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H. R. 3448

IN THE SENATE OF THE UNITED STATES

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AN ACT

To provide tax relief for small businesses, to protect jobs, to create opportunities, to increase the take home pay of workers, to amend the Portal-to-Portal Act of 1947 relating to the payment of wages to employees who use employer owned vehicles, and to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate and to prevent job loss by providing flexibility to

employers in complying with minimum wage and overtime requirements under that Act.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Small Business Job Protection Act of 1996”.

6 (b) TABLE OF CONTENTS.—

TITLE I—SMALL BUSINESS AND OTHER TAX PROVISIONS

Sec. 1101. Amendment of 1986 Code.

Sec. 1102. Underpayments of estimated tax.

Subtitle A—Expensing; Etc.

Sec. 1111. Increase in expense treatment for small businesses.

Sec. 1112. Treatment of employee tips.

Sec. 1113. Treatment of storage of product samples.

Sec. 1114. Treatment of certain charitable risk pools.

Sec. 1115. Treatment of dues paid to agricultural or horticultural organiza-
 tions.

Sec. 1116. Clarification of employment tax status of certain fishermen; infor-
 mation reporting.

Subtitle B—Extension of Certain Expiring Provisions

Sec. 1201. Work opportunity tax credit.

Sec. 1202. Employer-provided educational assistance programs.

Sec. 1203. FUTA exemption for alien agricultural workers.

Subtitle C—Provisions Relating to S Corporations

Sec. 1301. S corporations permitted to have 75 shareholders.

Sec. 1302. Electing small business trusts.

Sec. 1303. Expansion of post-death qualification for certain trusts.

Sec. 1304. Financial institutions permitted to hold safe harbor debt.

Sec. 1305. Rules relating to inadvertent terminations and invalid elections.

Sec. 1306. Agreement to terminate year.

Sec. 1307. Expansion of post-termination transition period.

Sec. 1308. S corporations permitted to hold subsidiaries.

Sec. 1309. Treatment of distributions during loss years.

Sec. 1310. Treatment of S corporations under subchapter C.

Sec. 1311. Elimination of certain earnings and profits.

Sec. 1312. Carryover of disallowed losses and deductions under at-risk rules al-
 lowed.

Sec. 1313. Adjustments to basis of inherited S stock to reflect certain items of
 income.

Sec. 1314. S corporations eligible for rules applicable to real property sub-
 divided for sale by noncorporate taxpayers.

Sec. 1315. Effective date.

Subtitle D—Pension Simplification

CHAPTER 1—SIMPLIFIED DISTRIBUTION RULES

- Sec. 1401. Repeal of 5-year income averaging for lump-sum distributions.
- Sec. 1402. Repeal of \$5,000 exclusion of employees' death benefits.
- Sec. 1403. Simplified method for taxing annuity distributions under certain employer plans.
- Sec. 1404. Required distributions.

CHAPTER 2—INCREASED ACCESS TO PENSION PLANS

SUBCHAPTER A—SIMPLE SAVINGS PLANS

- Sec. 1421. Establishment of savings incentive match plans for employees of small employers.
- Sec. 1422. Extension of simple plan to 401(k) arrangements.

SUBCHAPTER B—OTHER PROVISIONS

- Sec. 1426. Tax-exempt organizations eligible under section 401(k).

CHAPTER 3—NONDISCRIMINATION PROVISIONS

- Sec. 1431. Definition of highly compensated employees; repeal of family aggregation.
- Sec. 1432. Modification of additional participation requirements.
- Sec. 1433. Nondiscrimination rules for qualified cash or deferred arrangements and matching contributions.
- Sec. 1434. Definition of compensation for section 415 purposes.

CHAPTER 4—MISCELLANEOUS PROVISIONS

- Sec. 1441. Plans covering self-employed individuals.
- Sec. 1442. Elimination of special vesting rule for multiemployer plans.
- Sec. 1443. Distributions under rural cooperative plans.
- Sec. 1444. Treatment of governmental plans under section 415.
- Sec. 1445. Uniform retirement age.
- Sec. 1446. Contributions on behalf of disabled employees.
- Sec. 1447. Treatment of deferred compensation plans of State and local governments and tax-exempt organizations.
- Sec. 1448. Trust requirement for deferred compensation plans of State and local governments.
- Sec. 1449. Transition rule for computing maximum benefits under section 415 limitations.
- Sec. 1450. Modifications of section 403(b).
- Sec. 1451. Waiver of minimum period for joint and survivor annuity explanation before annuity starting date.
- Sec. 1452. Repeal of limitation in case of defined benefit plan and defined contribution plan for same employee; excess distributions.
- Sec. 1453. Tax on prohibited transactions.
- Sec. 1454. Treatment of leased employees.
- Sec. 1455. Uniform penalty provisions to apply to certain pension reporting requirements.
- Sec. 1456. Retirement benefits of ministers not subject to tax on net earnings from self-employment.

Sec. 1457. Date for adoption of plan amendments.

Subtitle E—Foreign Simplification

Sec. 1501. Repeal of inclusion of certain earnings invested in excess passive assets.

Subtitle F—Revenue Offsets

Sec. 1601. Termination of Puerto Rico and possession tax credit.

Sec. 1602. Repeal of exclusion for interest on loans used to acquire employer securities.

Sec. 1603. Certain amounts derived from foreign corporations treated as unrelated business taxable income.

Sec. 1604. Depreciation under income forecast method.

Sec. 1605. Repeal of exclusion for punitive damages and for damages not attributable to physical injuries or sickness.

Sec. 1606. Repeal of diesel fuel tax rebate to purchasers of diesel-powered automobiles and light trucks.

Subtitle G—Technical Corrections

Sec. 1701. Coordination with other subtitles.

Sec. 1702. Amendments related to Revenue Reconciliation Act of 1990.

Sec. 1703. Amendments related to Revenue Reconciliation Act of 1993.

Sec. 1704. Miscellaneous provisions.

TITLE II—PAYMENT OF WAGES

Section 1. Short title.

Sec. 2. Proper compensation for use of employer vehicles.

Sec. 3. Effective date.

Sec. 4. Minimum wage increase.

