Trust Fund before the expiration of
25 the 60-day period that begins on the date such

1 notice or other information is received, the Sec-
2 retary may charge interest (beginning with the
3 date on which the notice or other information
4 is received) on the amount of the reimburse-
5 ment until reimbursement is made (at a rate
6 determined by the Secretary in accordance with
7 regulations of the Secretary of the Treasury ap-
8 plicable to charges for late payments).”.

9 (B) CONFORMING AMENDMENT.—The
10 heading of clause (i) of section 1862(b)(2)(B) is
11 amended to read as follows: “REPAYMENT RE-
12 QUIRED.—”.

13 (C) EFFECTIVE DATE.—The amendments
14 made by this paragraph shall apply to payments
15 for items and services furnished on or after the
16 date of the enactment of this Act.

17 (4) EFFECTIVE DATE.—The amendments made
18 by paragraphs (1) and (2) shall apply to contracts
19 with fiscal intermediaries and carriers under title
20 XVIII of the Social Security Act for years beginning
21 with 1993.

22 (d) MISCELLANEOUS AND TECHNICAL CORREC-
23 TIONS.—

1 (1) The sentence in section 1862(b)(1)(C)
2 added by section 4203(c)(1)(B) of OBRA-1990 is
3 amended—

4 (A) by striking “on or before January 1,
5 1996,” and inserting “before January 1,
6 1996”; and

7 (B) by striking “clauses (i) and (ii)” and
8 inserting “this subparagraph”.

9 (2) Effective as if included in the enactment of
10 OBRA-1989, section 1862(b)(1) is amended—

11 (A) in subparagraphs (A)(v) and
12 (B)(iv)(II), by inserting “, without regard to
13 section 5000(d) of such Code” before the period
14 at the end of each subparagraph;

15 (B) in subparagraph (A)(iii), by striking
16 “current calendar year or the preceding cal-
17 endar year” and inserting “current calendar
18 year and the preceding calendar year”; and

19 (C) in the matter in subparagraph (C)
20 after clause (ii), by striking “taking into ac-
21 count that” and inserting “paying benefits sec-
22 ondary to this title when”.

23 (3) Section 4203(c)(2) of OBRA-1990 is
24 amended—

1 (A) by striking “the application of clause
2 (iii)” and inserting “the second sentence”;

3 (B) by striking “on individuals” and all
4 that follows through “section 226A of such
5 Act”;

6 (C) in clause (ii), by striking “clause” and
7 inserting “sentence”;

8 (D) in clause (v), by adding “and” at the
9 end; and

10 (E) in clause (vi)—

11 (i) by inserting “of such Act” after
12 “1862(b)(1)(C)”, and

13 (ii) by striking the period at the end
14 and inserting the following: “, without re-
15 gard to the number of employees covered
16 by such plans.”.

17 (4) Section 4203(d) of OBRA–1990 is amended
18 by striking “this subsection” and inserting “this
19 section”.

20 (5) Except as provided in paragraph (2), the
21 amendments made by this subsection shall be effec-
22 tive as if included in the enactment of OBRA–1990.

1 **TITLE II—CUSTOMS OFFICER**
2 **PAY REFORM**

3 **SEC. 2001. OVERTIME AND PREMIUM PAY FOR CUSTOMS**
4 **OFFICERS.**

5 (a) IN GENERAL.—Section 5 of the Act of February
6 13, 1911 (19 U.S.C. 261 and 267) is amended to read
7 as follows:

8 **“SEC. 5. OVERTIME AND PREMIUM PAY FOR CUSTOMS OF-**
9 **FICERS.**

10 “(a) OVERTIME PAY.—

11 “(1) IN GENERAL.—Subject to paragraph (2)
12 and subsection (c), a customs officer who is officially
13 assigned to perform work in excess of 40 hours in
14 the administrative workweek of the officer or in ex-
15 cess of 8 hours in a day shall be compensated for
16 that work at an hourly rate of pay that is equal to
17 2 times the hourly rate of the basic pay of the offi-
18 cer. For purposes of this paragraph, the hourly rate
19 of basic pay for a customs officer does not include
20 any premium pay provided for under subsection (b).

21 “(2) SPECIAL PROVISIONS RELATING TO OVER-
22 TIME WORK ON CALLBACK BASIS.—

23 “(A) MINIMUM DURATION.—Any work for
24 which compensation is authorized under para-
25 graph (1) and for which the customs officer is

1 required to return to the officer's place of work
2 shall be treated as being not less than 2 hours
3 in duration; but only if such work begins at
4 least 1 hour after the end of any previous regu-
5 larly scheduled work assignment and ends at
6 least 1 hour before the beginning of the follow-
7 ing regularly scheduled work assignment.

8 “(B) COMPENSATION FOR COMMUTING
9 TIME.—

10 “(i) IN GENERAL.—Except as pro-
11 vided in clause (ii), in addition to the com-
12 pensation authorized under paragraph (1)
13 for work to which subparagraph (A) ap-
14 plies, the customs officer is entitled to be
15 paid, as compensation for commuting time,
16 an amount equal to 3 times the hourly rate
17 of basic pay of the officer.

18 “(ii) EXCEPTION.—Compensation for
19 commuting time is not payable under
20 clause (i) if the work for which compensa-
21 tion is authorized under paragraph (1)—

22 “(I) does not commence within
23 16 hours of the customs officer's last
24 regularly scheduled work assignment,
25 or

1 “(II) commences within 2 hours
2 of the next regularly scheduled work
3 assignment of the customs officer.

4 “(b) PREMIUM PAY FOR CUSTOMS OFFICERS.—

5 “(1) NIGHT WORK DIFFERENTIAL.—

6 “(A) 3 P.M. TO MIDNIGHT SHIFTWORK.—If
7 the majority of the hours of regularly scheduled
8 work of a customs officer occur during the pe-
9 riod beginning at 3 p.m. and ending at 12 a.m.,
10 the officer is entitled to pay for work during
11 such period (except for work to which para-
12 graph (2) or (3) applies) at the officer’s hourly
13 rate of basic pay plus premium pay amounting
14 to 15 percent of that basic rate.

15 “(B) 11 P.M. TO 8 A.M. SHIFTWORK.—If
16 the majority of the hours of regularly scheduled
17 work of a customs officer occur during the pe-
18 riod beginning at 11 p.m. and ending at 8 a.m.,
19 the officer is entitled to pay for work during
20 such period (except for work to which para-
21 graph (2) or (3) applies) at the officer’s hourly
22 rate of basic pay plus premium pay amounting
23 to 20 percent of that basic rate.

24 “(C) 7:30 P.M. TO 3:30 A.M. SHIFTWORK.—
25 If the regularly scheduled work assignment of a

1 customs officer is 7:30 p.m. to 3:30 a.m., the
2 officer is entitled to pay for work during such
3 period (except for work to which paragraph (2)
4 or (3) applies) at the officer's hourly rate of
5 basic pay plus premium pay amounting to 15
6 percent of that basic rate for the period from
7 7:30 p.m. to 11:30 p.m. and at the officer's
8 hourly rate of basic pay plus premium pay
9 amounting to 20 percent of that basic rate for
10 the period from 11:30 p.m. to 3:30 a.m.

11 “(2) SUNDAY DIFFERENTIAL.—A customs offi-
12 cer who performs any regularly scheduled work on a
13 Sunday that is not a holiday is entitled to pay for
14 that work at the officer's hourly rate of basic pay
15 plus premium pay amounting to 50 percent of that
16 basic rate.

17 “(3) HOLIDAY DIFFERENTIAL.—A customs offi-
18 cer who performs any regularly scheduled work on a
19 holiday is entitled to pay for that work at the offi-
20 cer's hourly rate of basic pay plus premium pay
21 amounting to 100 percent of that basic rate.

22 “(4) TREATMENT OF PREMIUM PAY.—Premium
23 pay provided for under this subsection may not be
24 treated as being overtime pay or compensation for
25 any purpose.

1 “(c) LIMITATIONS.—

2 “(1) FISCAL YEAR CAP.—The aggregate of
3 overtime pay under subsection (a) (including com-
4 muting compensation under subsection (a)(2)(B))
5 and premium pay under subsection (b) that a cus-
6 toms officer may be paid in any fiscal year may not
7 exceed \$25,000; except that the Commissioner of
8 Customs or his designee may waive this limitation in
9 individual cases in order to prevent excessive costs
10 or to meet emergency requirements of the Customs
11 Service.

12 “(2) EXCLUSIVITY OF PAY UNDER THIS SEC-
13 TION.—A customs officer who receives overtime pay
14 under subsection (a) or premium pay under sub-
15 section (b) for time worked may not receive pay or
16 other compensation for that work under any other
17 provision of law.

18 “(d) REGULATIONS.—The Secretary of the Treasury
19 shall prescribe such regulations as are necessary or appro-
20 priate to carry out this section, including regulations—

21 “(1) to ensure that callback work assignments
22 are commensurate with the overtime pay authorized
23 for such work; and

1 “(2) to prevent the disproportionate assignment
2 of overtime work to customs officers who are near
3 to retirement.

4 “(e) DEFINITIONS.—As used in this section:

5 “(1) The term ‘customs officer’ means an indi-
6 vidual performing those functions specified by regu-
7 lation by the Secretary of the Treasury for a cus-
8 toms inspector or canine enforcement officer. Such
9 functions shall be consistent with such applicable
10 standards as may be promulgated by the Office of
11 Personnel Management.

12 “(2) The term ‘holiday’ means any day des-
13 igned as a holiday under a Federal statute or Ex-
14 ecutive order.”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 2 of the Act of June 3, 1944 (19
17 U.S.C. 1451a), is repealed.

18 (2) Section 450 of the Tariff Act of 1930 (19
19 U.S.C. 1450) is amended—

20 (A) by striking out “at night” in the sec-
21 tion heading and inserting “during overtime
22 hours”;

23 (B) by striking out “at night” and insert-
24 ing “during overtime hours”; and

1 (C) by inserting “aircraft,” immediately
2 before “vessel”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 subsections (a) and (b) apply to customs inspectional serv-
5 ices provided on or after October 1, 1993.

6 **SEC. 2002. FOREIGN LANGUAGE PROFICIENCY AWARDS**
7 **FOR CUSTOMS OFFICERS.**

8 Cash awards for foreign language proficiency may,
9 under regulations prescribed by the Secretary of the
10 Treasury, be paid to customs officers (as referred to in
11 section 5(e)(1) of the Act of February 13, 1911) to the
12 same extent and in the same manner as would be allowable
13 under subchapter III of chapter 45 of title 5, United
14 States Code, with respect to law enforcement officers (as
15 defined by section 4521 of such title).

16 **SEC. 2003. APPROPRIATIONS REIMBURSEMENTS FROM**
17 **THE CUSTOMS USER FEE ACCOUNT.**

18 Section 13031(f)(3) of the Consolidated Omnibus
19 Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3))
20 is amended—

21 (1) by amending clause (i) of subparagraph (A)
22 to read as follows: “(i) in—

23 “(I) paying overtime compensation and
24 premium pay under section 5 (a) and (b) of the
25 Act of February 13, 1911,

1 “(II) paying agency contributions to the
2 Civil Service Retirement and Disability Fund to
3 match deductions from the overtime compensa-
4 tion paid under subclause (I), and

5 “(III) providing all preclearance services
6 for which the recipients of such services are not
7 required to reimburse the Secretary of the
8 Treasury, and”;

9 (2) by striking out “except for costs described
10 in subparagraph (A)(i) (I) and (II),” in subpara-
11 graph (B)(i).