Sec. 5. Fair Labor Standards Act Amendments.

1 **TITLE I—SMALL BUSINESS AND** 2 **OTHER TAX PROVISIONS**

3 **SEC. 1101. AMENDMENT OF 1986 CODE.**

4 Except as otherwise expressly provided, whenever in
5 this title an amendment or repeal is expressed in terms
6 of an amendment to, or repeal of, a section or other provi-
7 sion, the reference shall be considered to be made to a
8 section or other provision of the Internal Revenue Code
9 of 1986.

1 **SEC. 1102. UNDERPAYMENTS OF ESTIMATED TAX.**

2 No addition to the tax shall be made under section
 3 6654 or 6655 of the Internal Revenue Code of 1986 (relat-
 4 ing to failure to pay estimated tax) with respect to any
 5 underpayment of an installment required to be paid before
 6 the date of the enactment of this Act to the extent such
 7 underpayment was created or increased by any provision
 8 of this title.

9 **Subtitle A—Expensing; Etc.**

10 **SEC. 1111. INCREASE IN EXPENSE TREATMENT FOR SMALL**
 11 **BUSINESSES.**

12 (a) GENERAL RULE.—Paragraph (1) of section
 13 179(b) (relating to dollar limitation) is amended to read
 14 as follows:

15 “(1) DOLLAR LIMITATION.—The aggregate cost
 16 which may be taken into account under subsection
 17 (a) for any taxable year shall not exceed the follow-
 18 ing applicable amount:

“If the taxable year begins in:	The applicable amount is:
1996	\$18,500
1997	19,000
1998	20,000
1999	21,000
2000	22,000
2001	23,000
2002	23,500
2003 or thereafter	25,000.”.

19 (b) EFFECTIVE DATE.—The amendment made by
 20 subsection (a) shall apply to taxable years beginning after
 21 December 31, 1995.

1 **SEC. 1112. TREATMENT OF EMPLOYEE TIPS.**

2 (a) **EMPLOYEE CASH TIPS.**—

3 (1) **REPORTING REQUIREMENT NOT CONSID-**
4 **ERED.**—Subparagraph (A) of section 45B(b)(1) (re-
5 lating to excess employer social security tax) is
6 amended by inserting “(without regard to whether
7 such tips are reported under section 6053)” after
8 “section 3121(q)”.

9 (2) **TAXES PAID.**—Subsection (d) of section
10 13443 of the Revenue Reconciliation Act of 1993 is
11 amended by inserting “, with respect to services per-
12 formed before, on, or after such date” after “1993”.

13 (3) **EFFECTIVE DATE.**—The amendments made
14 by this subsection shall take effect as if included in
15 the amendments made by, and the provisions of, sec-
16 tion 13443 of the Revenue Reconciliation Act of
17 1993.

18 (b) **TIPS FOR EMPLOYEES DELIVERING FOOD OR**
19 **BEVERAGES.**—

20 (1) **IN GENERAL.**—Paragraph (2) of section
21 45B(b) is amended to read as follows:

22 “(2) **ONLY TIPS RECEIVED FOR FOOD OR BEV-**
23 **ERAGES TAKEN INTO ACCOUNT.**—In applying para-
24 graph (1), there shall be taken into account only tips
25 received from customers in connection with the deliv-
26 ering or serving of food or beverages for consump-

1 tion if the tipping of employees delivering or serving
2 food or beverages by customers is customary.”

3 (2) EFFECTIVE DATE.—The amendment made
4 by paragraph (1) shall apply to tips received for
5 services performed after December 31, 1996.

6 **SEC. 1113. TREATMENT OF STORAGE OF PRODUCT SAM-**
7 **PLES.**

8 (a) IN GENERAL.—Paragraph (2) of section 280A(c)
9 is amended by striking “inventory” and inserting “inven-
10 tory or product samples”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall apply to taxable years beginning after
13 December 31, 1995.

14 **SEC. 1114. TREATMENT OF CERTAIN CHARITABLE RISK**
15 **POOLS.**

16 (a) GENERAL RULE.—Section 501 (relating to ex-
17 emption from tax on corporations, certain trusts, etc.) is
18 amended by redesignating subsection (n) as subsection (o)
19 and by inserting after subsection (m) the following new
20 subsection:

21 “(n) CHARITABLE RISK POOLS.—

22 “(1) IN GENERAL.—For purposes of this title—

23 “(A) a qualified charitable risk pool shall
24 be treated as an organization organized and op-
25 erated exclusively for charitable purposes, and

1 “(B) subsection (m) shall not apply to a
2 qualified charitable risk pool.

3 “(2) QUALIFIED CHARITABLE RISK POOL.—For
4 purposes of this subsection, the term ‘qualified char-
5 itable risk pool’ means any organization—

6 “(A) which is organized and operated sole-
7 ly to pool insurable risks of its members (other
8 than risks related to medical malpractice) and
9 to provide information to its members with re-
10 spect to loss control and risk management,

11 “(B) which is comprised solely of members
12 that are organizations described in subsection
13 (c)(3) and exempt from tax under subsection
14 (a), and

15 “(C) which meets the organizational re-
16 quirements of paragraph (3).

17 “(3) ORGANIZATIONAL REQUIREMENTS.—An
18 organization (hereinafter in this subsection referred
19 to as the ‘risk pool’) meets the organizational re-
20 quirements of this paragraph if—

21 “(A) such risk pool is organized as a non-
22 profit organization under State law provisions
23 authorizing risk pooling arrangements for chari-
24 table organizations,

1 “(B) such risk pool is exempt from any in-
2 come tax imposed by the State (or will be so ex-
3 empt after such pool qualifies as an organiza-
4 tion exempt from tax under this title),

5 “(C) such risk pool has obtained at least
6 \$1,000,000 in startup capital from nonmember
7 charitable organizations,

8 “(D) such risk pool is controlled by a
9 board of directors elected by its members, and

10 “(E) the organizational documents of such
11 risk pool require that—

12 “(i) each member of such pool shall at
13 all times be an organization described in
14 subsection (c)(3) and exempt from tax
15 under subsection (a),

16 “(ii) any member which receives a
17 final determination that it no longer quali-
18 fies as an organization described in sub-
19 section (c)(3) shall immediately notify the
20 pool of such determination and the effec-
21 tive date of such determination, and

22 “(iii) each policy of insurance issued
23 by the risk pool shall provide that such
24 policy will not cover the insured with re-
25 spect to events occurring after the date

1 such final determination was issued to the
2 insured.

3 An organization shall not cease to qualify as a quali-
4 fied charitable risk pool solely by reason of the fail-
5 ure of any of its members to continue to be an orga-
6 nization described in subsection (c)(3) if, within a
7 reasonable period of time after such pool is notified
8 as required under subparagraph (C)(ii), such pool
9 takes such action as may be reasonably necessary to
10 remove such member from such pool.

11 “(4) OTHER DEFINITIONS.—For purposes of
12 this subsection—

13 “(A) STARTUP CAPITAL.—The term ‘start-
14 up capital’ means any capital contributed to,
15 and any program-related investments (within
16 the meaning of section 4944(c)) made in, the
17 risk pool before such pool commences oper-
18 ations.

19 “(B) NONMEMBER CHARITABLE ORGANI-
20 ZATION.—The term ‘nonmember charitable or-
21 ganization’ means any organization which is de-
22 scribed in subsection (c)(3) and exempt from
23 tax under subsection (a) and which is not a
24 member of the risk pool and does not benefit

1 (directly or indirectly) from the insurance cov-
 2 erage provided by the pool to its members.”

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 **SEC. 1115. TREATMENT OF DUES PAID TO AGRICULTURAL**
 7 **OR HORTICULTURAL ORGANIZATIONS.**

8 (a) GENERAL RULE.—Section 512 (defining unre-
 9 lated business taxable income) is amended by adding at
 10 the end thereof the following new subsection:

11 “(d) TREATMENT OF DUES OF AGRICULTURAL OR
 12 HORTICULTURAL ORGANIZATIONS.—

13 “(1) IN GENERAL.—If—

14 “(A) an agricultural or horticultural orga-
 15 nization described in section 501(c)(5) requires
 16 annual dues to be paid in order to be a member
 17 of such organization, and

18 “(B) the amount of such required annual
 19 dues does not exceed \$100,

20 in no event shall any portion of such dues be treated
 21 as derived by such organization from an unrelated
 22 trade or business by reason of any benefits or privi-
 23 leges to which members of such organization are en-
 24 titled.

1 “(2) INDEXATION OF \$100 AMOUNT.—In the
 2 case of any taxable year beginning in a calendar
 3 year after 1995, the \$100 amount in paragraph (1)
 4 shall be increased by an amount equal to—

5 “(A) \$100, multiplied by

6 “(B) the cost-of-living adjustment deter-
 7 mined under section 1(f)(3) for the calendar
 8 year in which the taxable year begins, by sub-
 9 stituting ‘calendar year 1994’ for ‘calendar year
 10 1992’ in subparagraph (B) thereof.

11 “(3) DUES.—For purposes of this subsection,
 12 the term ‘dues’ includes any payment required to be
 13 made in order to be recognized by the organization
 14 as a member of the organization.”.

15 (b) EFFECTIVE DATE.—The amendment made by
 16 subsection (a) shall apply to taxable years beginning after
 17 December 31, 1994.

18 **SEC. 1116. CLARIFICATION OF EMPLOYMENT TAX STATUS**
 19 **OF CERTAIN FISHERMEN; INFORMATION RE-**
 20 **PORTING.**

21 (a) CLARIFICATION OF EMPLOYMENT TAX STA-
 22 TUS.—

23 (1) AMENDMENTS OF INTERNAL REVENUE
 24 CODE OF 1986.—

1 (A) DETERMINATION OF SIZE OF CREW.—

2 Subsection (b) of section 3121 (defining em-
3 ployment) is amended by adding at the end
4 thereof the following new sentence:

5 “For purposes of paragraph (20), the operating crew of
6 a boat shall be treated as normally made up of fewer than
7 10 individuals if the average size of the operating crew
8 on trips made during the preceding 4 calendar quarters
9 consisted of fewer than 10 individuals.”.

10 (B) CERTAIN CASH REMUNERATION PER-
11 MITTED.—Subparagraph (A) of section
12 3121(b)(20) is amended to read as follows:

13 “(A) such individual does not receive any
14 cash remuneration other than as provided in
15 subparagraph (B) and other than cash remu-
16 nation—

17 “(i) which does not exceed \$100 per
18 trip;

19 “(ii) which is contingent on a mini-
20 mum catch; and

21 “(iii) which is paid solely for addi-
22 tional duties (such as mate, engineer, or
23 cook) for which additional cash remunera-
24 tion is traditional in the industry,”.

1 (C) CONFORMING AMENDMENT.—Section
2 6050A(a) is amended by striking “and” at the
3 end of paragraph (3), by striking the period at
4 the end of paragraph (4) and inserting “; and”,
5 and by adding at the end thereof the following
6 new paragraph:

7 “(5) any cash remuneration described in section
8 3121(b)(20)(A).”.

9 (2) AMENDMENT OF SOCIAL SECURITY ACT.—

10 (A) DETERMINATION OF SIZE OF CREW.—

11 Subsection (a) of section 210 of the Social Se-
12 curity Act is amended by adding at the end
13 thereof the following new sentence:

14 “For purposes of paragraph (20), the operating crew of
15 a boat shall be treated as normally made up of fewer than
16 10 individuals if the average size of the operating crew
17 on trips made during the preceding 4 calendar quarters
18 consisted of fewer than 10 individuals.”.

19 (B) CERTAIN CASH REMUNERATION PER-
20 MITTED.—Subparagraph (A) of section
21 210(a)(20) of such Act is amended to read as
22 follows:

23 “(A) such individual does not receive any
24 additional compensation other than as provided

1 in subparagraph (B) and other than cash remuneration—
2

3 “(i) which does not exceed \$100 per
4 trip;

5 “(ii) which is contingent on a minimum catch; and
6

7 “(iii) which is paid solely for additional duties (such as mate, engineer, or
8 cook) for which additional cash remuneration is traditional in the industry,”.
9
10

11 (3) EFFECTIVE DATE.—

12 (A) IN GENERAL.—The amendments made
13 by this subsection shall apply to remuneration
14 paid after December 31, 1996.