12 **SEC. 2004. TREATMENT OF CERTAIN PAY OF CUSTOMS OF-**
13 **FICERS FOR RETIREMENT PURPOSES.**

14 (a) IN GENERAL.—Section 8331(3) of title 5, United
15 States Code, is amended—

16 (1) by striking out “and” at the end of sub-
17 paragraph (C);

18 (2) by striking out the semicolon at the end of
19 subparagraph (D) and inserting “; and”;

20 (3) by adding after subparagraph (D) the fol-
21 lowing:

22 “(E) with respect to a customs officer (re-
23 ferred to in subsection (e)(1) of section 5 of the
24 Act of February 13, 1911), compensation for
25 overtime inspectional services provided for

1 under subsection (a) of such section 5, but not
2 to exceed 50 percent of any statutory maximum
3 in overtime pay for customs officers which is in
4 effect for the year involved;” and

5 (4) by striking out “subparagraphs (B), (C),
6 and (D) of this paragraph,” and inserting “subpara-
7 graphs (B), (C), (D), and (E) of this paragraph”.

8 (b) EFFECTIVE DATE.—The amendments made by
9 subsection (a) take effect on the date of the enactment
10 of this Act and apply only with respect to service per-
11 formed on or after such date.

12 **SEC. 2005. REPORTS.**

13 (a) CUSTOMS USER FEE ACCOUNT REPORTS.—Sub-
14 paragraph (D) of section 13031(f)(3) of the Consolidated
15 Omnibus Budget Reconciliation Act of 1985 (19 U.S.C.
16 58c(f)(3)(D)) is amended to read as follows:

17 “(D) At the close of each fiscal year, the
18 Secretary of the Treasury shall submit a report
19 to the Committee on Finance of the Senate and
20 the Committee on Ways and Means of the
21 House of Representatives—

22 “(i) containing a detailed accounting
23 of all expenditures from the Customs User
24 Fee Account during such year, including a
25 summary of the expenditures, on a port-by-

1 port basis, for which reimbursement has
2 been provided under subparagraph (A)(ii);

3 “(ii) containing a listing of all call-
4 back assignments of customs officers for
5 which overtime compensation was paid
6 under section 5(a) of the Act of February
7 13, 1911, and that were less than 1 hour
8 in duration; and

9 “(iii) containing a listing of all cus-
10 toms officers who were paid \$25,000 or
11 more under subsections 5(a) and 5(b) of
12 the Act of February 13, 1911, including a
13 listing of the total compensation paid to
14 each of those customs officers under all
15 other statutory authority.”.

16 (b) OTHER REPORTS.—

17 (1) GAO REPORT.—The Comptroller General of
18 the United States shall undertake—

19 (A) an evaluation of the appropriateness
20 and efficiency of the customs user fee laws for
21 financing the provision of customs inspectional
22 services; and

23 (B) a study to determine whether cost sav-
24 ings in the provision of overtime inspectional
25 services could be realized by the United States

1 Customs Service through the use of additional
2 inspectors as opposed to continuing the current
3 practice of relying on overtime pay.

4 The Comptroller General shall submit a report on
5 the evaluation and study required under this sub-
6 section to the Committees by no later than the 1st
7 anniversary of the date of the enactment of this Act.

8 (2) TREASURY RECOMMENDATION.—On the day
9 that the President submits the budget for the Unit-
10 ed States Government for fiscal year 1995 to the
11 Congress under section 1105(a) of title 31, United
12 States Code, the Secretary of the Treasury shall
13 submit to the Committees recommended legislative
14 proposals for improving the operation of customs
15 user fee laws in financing the provision of customs
16 inspectional services.

17 (3) DEFINITION OF COMMITTEES.—For pur-
18 poses of this subsection, the term “Committees”
19 means the Committee on Ways and Means of the
20 House of Representatives and the Committee on Fi-
21 nance of the Senate.

1 **TITLE III—AVAILABILITY AND**
2 **USE OF DEATH INFORMATION**
3 **UNDER THE OLD-AGE, SURVI-**
4 **VORS, AND DISABILITY IN-**
5 **SURANCE PROGRAM**

6 **SEC. 3001. AVAILABILITY AND USE OF DEATH INFORMA-**
7 **TION UNDER THE OLD-AGE, SURVIVORS, AND**
8 **DISABILITY INSURANCE PROGRAM.**

9 (a) IMPROVEMENTS IN PROGRAM FOR USE OF
10 DEATH CERTIFICATES TO CORRECT PROGRAM INFORMA-
11 TION.—

12 (1) ELIMINATION OF STATE RESTRICTIONS ON
13 USE OF INFORMATION.—Section 205(r)(1) of the So-
14 cial Security Act (42 U.S.C. 405(r)(1)) is amended
15 by adding at the end, after and below subparagraph
16 (B), the following new sentence:

17 “Any contract entered into pursuant to subparagraph (A)
18 shall not include any restriction on the use of information
19 obtained by the Secretary pursuant to such contract, ex-
20 cept to the extent that such use may be restricted under
21 paragraph (6).”.

22 (2) INFORMATION PROVIDED TO STATE AGEN-
23 CIES FREE OF CHARGE.—

1 (A) IN GENERAL.—Section 205(r)(4) of
2 such Act (42 U.S.C. 405(r)(4)) is amended to
3 read as follows:

4 “(4)(A) In the case of individuals with respect to
5 whom federally funded benefits are provided by (or
6 through) a State agency other than under this Act, the
7 Secretary shall to the extent feasible provide such informa-
8 tion free of charge through a cooperative arrangement
9 with such agency, for ensuring proper payment of those
10 benefits with respect to such individuals, if such arrange-
11 ment does not conflict with the duties of the Secretary
12 under paragraph (1).

13 “(B) The Secretary may enter into similar agree-
14 ments with States to provide information free of charge
15 for their use in programs wholly funded by the States if
16 such arrangement does not conflict with the duties of the
17 Secretary under paragraph (1).”.

18 (B) CONFORMING AMENDMENT.—Section
19 205(r)(3) of such Act (42 U.S.C. 405(r)(3)) is
20 amended by striking “or State”.

21 (3) USE BY STATES OF SOCIAL SECURITY AC-
22 COUNT NUMBERS CONTINGENT UPON PARTICIPATION
23 IN PROGRAM.—Section 205(r)(2) of such Act (42
24 U.S.C. 405(r)(2)) is amended—

25 (A) by inserting “(A)” after “(2)”; and

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

3 “(B) Notwithstanding section 7(a)(2)(B) of the Pri-
4 vacy Act of 1974 and clauses (i) and (v) of subsection
5 (c)(2)(C) of this section, any State which is not a party
6 to a contract with the Secretary meeting the requirements
7 of paragraph (1) (and any political subdivision thereof)
8 may not utilize an individual’s social security account
9 number in the administration of any driver’s license or
10 motor vehicle registration law.”.

11 (b) STUDY REGARDING IMPROVEMENTS IN GATHER-
12 ING AND REPORTING OF DEATH INFORMATION.

13 (1) IN GENERAL.—As soon as practicable after
14 the date of the enactment of this Act, the Secretary
15 of Health and Human Services shall conduct a study
16 of possible improvements in the current methods of
17 gathering and reporting death information by the
18 Federal, State, and local governments which would
19 result in more efficient and expeditious handling of
20 such information.

21 (2) SPECIFIC MATTERS TO BE STUDIED.—In
22 carrying out the study required under this sub-
23 section, the Secretary shall—

24 (A) ascertain the delays in the receipt of
25 death information which are currently encoun-

1 tered by the Social Security Administration and
2 other agencies in need of such information on
3 a regular basis,

4 (B) analyze the causes of such delays,

5 (C) develop alternative options for improv-
6 ing Federal, State, and local agency cooperation
7 in reducing such delays, and

8 (D) evaluate the costs and benefits associ-
9 ated with the options referred to in subpara-
10 graph (C).

11 (3) REPORT.—Not later than June 1, 1994, the
12 Secretary shall submit a written report to the Com-
13 mittee on Ways and Means of the House of Rep-
14 resentatives and the Committee on Finance of the
15 Senate setting forth the results of the study con-
16 ducted pursuant to this subsection, together with
17 such administrative and legislative recommendations
18 as the Secretary may consider appropriate.

19 (c) EFFECTIVE DATE.—

20 (1) IN GENERAL.—The amendments made by
21 subsection (a) shall take effect 1 year after the date
22 of the enactment of this Act.

23 (2) PROMOTION OF ENTRY INTO NEW CON-
24 TRACTS.—As soon as practicable after the date of
25 the enactment of this Act, the Secretary of Health

1 and Human Services shall take such actions as are
2 necessary and appropriate to promote entry into
3 contracts under section 205(r) of the Social Security
4 Act which are in compliance with the requirements
5 of the amendments made by subsection (a).

6 **TITLE IV—PBGC REPORT ON EM-**
7 **LOYERS WITH UNDER-**
8 **FUNDED PLANS**

9 **SEC. 4001. REPORT ON EMPLOYERS WITH UNDERFUNDED**
10 **PLANS.**

11 (a) GENERAL RULE.—The Pension Benefit Guaranty
12 Corporation shall, on January 31 of each calendar year
13 after 1993, submit a report to the Congress setting
14 forth—

15 (1) the name of each contributing sponsor of 1
16 or more applicable plans having unfunded liabilities
17 aggregating \$25,000,000 or more, and

18 (2) the name of each contributing sponsor with
19 an applicable plan which has an unfunded liability in
20 excess of \$5,000,000 and with respect to which a
21 minimum funding waiver in excess of \$1,000,000
22 has been granted.

23 Information may be included in such report only if such
24 information may be publicly disclosed by the Pension Ben-
25 efit Guaranty Corporation.

1 (b) DETERMINATIONS OF UNFUNDED LIABILITY.—
2 For purposes of subsection (a), determinations of the un-
3 funded liability of any plan shall be made by the Pension
4 Benefit Guaranty Corporation on the basis of the most
5 recent information available to it.

6 (c) APPLICABLE PLAN.—For purposes of subsection
7 (a), the term “applicable plan” means any employee pen-
8 sion benefit plan (as defined in paragraph (2) of section
9 3 of the Employee Retirement Income Security Act of
10 1974) covered under subtitle B of title IV of such Act;
11 except that such term shall not include a multiemployer
12 plan (as defined in section 4001(a)(3) of such Act).

13 (d) CONTRIBUTING SPONSOR.—For purposes of this
14 section, the term “contributing sponsor” has the meaning
15 given to such term by section 4001(a)(13) of such Act.

16 **TITLE V—TAXPAYER BILL OF**
17 **RIGHTS 2**

18 **SEC. 5000. SHORT TITLE; AMENDMENT OF 1986 CODE.**

19 (a) SHORT TITLE.—This title may be cited as the
20 “Taxpayer Bill of Rights 2”.

21 (b) AMENDMENT OF 1986 CODE.—Except as other-
22 wise expressly provided, whenever in this title or title VI
23 an amendment or repeal is expressed in terms of an
24 amendment to, or repeal of, a section or other provision,

1 the reference shall be considered to be made to a section
2 or other provision of the Internal Revenue Code of 1986.