15 (B) SPECIAL RULE.—The amendments
16 made by this subsection (other than paragraph
17 (1)(C)) shall also apply to remuneration paid
18 after December 31, 1984, and before January
19 1, 1997, unless the payor treated such remuneration (when paid) as being subject to tax
20 under chapter 21 of the Internal Revenue Code
21 of 1986.
22

23 (b) INFORMATION REPORTING.—

24 (1) IN GENERAL.—Subpart B of part III of
25 subchapter A of chapter 68 (relating to information

1 concerning transactions with other persons) is
2 amended by adding at the end the following new sec-
3 tion:

4 **“SEC. 6050Q. RETURNS RELATING TO CERTAIN PURCHASES**
5 **OF FISH.**

6 “(a) REQUIREMENT OF REPORTING.—Every per-
7 son—

8 “(1) who is engaged in the trade or business of
9 purchasing fish for resale from any person engaged
10 in the trade or business of catching fish; and

11 “(2) who makes payments in cash in the course
12 of such trade or business to such a person of \$600
13 or more during any calendar year for the purchase
14 of fish,

15 shall make a return (at such times as the Secretary may
16 prescribe) described in subsection (b) with respect to each
17 person to whom such a payment was made during such
18 calendar year.

19 “(b) RETURN.—A return is described in this sub-
20 section if such return—

21 “(1) is in such form as the Secretary may pre-
22 scribe, and

23 “(2) contains—

24 “(A) the name, address, and TIN of each
25 person to whom a payment described in sub-

1 section (a)(2) was made during the calendar
2 year;

3 “(B) the aggregate amount of such pay-
4 ments made to such person during such cal-
5 endar year and the date and amount of each
6 such payment, and

7 “(C) such other information as the Sec-
8 retary may require.

9 “(c) STATEMENT TO BE FURNISHED WITH RE-
10 SPECT TO WHOM INFORMATION IS REQUIRED.—Every
11 person required to make a return under subsection (a)
12 shall furnish to each person whose name is required to
13 be set forth in such return a written statement showing—

14 “(1) the name and address of the person re-
15 quired to make such a return, and

16 “(2) the aggregate amount of payments to the
17 person required to be shown on the return.

18 The written statement required under the preceding sen-
19 tence shall be furnished to the person on or before Janu-
20 ary 31 of the year following the calendar year for which
21 the return under subsection (a) is required to be made.

22 “(d) DEFINITIONS.—For purposes of this section:

23 “(1) CASH.—The term ‘cash’ has the meaning
24 given such term by section 6050I(d).

1 “(2) FISH.—The term ‘fish’ includes other
2 forms of aquatic life.”.

3 (2) TECHNICAL AMENDMENTS.—

4 (A) Subparagraph (A) of section
5 6724(d)(1) is amended by striking “or” at the
6 end of clause (vi), by striking “and” at the end
7 of clause (vii) and inserting “or”, and by add-
8 ing at the end the following new clause:

9 “(viii) section 6050Q (relating to re-
10 turns relating to certain purchases of fish),
11 and”.

12 (B) Paragraph (2) of section 6724(d) is
13 amended by redesignating subparagraphs (Q)
14 through (T) as subparagraphs (R) through (U),
15 respectively, and by inserting after subpara-
16 graph (P) the following new subparagraph:

17 “(Q) section 6050Q(c) (relating to returns
18 relating to certain purchases of fish),”.

19 (C) The table of sections for subpart B of
20 part III of subchapter A of chapter 68 is
21 amended by adding at the end the following
22 new item:

“Sec. 6050Q. Returns relating to certain purchases of fish.”.

23 (3) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply to payments made
25 after December 31, 1996.

1 **Subtitle B—Extension of Certain**
2 **Expiring Provisions**

3 **SEC. 1201. WORK OPPORTUNITY TAX CREDIT.**

4 (a) AMOUNT OF CREDIT.—Subsection (a) of section
5 51 (relating to amount of credit) is amended by striking
6 “40 percent” and inserting “35 percent”.

7 (b) MEMBERS OF TARGETED GROUPS.—Subsection
8 (d) of section 51 is amended to read as follows:

9 “(d) MEMBERS OF TARGETED GROUPS.—For pur-
10 poses of this subpart—

11 “(1) IN GENERAL.—An individual is a member
12 of a targeted group if such individual is—

13 “(A) a qualified IV–A recipient,

14 “(B) a qualified veteran,

15 “(C) a qualified ex-felon,

16 “(D) a high-risk youth,

17 “(E) a vocational rehabilitation referral, or

18 “(F) a qualified summer youth employee.

19 “(2) QUALIFIED IV–A RECIPIENT.—

20 “(A) IN GENERAL.—The term ‘qualified
21 IV–A recipient’ means any individual who is
22 certified by the designated local agency as being
23 a member of a family receiving assistance under
24 a IV–A program for at least a 9-month period

1 ending during the 9-month period ending on the
2 hiring date.

3 “(B) IV–A PROGRAM.—For purposes of
4 this paragraph, the term ‘IV–A program’ means
5 any program providing assistance under a State
6 plan approved under part A of title IV of the
7 Social Security Act (relating to assistance for
8 needy families with minor children) and any
9 successor of such program.

10 “(3) QUALIFIED VETERAN.—

11 “(A) IN GENERAL.—The term ‘qualified
12 veteran’ means any veteran who is certified by
13 the designated local agency as being—

14 “(i) a member of a family receiving
15 assistance under a IV–A program (as de-
16 fined in paragraph (2)(B)) for at least a 9-
17 month period ending during the 12-month
18 period ending on the hiring date, or

19 “(ii) a member of a family receiving
20 assistance under a food stamp program
21 under the Food Stamp Act of 1977 for at
22 least a 3-month period ending during the
23 12-month period ending on the hiring date.

24 “(B) VETERAN.—For purposes of subpara-
25 graph (A), the term ‘veteran’ means any indi-

1 vidual who is certified by the designated local
2 agency as—

3 “(i)(I) having served on active duty
4 (other than active duty for training) in the
5 Armed Forces of the United States for a
6 period of more than 180 days, or

7 “(II) having been discharged or re-
8 leased from active duty in the Armed
9 Forces of the United States for a service-
10 connected disability, and

11 “(ii) not having any day during the
12 60-day period ending on the hiring date
13 which was a day of extended active duty in
14 the Armed Forces of the United States.

15 For purposes of clause (ii), the term ‘extended
16 active duty’ means a period of more than 90
17 days during which the individual was on active
18 duty (other than active duty for training).

19 “(4) QUALIFIED EX-FELON.—The term ‘quali-
20 fied ex-felon’ means any individual who is certified
21 by the designated local agency—

22 “(A) as having been convicted of a felony
23 under any statute of the United States or any
24 State,

1 “(B) as having a hiring date which is not
2 more than 1 year after the last date on which
3 such individual was so convicted or was released
4 from prison, and

5 “(C) as being a member of a family which
6 had an income during the 6 months imme-
7 diately preceding the earlier of the month in
8 which such income determination occurs or the
9 month in which the hiring date occurs, which,
10 on an annual basis, would be 70 percent or less
11 of the Bureau of Labor Statistics lower living
12 standard.

13 Any determination under subparagraph (C) shall be
14 valid for the 45-day period beginning on the date
15 such determination is made.

16 “(5) HIGH-RISK YOUTH.—

17 “(A) IN GENERAL.—The term ‘high-risk
18 youth’ means any individual who is certified by
19 the designated local agency—

20 “(i) as having attained age 18 but not
21 age 25 on the hiring date, and

22 “(ii) as having his principal place of
23 abode within an empowerment zone or en-
24 terprise community.

1 “(B) YOUTH MUST CONTINUE TO RESIDE
2 IN ZONE.—In the case of a high-risk youth, the
3 term ‘qualified wages’ shall not include wages
4 paid or incurred for services performed while
5 such youth’s principal place of abode is outside
6 an empowerment zone or enterprise community.

7 “(6) VOCATIONAL REHABILITATION REFER-
8 RAL.—The term ‘vocational rehabilitation referral’
9 means any individual who is certified by the des-
10 ignated local agency as—

11 “(A) having a physical or mental disability
12 which, for such individual, constitutes or results
13 in a substantial handicap to employment, and

14 “(B) having been referred to the employer
15 upon completion of (or while receiving) rehabili-
16 tative services pursuant to—

17 “(i) an individualized written rehabili-
18 tation plan under a State plan for voca-
19 tional rehabilitation services approved
20 under the Rehabilitation Act of 1973, or

21 “(ii) a program of vocational rehabili-
22 tation carried out under chapter 31 of title
23 38, United States Code.

24 “(7) QUALIFIED SUMMER YOUTH EMPLOYEE.—

1 “(A) IN GENERAL.—The term ‘qualified
2 summer youth employee’ means any individ-
3 ual—

4 “(i) who performs services for the em-
5 ployer between May 1 and September 15,

6 “(ii) who is certified by the designated
7 local agency as having attained age 16 but
8 not 18 on the hiring date (or if later, on
9 May 1 of the calendar year involved),

10 “(iii) who has not been an employee
11 of the employer during any period prior to
12 the 90-day period described in subpara-
13 graph (B)(i), and

14 “(iv) who is certified by the des-
15 ignated local agency as having his principal
16 place of abode within an empowerment
17 zone or enterprise community.

18 “(B) SPECIAL RULES FOR DETERMINING
19 AMOUNT OF CREDIT.—For purposes of applying
20 this subpart to wages paid or incurred to any
21 qualified summer youth employee—

22 “(i) subsection (b)(2) shall be applied
23 by substituting ‘any 90-day period between
24 May 1 and September 15’ for ‘the 1-year

1 period beginning with the day the individ-
2 ual begins work for the employer’, and

3 “(ii) subsection (b)(3) shall be applied
4 by substituting ‘\$3,000’ for ‘\$6,000’.

5 The preceding sentence shall not apply to an in-
6 dividual who, with respect to the same em-
7 ployer, is certified as a member of another tar-
8 geted group after such individual has been a
9 qualified summer youth employee.

10 “(C) YOUTH MUST CONTINUE TO RESIDE
11 IN ZONE.—Paragraph (5)(B) shall apply for
12 purposes of this paragraph.

13 “(8) HIRING DATE.—The term ‘hiring date’
14 means the day the individual is hired by the em-
15 ployer.

16 “(9) DESIGNATED LOCAL AGENCY.—The term
17 ‘designated local agency’ means a State employment
18 security agency established in accordance with the
19 Act of June 6, 1933, as amended (29 U.S.C. 49-
20 49n).

21 “(10) SPECIAL RULES FOR CERTIFICATIONS.—

22 “(A) IN GENERAL.—An individual shall
23 not be treated as a member of a targeted group
24 unless—

1 “(i) on or before the day on which
2 such individual begins work for the em-
3 ployer, the employer has received a certifi-
4 cation from a designated local agency that
5 such individual is a member of a targeted
6 group, or

7 “(ii)(I) on or before the day the indi-
8 vidual is offered employment with the em-
9 ployer, a pre-screening notice is completed
10 by the employer with respect to such indi-
11 vidual, and

12 “(II) not later than the 14th day after
13 the individual begins work for the em-
14 ployer, the employer submits such notice,
15 signed by the employer and the individual
16 under penalties of perjury, to the des-
17 ignated local agency as part of a written
18 request for such a certification from such
19 agency.

20 For purposes of this paragraph, the term ‘pre-
21 screening notice’ means a document (in such
22 form as the Secretary shall prescribe) which
23 contains information provided by the individual
24 on the basis of which the employer believes that
25 the individual is a member of a targeted group.

1 “(B) INCORRECT CERTIFICATIONS.—If—

2 “(i) an individual has been certified
3 by a designated local agency as a member
4 of a targeted group, and

5 “(ii) such certification is incorrect be-
6 cause it was based on false information
7 provided by such individual,

8 the certification shall be revoked and wages
9 paid by the employer after the date on which
10 notice of revocation is received by the employer
11 shall not be treated as qualified wages.