3 **Subtitle A—Taxpayer Advocate**

4 **SEC. 5001. ESTABLISHMENT OF POSITION OF TAXPAYER**
5 **ADVOCATE WITHIN INTERNAL REVENUE**
6 **SERVICE.**

7 (a) GENERAL RULE.—Section 7802 (relating to
8 Commissioner of Internal Revenue; Assistant Commis-
9 sioner (Employee Plans and Exempt Organizations)) is
10 amended by adding at the end thereof the following new
11 subsection:

12 “(d) OFFICE OF TAXPAYER ADVOCATE.—

13 “(1) IN GENERAL.—There is established in the
14 Internal Revenue Service an office to be known as
15 the ‘Office of the Taxpayer Advocate’. Such office,
16 including all problem resolution officers, shall be
17 under the supervision and direction of an official to
18 be known as the ‘Taxpayer Advocate’ who shall be
19 appointed by the President by and with the advice
20 and consent of the Senate, and who shall report di-
21 rectly to the Commissioner of Internal Revenue. The
22 Taxpayer Advocate shall be entitled to compensation
23 at the same rate as the Chief Counsel for the Inter-
24 nal Revenue Service.

25 “(2) FUNCTIONS OF OFFICE.—

1 “(A) IN GENERAL.—It shall be the func-
2 tion of the Office of Taxpayer Advocate to—

3 “(i) assist taxpayers in resolving prob-
4 lems with the Internal Revenue Service,

5 “(ii) identify areas in which taxpayers
6 have problems in dealings with the Internal
7 Revenue Service,

8 “(iii) to the extent possible, propose
9 changes in the administrative practices of
10 the Internal Revenue Service to mitigate
11 problems identified under clause (ii), and

12 “(iv) identify potential legislative
13 changes which may be appropriate to miti-
14 gate such problems.

15 “(B) ANNUAL REPORTS.—

16 “(i) OBJECTIVES.—Not later than Oc-
17 tober 31 of each calendar year after 1993,
18 the Taxpayer Advocate shall report to the
19 Committee on Ways and Means of the
20 House of Representatives and the Commit-
21 tee on Finance of the Senate on the objec-
22 tives of the Taxpayer Advocate for the fol-
23 lowing calendar year. Any such report shall
24 contain full and substantive analysis, in
25 addition to statistical information.

1 “(ii) ACTIVITIES.—Not later than
2 June 30 of each calendar year after 1993,
3 the Taxpayer Advocate shall report to the
4 Committee on Ways and Means of the
5 House of Representatives and the Commit-
6 tee on Finance of the Senate on the activi-
7 ties of the Taxpayer Advocate during the
8 fiscal year ending during such calendar
9 year. Any such report shall contain full
10 and substantive analysis, in addition to
11 statistical information, and shall—

12 “(I) identify the initiatives the
13 Taxpayer Advocate has taken on im-
14 proving taxpayer services and Internal
15 Revenue Service responsiveness,

16 “(II) contain recommendations
17 received from individuals with the au-
18 thority to issue taxpayer assistance
19 orders under section 7811,

20 “(III) contain a summary of at
21 least 20 of the most serious problems
22 encountered by taxpayers, including a
23 description of the nature of such prob-
24 lems,

1 “(IV) contain an inventory of the
2 items described in subclauses (I), (II),
3 and (III) for which action has been
4 taken and the result of such action,

5 “(V) contain an inventory of the
6 items described in subclauses (I), (II),
7 and (III) for which action remains to
8 be completed and the period during
9 which each item has remained on such
10 inventory,

11 “(VI) contain an inventory of the
12 items described in subclauses (II) and
13 (III) for which no action has been
14 taken, the period during which each
15 item has remained on such inventory,
16 the reasons for the inaction, and iden-
17 tify any Internal Revenue Service offi-
18 cial who is responsible for such inac-
19 tion,

20 “(VII) identify any Taxpayer As-
21 sistance Order which was not honored
22 by the Internal Revenue Service in a
23 timely manner, as specified under sec-
24 tion 7811(b),

1 “(VIII) contain recommendations
2 for such administrative and legislative
3 action as may be appropriate to re-
4 solve problems encountered by tax-
5 payers, and

6 “(IX) include such other infor-
7 mation as the Taxpayer Advocate may
8 deem advisable.

9 “(iii) REPORT TO BE SUBMITTED DI-
10 RECTLY.—Each report required under this
11 subparagraph shall be provided directly to
12 the Committees referred to in clauses (i)
13 and (ii) without any prior review or com-
14 ment from the Commissioner of the Inter-
15 nal Revenue Service, the Secretary of the
16 Treasury, any other officer or employee of
17 the Department of the Treasury, or the
18 Office of Management and Budget.

19 “(3) RESPONSIBILITIES OF COMMISSIONER OF
20 INTERNAL REVENUE SERVICE.—The Commissioner
21 of Internal Revenue shall establish procedures re-
22 quiring a formal response to all recommendations
23 submitted to the Commissioner by the Taxpayer Ad-
24 vocate.”

25 (b) CONFORMING AMENDMENTS.—

1 (1) Section 7811 (relating to taxpayer assist-
2 ance orders) is amended—

3 (A) by striking “the Office of Ombuds-
4 man” in subsection (a) and inserting “the Of-
5 fice of the Taxpayer Advocate”, and

6 (B) by striking “Ombudsman” each place
7 it appears (including in the headings of sub-
8 sections (e) and (f)) and inserting “Taxpayer
9 Advocate”.

10 (2) The heading for section 7802 is amended to
11 read as follows:

12 **“SEC. 7802. COMMISSIONER OF INTERNAL REVENUE; AS-**
13 **SISTANT COMMISSIONERS; TAXPAYER ADVOCATE.”**
14 **CATE.”**

15 (3) The table of sections for subchapter A of
16 chapter 80 of subtitle F is amended by striking the
17 item relating to section 7802 and inserting the fol-
18 lowing new item:

 “Sec. 7802. Commissioner of Internal Revenue; Assistant Com-
 missioners; Taxpayer Advocate.”

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

1 **SEC. 5002. EXPANSION OF AUTHORITY TO ISSUE TAX-**
2 **PAYER ASSISTANCE ORDERS.**

3 (a) TERMS OF ORDERS.—Subsection (b) of section
4 7811 (relating to terms of taxpayer assistance orders) is
5 amended—

6 (1) by inserting “within a specified time pe-
7 riod” after “the Secretary”, and

8 (2) by inserting “take any action as permitted
9 by law,” after “cease any action,”.

10 (b) LIMITATION ON AUTHORITY TO MODIFY OR RE-
11 SCIND.—Section 7811(c) (relating to authority to modify
12 or rescind) is amended to read as follows:

13 “(c) AUTHORITY TO MODIFY OR RESCIND.—Any
14 Taxpayer Assistance Order issued by the Taxpayer Advo-
15 cate under this section may be modified or rescinded only
16 by the Taxpayer Advocate, the Commissioner, or any supe-
17 rior of either.”

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

21 **Subtitle B—Modifications to**
22 **Installment Agreement Provisions**

23 **SEC. 5101. NOTIFICATION OF REASONS FOR TERMINATION**
24 **OR DENIAL OF INSTALLMENT AGREEMENTS.**

25 (a) TERMINATIONS.—Subsection (b) of section 6159
26 (relating to extent to which agreements remain in effect)

1 is amended by adding at the end thereof the following new
2 paragraph:

3 “(5) NOTICE REQUIREMENTS.—The Secretary
4 may not take any action under paragraph (2), (3),
5 or (4) unless—

6 “(A) a notice of such action is provided to
7 the taxpayer not later than the day 30 days be-
8 fore the date of such action, and

9 “(B) such notice includes an explanation
10 why the Secretary intends to take such action.

11 The preceding sentence shall not apply in any case
12 in which the Secretary believes that collection of any
13 tax to which an agreement under this section relates
14 is in jeopardy.”

15 (b) DENIALS.—Section 6159 (relating to agreements
16 for payment of tax liability in installments) is amended
17 by adding at the end thereof the following new subsection:

18 “(c) NOTICE REQUIREMENTS FOR DENIALS.—The
19 Secretary may not deny any request for an installment
20 agreement under this section unless—

21 “(1) a notice of the proposed denial is provided
22 to the taxpayer not later than the day 30 days be-
23 fore the date of such denial, and

24 “(2) such notice includes an explanation why
25 the Secretary intends to deny such request.

1 The preceding sentence shall not apply in any case in
2 which the Secretary believes that collection of any tax to
3 which a request for an agreement under this section re-
4 lates is in jeopardy.”

5 (c) CONFORMING AMENDMENT.—Paragraph (3) of
6 section 6159(b) is amended to read as follows:

7 “(3) SUBSEQUENT CHANGE IN FINANCIAL CON-
8 DITIONS.—If the Secretary makes a determination
9 that the financial condition of a taxpayer with whom
10 the Secretary has entered into an agreement under
11 subsection (a) has significantly changed, the Sec-
12 retary may alter, modify, or terminate such agree-
13 ment.”

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect on the date 6 months after
16 the date of the enactment of this Act.

17 **SEC. 5102. ADMINISTRATIVE REVIEW OF DENIAL OF RE-**
18 **QUEST FOR, OR TERMINATION OF, INSTALL-**
19 **MENT AGREEMENT.**

20 (a) GENERAL RULE.—Section 6159 (relating to
21 agreements for payment of tax liability in installments),
22 as amended by section 1101, is amended by adding at the
23 end thereof the following new subsection:

24 “(d) ADMINISTRATIVE REVIEW.—The Secretary shall
25 establish procedures for an independent administrative re-

1 view of denials of requests for, or terminations of, install-
2 ment agreements under this section.”

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall take effect on January 1, 1994.

5 **Subtitle C—Interest**

6 **SEC. 5201. EXPANSION OF AUTHORITY TO ABATE INTEREST.**

7 (a) GENERAL RULE.—Paragraph (1) of section
8 6404(e) (relating to abatement of interest in certain cases)
9 is amended—

10 (1) by inserting “unreasonable” before “error”
11 each place it appears in subparagraphs (A) and (B),
12 and

13 (2) by striking “ministerial act” each place it
14 appears and inserting “ministerial or managerial
15 act”.

16 (b) CLERICAL AMENDMENT.—The subsection head-
17 ing for subsection (e) of section 6404 is amended by strik-
18 ing “Assessments” and inserting “Abatement”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to interest accruing with respect
21 to deficiencies or payments for taxable years beginning
22 after the date of the enactment of this Act.

1 **SEC. 5202. EXTENSION OF INTEREST-FREE PERIOD FOR**
2 **PAYMENT OF TAX AFTER NOTICE AND DE-**
3 **MAND.**

4 (a) **GENERAL RULE.**—Paragraph (3) of section
5 6601(e) (relating to payments made within 10 days after
6 notice and demand) is amended to read as follows:

7 “(3) **PAYMENTS MADE WITHIN SPECIFIED PE-**
8 **RIOD AFTER NOTICE AND DEMAND.**—If notice and
9 demand is made for payment of any amount and if
10 such amount is paid within 21 days (10 days if the
11 amount for which such notice and demand is made
12 equals or exceeds \$100,000) after the date of such
13 notice and demand, interest under this section on
14 the amount so paid shall not be imposed for the pe-
15 riod after the date of such notice and demand.”