12 “(C) EXPLANATION OF DENIAL OF RE-
13 QUEST.—If a designated local agency denies a
14 request for certification of membership in a tar-
15 geted group, such agency shall provide to the
16 person making such request a written expla-
17 nation of the reasons for such denial.”.

18 (c) MINIMUM EMPLOYMENT PERIOD.—Paragraph
19 (3) of section 51(i) (relating to certain individuals ineli-
20 gible) is amended to read as follows:

21 “(3) INDIVIDUALS NOT MEETING MINIMUM EM-
22 PLOYMENT PERIOD.—No wages shall be taken into
23 account under subsection (a) with respect to any in-
24 dividual unless such individual either—

1 “(A) is employed by the employer at least
2 180 days (20 days in the case of a qualified
3 summer youth employee), or

4 “(B) has completed at least 500 hours
5 (120 hours in the case of a qualified summer
6 youth employee) of services performed for the
7 employer.”.

8 (d) TERMINATION.—Paragraph (4) of section 51(c)
9 (relating to wages defined) is amended to read as follows:

10 “(4) TERMINATION.—The term ‘wages’ shall
11 not include any amount paid or incurred to an indi-
12 vidual who begins work for the employer—

13 “(A) after December 31, 1994, and before
14 July 1, 1996, or

15 “(B) after June 30, 1997.”.

16 (e) REDESIGNATION OF CREDIT.—

17 (1) Sections 38(b)(2) and 51(a) are each
18 amended by striking “targeted jobs credit” and in-
19 serting “work opportunity credit”.

20 (2) The subpart heading for subpart F of part
21 IV of subchapter A of chapter 1 is amended by
22 striking “**Targeted Jobs Credit**” and inserting
23 “**Work Opportunity Credit**”.

1 (3) The table of subparts for such part IV is
 2 amended by striking “targeted jobs credit” and in-
 3 serting “work opportunity credit”.

4 (4) The heading for paragraph (3) of section
 5 1396(c) is amended by striking “TARGETED JOBS
 6 CREDIT” and inserting “WORK OPPORTUNITY CRED-
 7 IT”.

8 (f) TECHNICAL AMENDMENT.—Paragraph (1) of sec-
 9 tion 51(c) is amended by striking “, subsection
 10 (d)(8)(D),”.

11 (g) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to individuals who begin work for
 13 the employer after June 30, 1996.

14 **SEC. 1202. EMPLOYER-PROVIDED EDUCATIONAL ASSIST-**
 15 **ANCE PROGRAMS.**

16 (a) EXTENSION.—Subsection (d) of section 127 (re-
 17 lating to educational assistance programs) is amended by
 18 striking “December 31, 1994” and inserting “December
 19 31, 1996”.

20 (b) LIMITATION TO EDUCATION BELOW GRADUATE
 21 LEVEL.—The last sentence of section 127(c)(1) is amend-
 22 ed by inserting before the period “or at the graduate
 23 level”.

24 (c) EFFECTIVE DATES.—

1 (1) EXTENSION.—The amendment made by
2 subsection (a) shall apply to taxable years beginning
3 after December 31, 1994.

4 (2) LIMITATION.—The amendment made by
5 subsection (b) shall apply to taxable years beginning
6 after December 31, 1995.

7 (3) EXPEDITED PROCEDURES.—The Secretary
8 of the Treasury shall establish expedited procedures
9 for the refund of any overpayment of taxes imposed
10 by chapter 24 of the Internal Revenue Code of 1986
11 which is attributable to amounts excluded from
12 gross income during 1995 or 1996 under section
13 127 of such Code, including procedures waiving the
14 requirement that an employer obtain an employee’s
15 signature where the employer demonstrates to the
16 satisfaction of the Secretary that any refund col-
17 lected by the employer on behalf of the employee will
18 be paid to the employee.

19 **SEC. 1203. FUTA EXEMPTION FOR ALIEN AGRICULTURAL**
20 **WORKERS.**

21 (a) IN GENERAL.—Subparagraph (B) of section
22 3306(c)(1) (defining employment) is amended by striking
23 “before January 1, 1995,”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 subsection (a) shall apply to services performed after De-
 3 cember 31, 1994.

4 **Subtitle C—Provisions Relating to** 5 **S Corporations**

6 **SEC. 1301. S CORPORATIONS PERMITTED TO HAVE 75** 7 **SHAREHOLDERS.**

8 Subparagraph (A) of section 1361(b)(1) (defining
 9 small business corporation) is amended by striking “35
 10 shareholders” and inserting “75 shareholders”.

11 **SEC. 1302. ELECTING SMALL BUSINESS TRUSTS.**

12 (a) GENERAL RULE.—Subparagraph (A) of section
 13 1361(c)(2) (relating to certain trusts permitted as share-
 14 holders) is amended by inserting after clause (iv) the fol-
 15 lowing new clause:

16 “(v) An electing small business
 17 trust.”.

18 (b) CURRENT BENEFICIARIES TREATED AS SHARE-
 19 HOLDERS.—Subparagraph (B) of section 1361(c)(2) is
 20 amended by adding at the end the following new clause:

21 “(v) In the case of a trust described
 22 in clause (v) of subparagraph (A), each po-
 23 tential current beneficiary of such trust
 24 shall be treated as a shareholder; except
 25 that, if for any period there is no potential

1 current beneficiary of such trust, such
 2 trust shall be treated as the shareholder
 3 during such period.”.

4 (c) ELECTING SMALL BUSINESS TRUST DEFINED.—
 5 Section 1361 (defining S corporation) is amended by add-
 6 ing at the end the following new subsection:

7 “(e) ELECTING SMALL BUSINESS TRUST DE-
 8 FINED.—

9 “(1) ELECTING SMALL BUSINESS TRUST.—For
 10 purposes of this section—

11 “(A) IN GENERAL.—Except as provided in
 12 subparagraph (B), the term ‘electing small
 13 business trust’ means any trust if—

14 “(i) such trust does not have as a
 15 beneficiary any person other than (I) an
 16 individual, (II) an estate, or (III) an orga-
 17 nization described in paragraph (2), (3),
 18 (4), or (5) of section 170(c) which holds a
 19 contingent interest and is not a potential
 20 current beneficiary,

21 “(ii) no interest in such trust was ac-
 22 quired by purchase, and

23 “(iii) an election under this subsection
 24 applies to such trust.

1 “(B) CERTAIN TRUSTS NOT ELIGIBLE.—

2 The term ‘electing small business trust’ shall
3 not include—

4 “(i) any qualified subchapter S trust
5 (as defined in subsection (d)(3)) if an elec-
6 tion under subsection (d)(2) applies to any
7 corporation the stock of which is held by
8 such trust, and

9 “(ii) any trust exempt from tax under
10 this subtitle.

11 “(C) PURCHASE.—For purposes of sub-
12 paragraph (A), the term ‘purchase’ means any
13 acquisition if the basis of the property acquired
14 is determined under section 1012.

15 “(2) POTENTIAL CURRENT BENEFICIARY.—For
16 purposes of this section, the term ‘potential current
17 beneficiary’ means, with respect to any period, any
18 person who at any time during such period is enti-
19 tled to, or at the discretion of any person may re-
20 ceive, a distribution from the principal or income of
21 the trust. If a trust disposes of all of the stock which
22 it holds in an S corporation, then, with respect to
23 such corporation, the term ‘potential current bene-
24 ficiary’ does not include any person who first met
25 the requirements of the preceding sentence during

1 the 60-day period ending on the date of such dis-
 2 position.

3 “(3) ELECTION.—An election under this sub-
 4 section shall be made by the trustee. Any such elec-
 5 tion shall apply to the taxable year of the trust for
 6 which made and all subsequent taxable years of such
 7 trust unless revoked with the consent of the Sec-
 8 retary.

9 “(4) CROSS REFERENCE.—

**“For special treatment of electing small business
 trusts, see section 641(d).”.**

10 (d) TAXATION OF ELECTING SMALL BUSINESS
 11 TRUSTS.—Section 641 (relating to imposition of tax on
 12 trusts) is amended by adding at the end the following new
 13 subsection:

14 “(d) SPECIAL RULES FOR TAXATION OF ELECTING
 15 SMALL BUSINESS TRUSTS.—

16 “(1) IN GENERAL.—For purposes of this chap-
 17 ter—

18 “(A) the portion of any electing small busi-
 19 ness trust which consists of stock in 1 or more
 20 S corporations shall be treated as a separate
 21 trust, and

22 “(B) the amount of the tax imposed by
 23 this chapter on such separate trust shall be de-

1 terminated with the modifications of paragraph
2 (2).

3 “(2) MODIFICATIONS.—For purposes of para-
4 graph (1), the modifications of this paragraph are
5 the following:

6 “(A) Except as provided in section 1(h),
7 the amount of the tax imposed by section 1(e)
8 shall be determined by using the highest rate of
9 tax set forth in section 1(e).

10 “(B) The exemption amount under section
11 55(d) shall be zero.

12 “(C) The only items of income, loss, deduc-
13 tion, or credit to be taken into account are the
14 following:

15 “(i) The items required to be taken
16 into account under section 1366.

17 “(ii) Any gain or loss from the dis-
18 position of stock in an S corporation.

19 “(iii) To the extent provided in regu-
20 lations, State or local income taxes or ad-
21 ministrative expenses to the extent alloca-
22 ble to items described in clauses (i) and
23 (ii).

24 No deduction or credit shall be allowed for any
25 amount not described in this paragraph, and no

1 item described in this paragraph shall be appor-
 2 tioned to any beneficiary.

3 “(D) No amount shall be allowed under
 4 paragraph (1) or (2) of section 1211(b).

5 “(3) TREATMENT OF REMAINDER OF TRUST
 6 AND DISTRIBUTIONS.—For purposes of determin-
 7 ing—

8 “(A) the amount of the tax imposed by
 9 this chapter on the portion of any electing small
 10 business trust not treated as a separate trust
 11 under paragraph (1), and

12 “(B) the distributable net income of the
 13 entire trust,

14 the items referred to in paragraph (2)(C) shall be
 15 excluded. Except as provided in the preceding sen-
 16 tence, this subsection shall not affect the taxation of
 17 any distribution from the trust.

18 “(4) TREATMENT OF UNUSED DEDUCTIONS
 19 WHERE TERMINATION OF SEPARATE TRUST.—If a
 20 portion of an electing small business trust ceases to
 21 be treated as a separate trust under paragraph (1),
 22 any carryover or excess deduction of the separate
 23 trust which is referred to in section 642(h) shall be
 24 taken into account by the entire trust.

1 “(5) ELECTING SMALL BUSINESS TRUST.—For
 2 purposes of this subsection, the term ‘electing small
 3 business trust’ has the meaning given such term by
 4 section 1361(e)(1).”.

5 (e) TECHNICAL AMENDMENT.—Paragraph (1) of sec-
 6 tion 1366(a) is amended by inserting “, or of a trust or
 7 estate which terminates,” after “who dies”.

8 **SEC. 1303. EXPANSION OF POST-DEATH QUALIFICATION**
 9 **FOR CERTAIN TRUSTS.**

10 Subparagraph (A) of section 1361(c)(2) (relating to
 11 certain trusts permitted as shareholders) is amended—

12 (1) by striking “60-day period” each place it
 13 appears in clauses (ii) and (iii) and inserting “2-year
 14 period”, and

15 (2) by striking the last sentence in clause (ii).

16 **SEC. 1304. FINANCIAL INSTITUTIONS PERMITTED TO HOLD**
 17 **SAFE HARBOR DEBT.**

18 Clause (iii) of section 1361(c)(5)(B) (defining
 19 straight debt) is amended by striking “or a trust described
 20 in paragraph (2)” and inserting “a trust described in
 21 paragraph (2), or a person which is actively and regularly
 22 engaged in the business of lending money”.