16 (b) **CONFORMING AMENDMENT.**—Paragraph (3) of
17 section 6651(a) (relating to addition to tax for failure to
18 file tax return or pay tax) is amended by striking “10
19 days” and inserting “21 days (10 days if the amount for
20 which such notice and demand is made equals or exceed
21 \$100,000)”.

22 (c) **EFFECTIVE DATE.**—The amendments made by
23 this section shall apply in the case of any notice and de-
24 mand given after June 30, 1994.

1 **Subtitle D—Joint Returns**

2 **SEC. 5301. DISCLOSURE OF COLLECTION ACTIVITIES.**

3 (a) GENERAL RULE.—Subsection (e) of section 6103
4 (relating to disclosure to persons having material interest)
5 is amended by adding at the end thereof the following new
6 paragraph:

7 “(8) DISCLOSURE OF COLLECTION ACTIVITIES
8 WITH RESPECT TO JOINT RETURN.—If any defi-
9 ciency of tax with respect to a joint return is as-
10 sessed and the individuals filing such return are no
11 longer married or no longer reside in the same
12 household, upon request in writing of either of such
13 individuals, the Secretary may disclose in writing to
14 the individual making the request whether the Sec-
15 retary has attempted to collect such deficiency from
16 such other individual, the general nature of such col-
17 lection activities, and the amount collected.”

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall take effect on the date of the enact-
20 ment of this Act.

21 **SEC. 5302. JOINT RETURN MAY BE MADE AFTER SEPARATE**
22 **RETURNS WITHOUT FULL PAYMENT OF TAX.**

23 (a) GENERAL RULE.—Paragraph (2) of section
24 6013(b) (relating to limitations on filing of joint return
25 after filing separate returns) is amended by striking sub-

1 paragraph (A) and redesignating the following subpara-
2 graphs accordingly.

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

6 **Subtitle E—Collection Activities**

7 **SEC. 5401. MODIFICATIONS TO LIEN AND LEVY PROVI-** 8 **SIONS.**

9 (a) WITHDRAWAL OF CERTAIN NOTICES.—Section
10 6323 (relating to validity and priority against certain per-
11 sons) is amended by adding at the end thereof the follow-
12 ing new subsection:

13 “(j) WITHDRAWAL OF NOTICE IN CERTAIN CIR-
14 CUMSTANCES.—

15 “(1) IN GENERAL.—The Secretary may with-
16 draw a notice of a lien filed under this section and
17 this chapter shall be applied as if the withdrawn no-
18 tice had not been filed, if the Secretary determines
19 that—

20 “(A) the filing of such notice was pre-
21 mature or otherwise not in accordance with ad-
22 ministrative procedures of the Secretary,

23 “(B) the taxpayer has entered into an
24 agreement under section 6159 to satisfy the tax
25 liability for which the lien was imposed by

1 means of installment payments, unless such
2 agreement provides otherwise,

3 “(C) the withdrawal of such notice will fa-
4 cilitate the collection of the tax liability, or

5 “(D) with the consent of the taxpayer or
6 the Taxpayer Advocate, the withdrawal of such
7 notice would be in the best interests of the tax-
8 payer (as determined by the Taxpayer Advoca-
9 cate) and the United States.

10 Any such withdrawal shall be made by filing notice
11 thereof at the same office as the withdrawn notice.

12 A copy of such notice of withdrawal shall be pro-
13 vided to the taxpayer.

14 “(2) NOTICE TO CREDIT AGENCIES, ETC.—

15 Upon written request by the taxpayer with respect
16 to whom a notice of a lien was withdrawn under
17 paragraph (1), the Secretary shall promptly make
18 reasonable efforts to notify credit reporting agencies,
19 and any financial institution or creditor whose name
20 and address is specified in such request, of the with-
21 drawal of such notice. Any such request shall be in
22 such form as the Secretary may prescribe.”

23 (b) RETURN OF LEVIED PROPERTY IN CERTAIN
24 CASES.—Section 6343 (relating to authority to release

1 levy and return property) is amended by adding at the
2 end thereof the following new subsection:

3 “(d) RETURN OF PROPERTY IN CERTAIN CASES.—

4 If—

5 “(1) any property has been levied upon, and

6 “(2) the Secretary determines that—

7 “(A) the levy on such property was pre-
8 mature or otherwise not in accordance with ad-
9 ministrative procedures of the Secretary,

10 “(B) the taxpayer has entered into an
11 agreement under section 6159 to satisfy the tax
12 liability for which the levy was imposed by
13 means of installment payments, unless such
14 agreement provides otherwise,

15 “(C) the return of such property will facili-
16 tate the collection of the tax liability, or

17 “(D) with the consent of the taxpayer or
18 the Taxpayer Advocate, the return of such
19 property would be in the best interests of the
20 taxpayer (as determined by the Taxpayer Advoca-
21 cate) and the United States,

22 the provisions of subsection (b) shall apply in the same
23 manner as if such property had been wrongly levied upon,
24 except that no interest shall be allowed under subsection
25 (c).”

1 (c) MODIFICATIONS IN CERTAIN LEVY EXEMPTION
2 AMOUNTS.—

3 (1) FUEL, ETC.—Paragraph (2) of section
4 6334(a) (relating to fuel, provisions, furniture, and
5 personal effects exempt from levy) is amended—

6 (A) by striking “If the taxpayer is the
7 head of a family, so” and inserting “So”, and

8 (B) by striking “\$1,650 (\$1,550 in the
9 case of levies issued during 1989)” and insert-
10 ing “\$1,700”.

11 (2) BOOKS, ETC.—Paragraph (3) of section
12 6334(a) (relating to books and tools of a trade, busi-
13 ness, or profession exempt from levy) is amended by
14 striking “\$1,100 (\$1,050 in the case of levies issued
15 during 1989)” and inserting “\$1,200”.

16 (3) INDEXED FOR INFLATION.—Section 6334
17 (relating to property exempt from levy) is amended
18 by adding at the end thereof the following new sub-
19 section:

20 “(f) INFLATION ADJUSTMENTS.—

21 “(1) IN GENERAL.—In the case of any calendar
22 year beginning after 1994, each dollar amount re-
23 ferred to in paragraphs (2) and (3) of subsection (a)
24 shall be increased by an amount equal to—

25 “(A) such dollar amount, multiplied by

1 “(B) the cost-of-living adjustment deter-
2 mined under section 1(f)(3) for such calendar
3 year, by substituting ‘calendar year 1993’ for
4 ‘calendar year 1989’ in subparagraph (B)
5 thereof.

6 “(2) ROUNDING.—If any dollar amount after
7 being increased under paragraph (1) is not a mul-
8 tiple of \$10, such dollar amount shall be rounded to
9 the nearest multiple of \$10 (or, if such dollar
10 amount is a multiple of \$5, such dollar amount shall
11 be increased to the next higher multiple of \$10).”

12 (d) EFFECTIVE DATES.—

13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), the amendments made by this section
15 shall take effect on the date of the enactment of this
16 Act.

17 (2) EXEMPT AMOUNTS.—The amendments
18 made by subsection (c) shall take effect with respect
19 to levies issued after December 31, 1993.

20 **SEC. 5402. OFFERS-IN-COMPROMISE.**

21 (a) GENERAL RULE.—Subsection (a) of section 7122
22 (relating to compromises) is amended by adding at the end
23 thereof the following new sentence: “The Secretary may
24 make such a compromise in any case where the Secretary

1 determines that such compromise would be in the best in-
2 terests of the United States.”.

3 (b) REVIEW REQUIREMENTS.—Subsection (b) of sec-
4 tion 7122 (relating to records) is amended by striking
5 “\$500.” and inserting “\$50,000. However, such com-
6 promise shall be subject to continuing quality review by
7 the Secretary.”.

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

11 **SEC. 5403. NOTIFICATION OF EXAMINATION.**

12 (a) IN GENERAL.—Section 7605 (relating to restric-
13 tions on examination of taxpayer) is amended by redesignig-
14 nating subsection (c) as subsection (d) and by inserting
15 after subsection (b) the following new subsection:

16 “(c) NOTIFICATION REQUIREMENT.—No examina-
17 tion described in subsection (a) shall be made unless the
18 Secretary notifies the taxpayer in writing by mail to an
19 address determined under section 6212(b) that the tax-
20 payer is under examination and provides the taxpayer with
21 an explanation of the process as described in section
22 7521(b)(1). The preceding sentence shall not apply in the
23 case of any examination if the Secretary determines
24 that—

1 “(1) such examination is in connection with a
2 criminal investigation or is with respect to a tax the
3 collection of which is in jeopardy, or

4 “(2) the application of the preceding sentence
5 would be inconsistent with national security needs or
6 would interfere with the effective conduct of a con-
7 fidential law enforcement or foreign counterintel-
8 ligence activity.”

9 (b) CONFORMING AMENDMENT.—Paragraph (1) of
10 section 7521(b) (relating to safeguards) is amended by
11 striking “or at”.

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

15 **SEC. 5404. INCREASE IN LIMIT ON RECOVERY OF CIVIL**
16 **DAMAGES FOR UNAUTHORIZED COLLECTION**
17 **ACTIONS.**

18 (a) GENERAL RULE.—Subsection (b) of section 7433
19 (relating to damages) is amended by striking “\$100,000”
20 and inserting “\$1,000,000”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall apply to actions by officers or employ-
23 ees of the Internal Revenue Service after the date of the
24 enactment of this Act.

1 **SEC. 5405. SAFEGUARDS RELATING TO DESIGNATED SUM-**
2 **MONS.**

3 (a) STANDARD OF REVIEW.—Subparagraph (A) of
4 section 6503(k)(2) (defining designated summons) is
5 amended by redesignating clauses (i) and (ii) as clauses
6 (ii) and (iii), respectively, and by inserting before clause
7 (ii) (as so redesignated) the following new clause:

8 “(i) the issuance of such summons is
9 preceded by a review of such issuance by
10 the regional counsel of the Office of Chief
11 Counsel for the region in which the exam-
12 ination of the corporation is being con-
13 ducted.”.

14 (b) NOTICE REQUIREMENTS FOR ISSUANCE.—Sec-
15 tion 6503(k) is amended by adding at the end thereof the
16 following new paragraph:

17 “(4) NOTICE REQUIREMENTS.—With respect to
18 any summons referred to in paragraph (1)(A) issued
19 to any person other than the corporation, the Sec-
20 retary shall promptly notify the corporation, in writ-
21 ing, that such summons has been issued with respect
22 to such corporation’s return of tax.”

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to summons issued after the date
25 of the enactment of this Act.

1 **Subtitle F—Information Returns**

2 **SEC. 5501. PHONE NUMBER OF PERSON PROVIDING PAYEE** 3 **STATEMENTS REQUIRED TO BE SHOWN ON** 4 **SUCH STATEMENT.**

5 (a) GENERAL RULE.—The following provisions are
6 each amended by striking “name and address” and insert-
7 ing “name, address, and phone number of the information
8 contact”:

- 9 (1) Section 6041(d)(1).
- 10 (2) Section 6041A(e)(1).
- 11 (3) Section 6042(c)(1).
- 12 (4) Section 6044(e)(1).
- 13 (5) Section 6045(b)(1).
- 14 (6) Section 6049(c)(1)(A).
- 15 (7) Section 6050B(b)(1).
- 16 (8) Section 6050H(d)(1).
- 17 (9) Section 6050I(e)(1).
- 18 (10) Section 6050J(e).
- 19 (11) Section 6050K(b)(1).
- 20 (12) Section 6050N(b)(1).

21 (b) EFFECTIVE DATE.—The amendments made by
22 subsection (a) shall apply to statements required to be fur-
23 nished after December 31, 1994 (determined without re-
24 gard to any extension).

1 **SEC. 5502. CIVIL DAMAGES FOR FRAUDULENT FILING OF**
2 **INFORMATION RETURNS.**

3 (a) GENERAL RULE.—Subchapter B of chapter 76
4 (relating to proceedings by taxpayers and third parties)
5 is amended by redesignating section 7434 as section 7435
6 and by inserting after section 7433 the following new sec-
7 tion:

8 **“SEC. 7434. CIVIL DAMAGES FOR FRAUDULENT FILING OF**
9 **INFORMATION RETURNS.**

10 “(a) IN GENERAL.—If any person willfully files a
11 false or fraudulent information return with respect to pay-
12 ments purported to be made to any other person, such
13 other person may bring a civil action for damages against
14 the person so filing such return.

15 “(b) DAMAGES.—In any action brought under sub-
16 section (a), upon a finding of liability on the part of the
17 defendant, the defendant shall be liable to the plaintiff in
18 an amount equal to the greater of \$5,000 or the sum of—

19 “(1) any actual damages sustained by the plain-
20 tiff as a proximate result of the filing of the false
21 or fraudulent information return (including any
22 costs attributable to resolving deficiencies asserted
23 as a result of such filing), and

24 “(2) the costs of the action.

25 “(c) PERIOD FOR BRINGING ACTION.—Notwith-
26 standing any other provision of law, an action to enforce

1 the liability created under this section may be brought
2 without regard to the amount in controversy and may be
3 brought only within the later of—

4 “(1) 4 years after the date of the filing of the
5 false or fraudulent information return, or

6 “(2) 1 year after the date such false or fraudu-
7 lent information return would have been discovered
8 by exercise of reasonable care.

9 “(d) COPY OF COMPLAINT FILED WITH IRS.—Any
10 person bringing an action under subsection (a) shall pro-
11 vide a copy of the complaint to the Internal Revenue Serv-
12 ice upon the filing of such complaint with the court.

13 “(e) FINDING OF COURT TO INCLUDE CORRECT
14 AMOUNT OF PAYMENT.—The judgment of the court in an
15 action brought under subsection (a) shall include a finding
16 of the correct amount which should have been reported
17 in the information return.

18 “(f) INFORMATION RETURN.—For purposes of this
19 section, the term ‘information return’ means any state-
20 ment described in section 6724(d)(1)(A).”

21 (b) CLERICAL AMENDMENT.—The table of sections
22 for subchapter B of chapter 76 is amended by striking
23 the item relating to section 7434 and inserting the follow-
24 ing:

“Sec. 7434. Civil damages for fraudulent filing of information re-
turns.

“Sec. 7435. Cross references.”

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to false or fraudulent information
3 returns filed after the date of the enactment of this Act.

4 **SEC. 5503. REQUIREMENT TO VERIFY ACCURACY OF IN-**
5 **FORMATION RETURNS.**

6 (a) GENERAL RULE.—Section 6201 (relating to as-
7 sessment authority) is amended by redesignating sub-
8 section (d) as subsection (e) and by inserting after sub-
9 section (c) the following new subsection:

10 “(d) REQUIRED REASONABLE VERIFICATION OF IN-
11 FORMATION RETURNS.—In any court proceeding, if a tax-
12 payer asserts a reasonable dispute with respect to any
13 item of income reported on an information return filed
14 with the Secretary under subpart B of part III of sub-
15 chapter A of chapter 61 by a third party and the taxpayer
16 has fully cooperated with the Secretary (including provid-
17 ing, within a reasonable period of time, access to and in-
18 spection of all witnesses, information, and documents
19 within the control of the taxpayer as reasonably requested
20 by the Secretary), the Secretary shall present reasonable
21 and probative information concerning such deficiency in
22 addition to such information return.”

23 (b) EFFECTIVE DATE.—The amendment made by
24 subsection (a) shall take effect on the date of the enact-
25 ment of this Act.

1 **Subtitle G—Modifications to Pen-**
2 **alty for Failure to Collect and**
3 **Pay Over Tax**

4 **SEC. 5601. PRELIMINARY NOTICE REQUIREMENT.**

5 (a) IN GENERAL.—Section 6672 (relating to failure
6 to collect and pay over tax, or attempt to evade or defeat
7 tax) is amended by redesignating subsection (b) as sub-
8 section (c) and by inserting after subsection (a) the follow-
9 ing new subsection:

10 “(b) PRELIMINARY NOTICE REQUIREMENT.—

11 “(1) IN GENERAL.—No penalty shall be im-
12 posed under subsection (a) unless the Secretary noti-
13 fies the taxpayer in writing by mail to an address as
14 determined under section 6212(b) that the taxpayer
15 shall be subject to an assessment of such penalty.

16 “(2) TIMING OF NOTICE.—The mailing of the
17 notice described in paragraph (1) shall precede any
18 notice and demand of any penalty under subsection
19 (a) by at least 60 days.

20 “(3) STATUTE OF LIMITATIONS.—If a notice
21 described in paragraph (1) with respect to any pen-
22 alty is mailed before the expiration of the period
23 provided by section 6501 for the assessment of such
24 penalty (determined without regard to this para-
25 graph), the period provided by such section for the

1 assessment of such penalty shall not expire before
2 the date 90 days after the date on which such notice
3 was mailed.

4 “(4) EXCEPTION FOR JEOPARDY.—This sub-
5 section shall not apply if the Secretary finds that the
6 collection of the penalty is in jeopardy.”

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall apply to assessments made after June
9 30, 1994.

10 **SEC. 5602. NO PENALTY IF PROMPT NOTIFICATION OF THE**
11 **SECRETARY.**

12 (a) IN GENERAL.—Section 6672 (relating to failure
13 to collect and pay over tax, or attempt to evade or defeat
14 tax) is amended by adding at the end thereof the following
15 new subsection:

16 “(d) PENALTY NOT APPLICABLE WHERE PROMPT
17 NOTIFICATION OF FAILURE.—

18 “(1) IN GENERAL.—A person shall not be liable
19 for any penalty under subsection (a) by reason of
20 any failure referred to in subsection (a) if—

21 “(A) such person is not a significant
22 owner, or highly compensated employee, of the
23 trade or business with respect to which such
24 failure occurred,

1 “(B) such person notifies the Secretary (in
2 such manner as he may prescribe) that such
3 failure has occurred within 10 days after the
4 date of such failure,

5 “(C) such notification was before any no-
6 tice by the Secretary to any person with respect
7 to such failure, and

8 “(D) such failure is not a part of a plan
9 to defraud the Federal Government.

10 “(2) DEFINITIONS.—For purposes of paragraph
11 (1)—

12 “(A) SIGNIFICANT OWNER.—The term
13 ‘significant owner’ means—

14 “(i) any person holding an interest as
15 a proprietor in a trade or business carried
16 on as a proprietorship, and

17 “(ii) in the case of a trade or business
18 conducted by a corporation or partnership,
19 any person who is a 5-percent owner (as
20 defined in section 416(i)(1)) in such cor-
21 poration or partnership, as the case may
22 be.

23 “(B) HIGHLY COMPENSATED EM-
24 PLOYEE.—The term ‘highly compensated em-
25 ployee’ means any employee who receives com-

1 pensation from the employer at an annual rate
2 in excess of \$75,000.

3 “(3) SPECIAL RULES.—

4 “(A) ONE-TIME RELIEF.—This subsection
5 shall apply only once with respect to—

6 “(i) any person, and

7 “(ii) any trade or business with re-
8 spect to which the failure described in sub-
9 section (a) occurred.

10 “(B) APPLICATION OF SUBSECTION.—This
11 subsection shall not apply if it results in no per-
12 son being held liable for the penalty described
13 in subsection (a).”

14 (b) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall apply in the case of failures after the
16 date of the enactment of this Act.

17 **SEC. 5603. DISCLOSURE OF CERTAIN INFORMATION**

18 **WHERE MORE THAN 1 PERSON SUBJECT TO**

19 **PENALTY.**

20 (a) IN GENERAL.—Subsection (e) of section 6103
21 (relating to disclosure to persons having material interest),
22 as amended by section 5301, is amended by adding at the
23 end thereof the following new paragraph:

24 “(9) DISCLOSURE OF CERTAIN INFORMATION

25 WHERE MORE THAN 1 PERSON SUBJECT TO PEN-

1 ALTY UNDER SECTION 6672.—If the Secretary deter-
2 mines that a person is liable for a penalty under sec-
3 tion 6672(a) with respect to any failure, upon re-
4 quest in writing of such person, the Secretary shall
5 disclose in writing to such person—

6 “(A) the name of any other person whom
7 the Secretary has determined to be liable for
8 such penalty with respect to such failure, and

9 “(B) whether the Secretary has attempted
10 to collect such penalty from such other person,
11 the general nature of such collection activities,
12 and the amount collected.”

13 (b) EFFECTIVE DATE.—The amendment made by
14 subsection (a) shall take effect on the date of the enact-
15 ment of this Act.

16 **SEC. 5604. PENALTIES UNDER SECTION 6672.**

17 (a) PUBLIC INFORMATION REQUIREMENTS.—The
18 Secretary of the Treasury or the Secretary’s delegate
19 (hereafter in this section referred to as the “Secretary”)
20 shall take such actions as may be appropriate to ensure
21 that employees are aware of their responsibilities under
22 the Federal tax depository system, the circumstances
23 under which employees may be liable for the penalty im-
24 posed by section 6672 of the Internal Revenue Code of
25 1986, and the responsibility to promptly report to the In-

1 ternal Revenue Service any failure referred to in sub-
2 section (a) of such section 6672. Such actions shall in-
3 clude—

4 (1) printing of a warning on deposit coupon
5 booklets and the appropriate tax returns that certain
6 employees may be liable for the penalty imposed by
7 such section 6672, and

8 (2) the development of a special information
9 packet.

10 (b) BOARD MEMBERS OF TAX-EXEMPT ORGANIZA-
11 TIONS.—

12 (1) VOLUNTARY BOARD MEMBERS.—

13 (A) IN GENERAL.—The penalty under sec-
14 tion 6672 of the Internal Revenue Code of 1986
15 shall not be imposed on unpaid, volunteer mem-
16 bers of any board of trustees or directors of an
17 organization referred to in section 501 of such
18 Code to the extent such members are solely
19 serving in an honorary capacity, do not partici-
20 pate in the day-to-day or financial operations of
21 the organization, and do not have actual knowl-
22 edge of the failure on which such penalty is im-
23 posed.

24 (B) APPLICATION OF PARAGRAPH.—This
25 paragraph shall not apply if it results in no per-

1 son being held liable for the penalty described
2 in section 6672(a) of the Internal Revenue
3 Code of 1986.

4 (2) DEVELOPMENT OF EXPLANATORY MATE-
5 RIALS.—The Secretary shall develop materials ex-
6 plaining the circumstances under which board mem-
7 bers of tax-exempt organizations (including vol-
8 untary and honorary members) may be subject to
9 penalty under section 6672 of such Code. Such ma-
10 terials shall be made available to tax-exempt organi-
11 zations.

12 (3) IRS INSTRUCTIONS.—The Secretary shall
13 clarify the instructions to Internal Revenue Service
14 employees on the application of the penalty under
15 section 6672 of such Code with regard to voluntary
16 members of boards of trustees or directors of tax-ex-
17 empt organizations.

18 (c) PROMPT NOTIFICATION.—To the maximum ex-
19 tent practicable, the Secretary shall notify all persons who
20 have failed to make timely and complete deposit of any
21 taxes described in section 6672 of the Internal Revenue
22 Code of 1986 of such failure within 30 days after the re-
23 turn was filed reflecting such failure or after the date on
24 which the Secretary is first aware of such failure. If the
25 person failing to make the deposit is not an individual,

1 the Secretary shall notify the entity subject to such deposit
2 requirement and that entity shall notify, within 15 days
3 of the notification by the Secretary, all officers, general
4 partners, trustees, or other managers of the failure.

5 **Subtitle H—Awarding of Costs and** 6 **Certain Fees**

7 **SEC. 5701. MOTION FOR DISCLOSURE OF INFORMATION.**

8 Paragraph (4) of section 7430(c) (defining prevailing
9 party) is amended by adding at the end thereof the follow-
10 ing new subparagraph:

11 “(C) MOTION FOR DISCLOSURE OF INFOR-
12 MATION.—Once a taxpayer substantially pre-
13 vails as described in subparagraph (A)(ii), the
14 taxpayer may file a motion for an order requir-
15 ing the disclosure (within a reasonable period of
16 time specified by the court) of all information
17 and copies of relevant records in the possession
18 of the Internal Revenue Service with respect to
19 such taxpayer’s case and the substantial jus-
20 tification for the position taken by the Internal
21 Revenue Service.”

22 **SEC. 5702. INCREASED LIMIT ON ATTORNEY FEES.**

23 Paragraph (1) of section 7430(c) (defining reason-
24 able litigation costs) is amended—

1 (1) by striking “\$75” in clause (iii) of subpara-
2 graph (B) and inserting “\$110”,

3 (2) by striking “an increase in the cost of living
4 or” in clause (iii) of subparagraph (B), and

5 (3) by adding after clause (iii) the following:

6 “In the case of any calendar year beginning after
7 1993, the dollar amount referred to in clause (iii)
8 shall be increased by an amount equal to such dollar
9 amount multiplied by the cost-of-living adjustment
10 determined under section 1(f)(3) for such calendar
11 year, by substituting ‘calendar year 1992’ for ‘cal-
12 endar year 1989’ in subparagraph (B) thereof. If
13 any dollar amount after being increased under the
14 preceding sentence is not a multiple of \$10, such
15 dollar amount shall be rounded to the nearest mul-
16 tiple of \$10 (or, if such dollar amount is a multiple
17 of \$5, such dollar amount shall be increased to the
18 next higher multiple of \$10).”

19 **SEC. 5703. FAILURE TO AGREE TO EXTENSION NOT TAKEN**
20 **INTO ACCOUNT.**

21 Paragraph (1) of section 7430(b) (relating to require-
22 ment that administrative remedies be exhausted) is
23 amended by adding at the end thereof the following new
24 sentence: “Any failure to agree to an extension of the time
25 for the assessment of any tax shall not be taken into ac-

1 count for purposes of determining whether the prevailing
2 party meets the requirements of the preceding sentence.”

3 **SEC. 5704. EFFECTIVE DATE.**

4 The amendments made by this subtitle shall apply in
5 the case of proceedings commenced after the date of the
6 enactment of this Act.

7 **Subtitle I—Other Provisions**

8 **SEC. 5801. REQUIRED CONTENT OF CERTAIN NOTICES.**

9 (a) GENERAL RULE.—Subsection (a) of section 7522
10 (relating to content of tax due, deficiency, and other no-
11 tices) is amended by striking “shall describe the basis for,
12 and identify” and inserting “shall set forth the adjust-
13 ments which are the basis for, and shall identify”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall apply to notices sent after the date
16 6 months after the date of the enactment of this Act.

17 **SEC. 5802. TREATMENT OF SUBSTITUTE RETURNS UNDER**
18 **SECTION 6651.**

19 (a) GENERAL RULE.—Section 6651 (relating to fail-
20 ure to file tax return or to pay tax) is amended by adding
21 at the end thereof the following new subsection:

22 “(h) TREATMENT OF RETURNS PREPARED BY SEC-
23 RETARY UNDER SECTION 6020(b).—In the case of any
24 return made by the Secretary under section 6020(b)—

1 “(1) such return shall be disregarded for pur-
2 poses of determining the amount of the addition
3 under paragraph (1) of subsection (a), but

4 “(2) such return shall be treated as the return
5 filed by the taxpayer for purposes of determining the
6 amount of the addition under paragraphs (2) and
7 (3) of subsection (a).”

8 (b) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall apply in the case of any return the
10 due date for which (determined without regard to exten-
11 sions) is after the date of the enactment of this Act.

12 **SEC. 5803. RELIEF FROM RETROACTIVE APPLICATION OF**
13 **TREASURY DEPARTMENT REGULATIONS.**

14 (a) IN GENERAL.—Subsection (b) of section 7805
15 (relating to rules and regulations) is amended to read as
16 follows:

17 “(b) RETROACTIVITY OF REGULATIONS.—

18 “(1) IN GENERAL.—Except as otherwise pro-
19 vided in this subsection, no temporary, proposed, or
20 final regulation relating to the internal revenue laws
21 shall apply to any taxable period ending before the
22 earliest of the following dates:

23 “(A) The date on which such regulation is
24 filed with the Federal Register.

1 “(B) In the case of any final regulation,
2 the date on which any proposed or temporary
3 regulation to which such final regulation relates
4 was filed with the Federal Register.

5 “(C) The date on which any notice sub-
6 stantially describing the expected contents of
7 any temporary, proposed, or final regulation is
8 issued to the public.

9 “(2) EXCEPTION FOR PROMPTLY ISSUED REGU-
10 LATIONS.—Paragraph (1) shall not apply to regula-
11 tions issued within 12 months of the date of the en-
12 actment of the statutory provision to which the regu-
13 lation relates.

14 “(3) PREVENTION OF ABUSE.—The Secretary
15 may provide that any regulation may take effect or
16 apply retroactively to prevent abuse of a statute to
17 which the regulation relates.

18 “(4) CORRECTION OF PROCEDURAL DE-
19 FECTS.—The Secretary may provide that any regu-
20 lation may apply retroactively to correct a proce-
21 dural defect in the issuance of any prior regulation.

22 “(5) INTERNAL REGULATIONS.—The limitations
23 of paragraph (1) shall not apply to any regulation
24 relating to internal Treasury Department policies,
25 practices or procedures.

1 “(6) CONGRESSIONAL AUTHORIZATION.—The
2 limitation of paragraph (1) may be superseded by a
3 legislative grant from Congress authorizing the Sec-
4 retary to prescribe the effective date with respect to
5 any regulation.

6 “(7) ELECTION TO APPLY RETROACTIVELY.—
7 The Secretary may provide for any taxpayer to elect
8 to apply any regulation before the dates specified in
9 paragraph (1).

10 “(8) APPLICATION TO RULINGS.—The Sec-
11 retary may prescribe the extent, if any, to which any
12 ruling (including any judicial decision or any admin-
13 istrative determination other than by regulation) re-
14 lating to the internal revenue laws shall be applied
15 without retroactive effect.”

16 (b) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as provided in para-
18 graphs (2) and (3), the amendment made by sub-
19 section (a) shall apply with respect to—

20 (A) any temporary or proposed regulation
21 filed on or after January 5, 1993, and

22 (B) any temporary or proposed regulation
23 filed before January 5, 1993, and filed as a
24 final regulation after such date.

1 (2) SPECIAL RULE.—Section 7805(b)(2) of the
2 Internal Revenue Code of 1986 (as added by sub-
3 section (a)) shall apply only to statutes enacted on
4 or after the date of the enactment of this Act.

5 **SEC. 5804. REQUIRED NOTICE OF CERTAIN PAYMENTS.**

6 If any payment is received by the Secretary of the
7 Treasury or the Secretary’s delegate (hereafter in the sec-
8 tion referred to as the “Secretary”) from any taxpayer
9 and the Secretary cannot associate such payment with any
10 outstanding tax liability of such taxpayer, the Secretary
11 shall make reasonable efforts to notify the taxpayer of
12 such inability within 60 days after the receipt of such pay-
13 ment.

14 **SEC. 5805. UNAUTHORIZED ENTICEMENT OF INFORMATION**
15 **DISCLOSURE.**

16 (a) IN GENERAL.—Subchapter B of chapter 76 (re-
17 lating to proceedings by taxpayers and third parties) is
18 amended by redesignating section 7434 as section 7435
19 and by inserting after section 7433 the following new sec-
20 tion:

21 **“SEC. 7434. CIVIL DAMAGES FOR UNAUTHORIZED ENTICE-**
22 **MENT OF INFORMATION DISCLOSURE.**

23 “(a) IN GENERAL.—If any officer or employee of the
24 United States intentionally compromises the determina-
25 tion or collection of any tax due from an attorney, certified

1 public accountant, or enrolled agent representing a tax-
2 payer in exchange for information conveyed by the tax-
3 payer to the attorney, certified public accountant, or en-
4 rolled agent for purposes of obtaining advice concerning
5 the taxpayer's tax liability, such taxpayer may bring a civil
6 action for damages against the United States in a district
7 court of the United States. Such civil action shall be the
8 exclusive remedy for recovering damages resulting from
9 such actions.

10 “(b) DAMAGES.—In any action brought under sub-
11 section (a), upon a finding of liability on the part of the
12 defendant, the defendant shall be liable to the plaintiff in
13 an amount equal to the lesser of \$500,000 or the sum
14 of—

15 “(1) actual, direct economic damages sustained
16 by the plaintiff as a proximate result of the informa-
17 tion disclosure, and

18 “(2) the costs of the action.

19 Damages shall not include the taxpayer's liability for any
20 civil or criminal penalties, or other losses attributable to
21 incarceration or the imposition of other criminal sanctions.

22 “(c) PAYMENT AUTHORITY.—Claims pursuant to
23 this section shall be payable out of funds appropriated
24 under section 1304 of title 31, United States Code.

1 “(d) PERIOD FOR BRINGING ACTION.—Notwith-
2 standing any other provision of law, an action to enforce
3 liability created under this section may be brought without
4 regard to the amount in controversy and may be brought
5 only within 2 years after the date the actions creating such
6 liability would have been discovered by exercise of reason-
7 able care.

8 “(e) MANDATORY STAY.—Upon a certification by the
9 Commissioner or the Commissioner’s delegate that there
10 is an ongoing investigation or prosecution of the taxpayer,
11 the district court before which an action under this section
12 is pending, shall stay all proceedings with respect to such
13 action pending the conclusion of the investigation or pros-
14 ecution.

15 “(f) CRIME-FRAUD EXCEPTION.—Subsection (a)
16 shall not apply to information conveyed to an attorney,
17 certified public accountant, or enrolled agent for the pur-
18 pose of perpetrating a fraud or crime.”

19 (b) CLERICAL AMENDMENT.—The table of sections
20 for subchapter B of chapter 76 is amended by striking
21 the item relating to section 7434 and by adding at the
22 end thereof the following new items:

“Sec. 7434. Civil damages for unauthorized enticement of infor-
mation disclosure.

“Sec. 7435. Cross references.”

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

4 **Subtitle J—Form Modifications;**
5 **Studies**

6 **SEC. 5900. DEFINITIONS.**

7 For purposes of this subtitle:

8 (1) SECRETARY.—The term “Secretary” means
9 the Secretary of the Treasury or his delegate.

10 (2) 1986 CODE.—The term “1986 Code”
11 means the Internal Revenue Code of 1986.

12 (3) TAX-WRITING COMMITTEES.—The term
13 “tax-writing Committees” means the Committee on
14 Ways and Means of the House of Representatives
15 and the Committee on Finance of the Senate.

16 **PART I—FORM MODIFICATIONS**

17 **SEC. 5901. EXPLANATION OF CERTAIN PROVISIONS.**

18 (a) GENERAL RULE.—The Secretary shall take such
19 actions as may be appropriate to ensure that taxpayers
20 are aware of the provisions of the 1986 Code permitting
21 payment of tax in installments, extensions of time for pay-
22 ment of tax, and compromises of tax liability. Such actions
23 shall include revising the instructions for filing income tax
24 returns so that such instructions include an explanation
25 of—

1 (1) the procedures for requesting the benefits of
2 such provisions, and

3 (2) the terms and conditions under which the
4 benefits of such provisions are available.

5 (b) COLLECTION NOTICES.—In any notice of an
6 underpayment of tax or proposed underpayment of tax
7 sent by the Secretary to any taxpayer, the Secretary shall
8 include a notification of the availability of the provisions
9 of sections 6159, 6161, and 7122 of the 1986 Code.

10 **SEC. 5902. IMPROVED PROCEDURES FOR NOTIFYING SERV-**
11 **ICE OF CHANGE OF ADDRESS OR NAME.**

12 The Secretary shall provide improved procedures for
13 taxpayers to notify the Secretary of changes in names and
14 addresses. Not later than June 30, 1994, the Secretary
15 shall institute procedures for timely updating all Internal
16 Revenue Service records with change-of-address informa-
17 tion provided to the Secretary by taxpayers.

18 **SEC. 5903. RIGHTS AND RESPONSIBILITIES OF DIVORCED**
19 **INDIVIDUALS.**

20 The Secretary shall include in the Internal Revenue
21 Service publication entitled “Your Rights As A Taxpayer”
22 a section on the rights and responsibilities of divorced in-
23 dividuals.

PART II—STUDIES**SEC. 5911. PILOT PROGRAM FOR APPEAL OF ENFORCEMENT ACTIONS.**

(a) GENERAL RULE.—The Secretary shall establish a 1-year pilot program for appeals of enforcement actions (including lien, levy, and seizure actions) to the Appeals Division of the Internal Revenue Service—

(1) where the deficiency was assessed without actual knowledge of the taxpayer,

(2) where the deficiency was assessed without an opportunity for administrative appeal, and

(3) in other appropriate circumstances.

(b) REPORT.—Not later than June 30, 1994, the Secretary shall submit to the tax-writing Committees a report on the pilot program established under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5912. STUDY ON TAXPAYERS WITH SPECIAL NEEDS.

(a) GENERAL RULE.—The Secretary shall conduct a study on ways to assist the elderly, physically impaired, foreign-language speaking, and other taxpayers with special needs to comply with the internal revenue laws.

(b) REPORT.—Not later than June 30, 1994, the Secretary shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

1 **SEC. 5913. REPORTS ON TAXPAYER-RIGHTS EDUCATION**
2 **PROGRAM.**

3 Not later than April 1, 1994, the Secretary shall sub-
4 mit a report to the tax-writing Committees on the scope
5 and content of the Internal Revenue Service's taxpayer-
6 rights education program for its officers and employees.
7 Not later than June 30, 1994, the Secretary shall submit
8 a report to the tax-writing Committees on the effectiveness
9 of the program referred to in the preceding sentence.

10 **SEC. 5914. BIENNIAL REPORTS ON MISCONDUCT BY INTER-**
11 **NAL REVENUE SERVICE EMPLOYEES.**

12 During June 30, 1994 and during June of each sec-
13 ond calendar year thereafter, the Secretary shall report
14 to the tax-writing Committees on all cases involving com-
15 plaints about misconduct of Internal Revenue Service em-
16 ployees and the disposition of such complaints.

17 **SEC. 5915. STUDY OF NOTICES OF DEFICIENCY.**

18 (a) GENERAL RULE.—The Comptroller General shall
19 conduct a study on—

20 (1) the effectiveness of current Internal Reve-
21 nue Service efforts to notify taxpayers with regard
22 to tax deficiencies under section 6212 of the 1986
23 Code,

24 (2) the number of registered or certified letters
25 and other notices returned to the Internal Revenue
26 Service as undeliverable,

1 (3) any follow-up action taken by the Internal
2 Revenue Service to locate taxpayers who did not re-
3 ceive actual notice,

4 (4) the effect that failures to receive notice of
5 such deficiencies have on taxpayers, and

6 (5) recommendations to improve Internal Reve-
7 nue Service notification of taxpayers.

8 (b) REPORT.—Not later than June 30, 1994, the
9 Comptroller General shall submit to the tax-writing Com-
10 mittees a report on the study conducted under subsection
11 (a), together with such recommendations as he may deem
12 advisable.

13 **SEC. 5916. NOTICE AND FORM ACCURACY STUDY.**

14 (a) GENERAL RULE.—The Comptroller General shall
15 conduct annual studies of the accuracy of 25 of the most
16 commonly used Internal Revenue Service forms, notices,
17 and publications. In conducting any such study, the Comp-
18 troller General shall examine the suitability and usefulness
19 of Internal Revenue Service telephone numbers on Inter-
20 nal Revenue Service notices and shall solicit and consider
21 the comments of organizations representing taxpayers,
22 employers, and tax professionals.

23 (b) REPORTS.—The Comptroller General shall sub-
24 mit to the tax-writing Committees a report on each study
25 conducted under subsection (a), together with such rec-

1 ommendations as he may deem advisable. The first such
2 report shall be submitted not later than June 30, 1994.

3 **TITLE VI—OTHER INTERNAL**
4 **REVENUE CODE PROVISIONS**
5 **Subtitle A—Extension of Authority**
6 **for Undercover Operations;**
7 **Cash-Transaction Reports**

8 **SEC. 6001. EXTENSION OF AUTHORITY FOR UNDERCOVER**
9 **OPERATIONS.**

10 (a) 3-YEAR EXTENSION.—

11 (1) IN GENERAL.—Subsection (c) of section
12 7608 (relating to undercover operations) is amended
13 by adding at the end thereof the following new para-
14 graph:

15 “(6) TERMINATION.—The provisions of this
16 subsection shall cease to apply on and after Septem-
17 ber 1, 1995; and all amounts expended pursuant to
18 this subsection shall be recovered to the extent pos-
19 sible, and deposited in the Treasury of the United
20 States as miscellaneous receipts, before such date.”

21 (2) CONFORMING AMENDMENT.—Paragraph (3)
22 of section 7601(c) of the Anti-Drug Abuse Act of
23 1988 is amended by striking all that follows “this
24 Act” and inserting a period.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall take effect on January 1,
3 1992.

4 (b) ENHANCED OVERSIGHT.—

5 (1) ADDITIONAL INFORMATION REQUIRED IN
6 REPORTS TO CONGRESS.—Subparagraph (B) of sec-
7 tion 7608(c)(4) is amended—

8 (A) by striking “preceding the period” in
9 clause (ii),

10 (B) by striking “and” at the end of clause
11 (ii), and

12 (C) by striking clause (iii) and inserting
13 the following:

14 “(iii) the number, by programs, of un-
15 dercover investigative operations closed in
16 the 1-year period for which such report is
17 submitted, and

18 “(iv) the following information with
19 respect to each undercover investigative op-
20 eration pending as of the end of the 1-year
21 period for which such report is submitted
22 or closed during such 1-year period—

23 “(I) the date the operation began
24 and the date of the certification re-

1 ferred to in the last sentence of para-
2 graph (1),

3 “(II) the total expenditures
4 under the operation and the amount
5 and use of the proceeds from the op-
6 eration,

7 “(III) a detailed description of
8 the operation including the potential
9 violation being investigated and
10 whether the operation is being con-
11 ducted under grand jury auspices, and

12 “(IV) the results of the operation
13 including the results of criminal pro-
14 ceedings.”

15 (2) AUDITS REQUIRED WITHOUT REGARD TO
16 AMOUNTS INVOLVED.—Subparagraph (C) of section
17 7608(c)(5) is amended to read as follows:

18 “(C) UNDERCOVER INVESTIGATIVE OPER-
19 ATION.—The term ‘undercover investigative op-
20 eration’ means any undercover investigative op-
21 eration of the Service; except that, for purposes
22 of subparagraphs (A) and (C) of paragraph (4),
23 such term only includes an operation which is
24 exempt from section 3302 or 9102 of title 31,
25 United States Code.”

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

4 **SEC. 6002. DISCLOSURE OF RETURNS ON CASH TRANS-**
5 **ACTIONS.**

6 (a) GENERAL RULE.—Subsection (l) of section 6103
7 (relating to disclosure of returns and return information
8 for purposes other than tax administration) is amended
9 by adding at the end thereof the following new paragraph:

10 “(13) DISCLOSURE OF RETURNS FILED UNDER
11 SECTION 6050I.—The Secretary may, upon written
12 request, disclose to officers and employees of—

13 “(A) any Federal agency,

14 “(B) any agency of a State or local govern-
15 ment, or

16 “(C) any agency of the government of a
17 foreign country,

18 information contained on returns filed under section
19 6050I. Any such disclosure shall be made on the
20 same basis, and subject to the same conditions, as
21 apply to disclosures of information on reports filed
22 under section 5313 of title 31, United States Code;
23 except that no disclosure under this paragraph shall
24 be made for purposes of the administration of any
25 tax law.”

1 (b) CONFORMING AMENDMENTS.—

2 (1) Subsection (i) of section 6103 is amended
3 by striking paragraph (8).

4 (2) Subparagraph (A) of section 6103(p)(3) is
5 amended—

6 (A) by striking “(7)(A)(ii), or (8)” and in-
7 serting “or (7)(A)(ii)”, and

8 (B) by striking “or (12)” and inserting
9 “(12), or (13)”.

10 (3) The material preceding subparagraph (A) of
11 section 6103(p)(4) is amended—

12 (A) by striking “(5), or (8)” and inserting
13 “or (5)”,

14 (B) by striking “(i)(3)(B)(i) or (8)” and
15 inserting “(i)(3)(B)(i)”, and

16 (C) by striking “or (12)” and inserting
17 “(12), or (13)”.

18 (4) Clause (ii) of section 6103(p)(4)(F) is
19 amended—

20 (A) by striking “(5), or (8)” and inserting
21 “or (5)”, and

22 (B) by striking “or (12) and inserting
23 “(12), or (13)”.

1 (5) Paragraph (2) of section 7213(a) is amend-
2 ed by striking “or (12)” and inserting “(12), or
3 (13)”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect on the date of the enactment
6 of this Act.

7 **Subtitle B—Provisions Relating to**
8 **Exempt Organizations**

9 **SEC. 6101. CERTAIN ORGANIZATIONS REQUIRED TO DIS-**
10 **CLOSE NONEXEMPT STATUS.**

11 (a) GENERAL RULE.—Subchapter B of chapter 61
12 (relating to miscellaneous provisions) is amended by redess-
13 ignating section 6115 as section 6116 and by inserting
14 after section 6114 the following new section:

15 **“SEC. 6115. CERTAIN ORGANIZATIONS REQUIRED TO DIS-**
16 **CLOSE NONEXEMPT STATUS.**

17 “(a) IN GENERAL.—If—

18 “(1) in an advertisement or solicitation by (or
19 on behalf of) an organization, such organization is
20 referred to as being nonprofit, and

21 “(2) such organization is not exempt from tax
22 under subtitle A,

23 such advertisement or solicitation shall contain an express
24 statement (in a conspicuous and easily recognizable for-

1 mat) that such organization is not exempt from Federal
2 income taxes.

3 “(b) CROSS REFERENCE.—

“For penalties for violation of subsection (a), see
section 6714.”

4 (b) PENALTY.—Part I of subchapter B of chapter 68
5 is amended by adding at the end thereof the following new
6 section:

7 **“SEC. 6714. FAILURE TO DISCLOSE NONEXEMPT STATUS.**

8 “(a) IMPOSITION OF PENALTY.—If there is a failure
9 to meet the requirements of section 6115 with respect to
10 any advertisement or solicitation by (or on behalf of) an
11 organization, such organization shall pay a penalty of
12 \$1,000 for each day on which such a failure occurred. The
13 maximum penalty imposed under this subsection on fail-
14 ures by any organization during any calendar year shall
15 not exceed \$10,000.

16 “(b) REASONABLE CAUSE EXEMPTION.—No penalty
17 shall be imposed under this section with respect to any
18 failure if it is shown that such failure is due to reasonable
19 cause.

20 “(c) \$10,000 LIMITATION NOT TO APPLY WHERE
21 INTENTIONAL DISREGARD.—If any failure to which sub-
22 section (a) applies is due to intentional disregard of the
23 requirements of section 6115—

1 “(1) the penalty under subsection (a) for the
2 day on which failure occurred shall be the greater
3 of—

4 “(A) \$1,000, or

5 “(B) 50 percent of the aggregate cost of
6 the advertisements and solicitations which oc-
7 curred on such day and with respect to which
8 there was such failure,

9 “(2) the \$10,000 limitation of subsection (a)
10 shall not apply to any penalty under subsection (a)
11 for the day on which such failure occurred, and

12 “(3) such penalty shall not be taken into ac-
13 count in applying such limitation to other penalties
14 under subsection (a).

15 “(d) DAY ON WHICH FAILURE OCCURS.—For pur-
16 poses of this section, rules similar to the rules of section
17 6710(d) shall apply in determining the day on which any
18 failure occurs.”

19 (c) CLERICAL AMENDMENTS.—

20 (1) The table of sections for subchapter B of
21 chapter 61 is amended by striking the item relating
22 to section 6115 and inserting the following:

“Sec. 6115. Certain organizations required to disclose
nonexempt status.

“Sec. 6116. Cross reference.”

1 (2) The table of sections of part I of subchapter
2 B of chapter 68 is amended by adding at the end
3 thereof the following new item:

 “Sec. 6714. Failure to disclose nonexempt status.”

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect on January 1, 1994.

6 **SEC. 6102. EXEMPT ORGANIZATIONS REQUIRED TO PRO-**
7 **VIDE COPY OF RETURN.**

8 (a) GENERAL RULE.—

9 (1) Subparagraph (A) of section 6104(e)(1) (re-
10 lating to public inspection of annual returns) is
11 amended to read as follows:

12 “(A) IN GENERAL.—During the 3-year pe-
13 riod beginning on the filing date—

14 “(i) a copy of the annual return filed
15 under section 6033 (relating to returns by
16 exempt organizations) by any organization
17 to which this paragraph applies shall be
18 made available by such organization for in-
19 spection during regular business hours by
20 any individual at the principal office of
21 such organization and, if such organization
22 regularly maintains 1 or more regional or
23 district offices having 3 or more employees,
24 at each such regional or district office, and

1 “(ii) upon request of an individual
2 made at such principal office or such a re-
3 gional or district office, a copy of such an-
4 nual return shall be provided to such indi-
5 vidual without charge other than a reason-
6 able fee for the cost of reproduction.

7 If the request under clause (ii) is made in per-
8 son, such copy shall be provided immediately
9 and, if made other than in person, shall be pro-
10 vided within 30 days.”

11 (2) Clause (ii) of section 6104(e)(2)(A) is
12 amended by inserting before the period at the end
13 thereof the following: “(and, upon request of an in-
14 dividual made at such principal office or such a re-
15 gional or district office, a copy of the material re-
16 quired to be available for inspection under this sub-
17 paragraph shall be provided (in accordance with the
18 last sentence of paragraph (1)(A)) to such individual
19 without charge other than a reasonable fee for the
20 cost of reproduction)”.

21 (b) ADVERTISEMENTS ETC., REQUIRED TO DIS-
22 CLOSE AVAILABILITY OF ANNUAL RETURN.—

23 (1) Paragraph (1) of section 6104(e) is amend-
24 ed by adding at the end thereof the following new
25 subparagraph:

1 “(E) ADVERTISEMENTS ETC., REQUIRED
2 TO DISCLOSE AVAILABILITY OF ANNUAL RE-
3 TURN.—In the case of an organization required
4 by subparagraph (A) to provide a copy of its
5 annual return under section 6033 upon request
6 to individuals, each advertisement or solicitation
7 by (or on behalf of) such organization shall con-
8 tain an express statement (in a conspicuous and
9 easily recognizable format) that such return
10 shall be provided to individuals upon request.”

11 (2) Section 6714 is amended—

12 (A) by striking “section 6115” each place
13 it appears and inserting “section 6115 or sec-
14 tion 6104(e)(1)(E)”,

15 (B) by striking “\$1,000” in subsection (a)
16 and inserting “\$1,000 (\$100 in the case of a
17 failure to meet the requirements of
18 6104(e)(1)(E))”, and

19 (C) by inserting before the period at the
20 end of the section heading “; **FAILURE OF**
21 **CERTAIN EXEMPT ORGANIZATIONS TO DIS-**
22 **CLOSE AVAILABILITY OF ANNUAL RE-**
23 **TURN**”.

24 (3) Subparagraph (C) of section 6652(c)(1) is
25 amended by striking “(e)(1)” and inserting “(e)(1)

1 (other than subparagraph (E))”, and by striking
2 “\$10” and inserting “\$50”.

3 (4) Subparagraph (D) of section 6652(c)(1) is
4 amended by striking “\$10” and inserting “\$50”.

5 (5) The item relating to section 6714 in the
6 table of sections for part I of subchapter B of chap-
7 ter 68 is amended by inserting before the period “;
8 failure of certain exempt organizations to disclose
9 availability of annual return”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect on January 1, 1994.

12 **TITLE VII—PROHIBITION OF**
13 **MISUSE OF DEPARTMENT OF**
14 **THE TREASURY NAMES, SYM-**
15 **BOLS, ETC**

16 **SEC. 7001. PROHIBITION OF MISUSE OF DEPARTMENT OF**
17 **THE TREASURY NAMES, SYMBOLS, ETC.**

18 (a) GENERAL RULE.—Subchapter II of chapter 3 of
19 title 31, United States Code, is amended by adding at the
20 end thereof the following new section:

21 **“§ 333. Prohibition of misuse of Department of the**
22 **Treasury names, symbols, etc.**

23 “(a) GENERAL RULE.—No person may use, in con-
24 nection with, or as a part of, any advertisement, sollicita-

1 tion, business activity, or product, whether alone or with
2 other words, letters, symbols, or emblems—

3 “(1) the words ‘Department of the Treasury’,
4 or the name of any service, bureau, office, or other
5 subdivision of the Department of the Treasury,

6 “(2) the titles ‘Secretary of the Treasury’ or
7 ‘Treasurer of the United States’ or the title of any
8 other officer or employee of the Department of the
9 Treasury,

10 “(3) the abbreviations or initials of any entity
11 referred to in paragraph (1),

12 “(4) the words ‘United States Savings Bond’ or
13 the name of any other obligation issued by the De-
14 partment of the Treasury,

15 “(5) any symbol or emblem of an entity re-
16 ferred to in paragraph (1) (including the design of
17 any envelope or stationary used by such an entity),
18 and

19 “(6) any colorable imitation of any such words,
20 titles, abbreviations, initials, symbols, or emblems,
21 in a manner which could reasonably be interpreted or con-
22 strued as conveying the false impression that such adver-
23 tisement, solicitation, business activity, or product is in
24 any manner approved, endorsed, sponsored, or authorized
25 by, or associated with, the Department of the Treasury

1 or any entity referred to in paragraph (1) or any officer
2 or employee thereof.

3 “(b) TREATMENT OF WAIVERS.—Any determination
4 of whether a person has violated the provisions of sub-
5 section (a) shall be made without regard to any use of
6 a disclaimer of affiliation with the United States Govern-
7 ment or any particular agency or instrumentality thereof.

8 “(c) CIVIL PENALTY.—

9 “(1) IN GENERAL.—The Secretary of the
10 Treasury may impose a civil penalty on any person
11 who violates the provisions of subsection (a).

12 “(2) AMOUNT OF PENALTY.—The amount of
13 the civil penalty imposed by paragraph (1) shall not
14 exceed \$5,000 for each use of any material in viola-
15 tion of subsection (a). If such use is in a broadcast
16 or telecast, the preceding sentence shall be applied
17 by substituting ‘\$25,000’ for ‘\$5,000’.

18 “(3) TIME LIMITATIONS.—

19 “(A) ASSESSMENTS.—The Secretary of the
20 Treasury may assess any civil penalty under
21 paragraph (1) at any time before the end of the
22 3-year period beginning on the date of the vio-
23 lation with respect to which such penalty is im-
24 posed.

1 “(B) CIVIL ACTION.—The Secretary of the
2 Treasury may commence a civil action to re-
3 cover any penalty imposed under this subsection
4 at any time before the end of the 2-year period
5 beginning on the date on which such penalty
6 was assessed.”.

7 (b) CLERICAL AMENDMENT.—The analysis for chap-
8 ter 3 of title 31, United States Code, is amended by add-
9 ing after the item relating to section 332 the following
10 new item:

 “333. Prohibition of misuse of Department of the Treasury names, symbols,
 etc.”.

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

14 (d) REPORT.—Not later than May 1, 1995, the Sec-
15 retary of the Treasury shall submit a report to the Com-
16 mittee on Ways and Means of the House of Representa-
17 tives and the Committee on Finance of the Senate on the
18 implementation of the amendments made by this section.
19 Such report shall include the number of cases in which
20 the Secretary has notified persons of violations of section
21 333 of title 31, United States Code (as added by sub-
22 section (a)), the number and amount of civil penalties as-
23 sessed under such section, and the total amount of such
24 penalties collected.



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