1 **SEC. 1305. RULES RELATING TO INADVERTENT TERMI-**
2 **NATIONS AND INVALID ELECTIONS.**

3 (a) GENERAL RULE.—Subsection (f) of section 1362
4 (relating to inadvertent terminations) is amended to read
5 as follows:

6 “(f) INADVERTENT INVALID ELECTIONS OR TERMI-
7 NATIONS.—If—

8 “(1) an election under subsection (a) by any
9 corporation—

10 “(A) was not effective for the taxable year
11 for which made (determined without regard to
12 subsection (b)(2)) by reason of a failure to meet
13 the requirements of section 1361(b) or to ob-
14 tain shareholder consents, or

15 “(B) was terminated under paragraph (2)
16 or (3) of subsection (d),

17 “(2) the Secretary determines that the cir-
18 cumstances resulting in such ineffectiveness or ter-
19 mination were inadvertent,

20 “(3) no later than a reasonable period of time
21 after discovery of the circumstances resulting in
22 such ineffectiveness or termination, steps were
23 taken—

24 “(A) so that the corporation is a small
25 business corporation, or

1 “(B) to acquire the required shareholder
2 consents, and

3 “(4) the corporation, and each person who was
4 a shareholder in the corporation at any time during
5 the period specified pursuant to this subsection,
6 agrees to make such adjustments (consistent with
7 the treatment of the corporation as an S corpora-
8 tion) as may be required by the Secretary with re-
9 spect to such period,
10 then, notwithstanding the circumstances resulting in such
11 ineffectiveness or termination, such corporation shall be
12 treated as an S corporation during the period specified
13 by the Secretary.”.

14 (b) LATE ELECTIONS, ETC.—Subsection (b) of sec-
15 tion 1362 is amended by adding at the end the following
16 new paragraph:

17 “(5) AUTHORITY TO TREAT LATE ELECTIONS,
18 ETC., AS TIMELY.—If—

19 “(A) an election under subsection (a) is
20 made for any taxable year (determined without
21 regard to paragraph (3)) after the date pre-
22 scribed by this subsection for making such elec-
23 tion for such taxable year or no such election is
24 made for any taxable year, and

1 “(B) the Secretary determines that there
 2 was reasonable cause for the failure to timely
 3 make such election,
 4 the Secretary may treat such an election as timely
 5 made for such taxable year (and paragraph (3) shall
 6 not apply).”.

7 (c) EFFECTIVE DATE.—The amendments made by
 8 subsection (a) and (b) shall apply with respect to elections
 9 for taxable years beginning after December 31, 1982.

10 **SEC. 1306. AGREEMENT TO TERMINATE YEAR.**

11 Paragraph (2) of section 1377(a) (relating to pro
 12 rata share) is amended to read as follows:

13 “(2) ELECTION TO TERMINATE YEAR.—

14 “(A) IN GENERAL.—Under regulations
 15 prescribed by the Secretary, if any shareholder
 16 terminates the shareholder’s interest in the cor-
 17 poration during the taxable year and all af-
 18 fected shareholders and the corporation agree
 19 to the application of this paragraph, paragraph
 20 (1) shall be applied to the affected shareholders
 21 as if the taxable year consisted of 2 taxable
 22 years the first of which ends on the date of the
 23 termination.

24 “(B) AFFECTED SHAREHOLDERS.—For
 25 purposes of subparagraph (A), the term ‘af-

1 affected shareholders’ means the shareholder
 2 whose interest is terminated and all sharehold-
 3 ers to whom such shareholder has transferred
 4 shares during the taxable year. If such share-
 5 holder has transferred shares to the corpora-
 6 tion, the term ‘affected shareholders’ shall in-
 7 clude all persons who are shareholders during
 8 the taxable year.”.

9 **SEC. 1307. EXPANSION OF POST-TERMINATION TRANSITION**
 10 **PERIOD.**

11 (a) IN GENERAL.—Paragraph (1) of section 1377(b)
 12 (relating to post-termination transition period) is amended
 13 by striking “and” at the end of subparagraph (A), by re-
 14 designating subparagraph (B) as subparagraph (C), and
 15 by inserting after subparagraph (A) the following new sub-
 16 paragraph:

17 “(B) the 120-day period beginning on the
 18 date of any determination pursuant to an audit
 19 of the taxpayer which follows the termination of
 20 the corporation’s election and which adjusts a
 21 subchapter S item of income, loss, or deduction
 22 of the corporation arising during the S period
 23 (as defined in section 1368(e)(2)), and”.

24 (b) DETERMINATION DEFINED.—Paragraph (2) of
 25 section 1377(b) is amended by striking subparagraphs (A)

1 and (B), by redesignating subparagraph (C) as subpara-
 2 graph (B), and by inserting before subparagraph (B) (as
 3 so redesignated) the following new subparagraph:

4 “(A) a determination as defined in section
 5 1313(a), or”.

6 (c) REPEAL OF SPECIAL AUDIT PROVISIONS FOR
 7 SUBCHAPTER S ITEMS.—

8 (1) GENERAL RULE.—Subchapter D of chapter
 9 63 (relating to tax treatment of subchapter S items)
 10 is hereby repealed.

11 (2) CONSISTENT TREATMENT REQUIRED.—Sec-
 12 tion 6037 (relating to return of S corporation) is
 13 amended by adding at the end the following new
 14 subsection:

15 “(c) SHAREHOLDER’S RETURN MUST BE CONSIST-
 16 ENT WITH CORPORATE RETURN OR SECRETARY NOTI-
 17 FIED OF INCONSISTENCY.—

18 “(1) IN GENERAL.—A shareholder of an S cor-
 19 poration shall, on such shareholder’s return, treat a
 20 subchapter S item in a manner which is consistent
 21 with the treatment of such item on the corporate re-
 22 turn.

23 “(2) NOTIFICATION OF INCONSISTENT TREAT-
 24 MENT.—

1 “(A) IN GENERAL.—In the case of any
2 subchapter S item, if—

3 “(i)(I) the corporation has filed a re-
4 turn but the shareholder’s treatment on
5 his return is (or may be) inconsistent with
6 the treatment of the item on the corporate
7 return, or

8 “(II) the corporation has not filed a
9 return, and

10 “(ii) the shareholder files with the
11 Secretary a statement identifying the in-
12 consistency,
13 paragraph (1) shall not apply to such item.

14 “(B) SHAREHOLDER RECEIVING INCOR-
15 RECT INFORMATION.—A shareholder shall be
16 treated as having complied with clause (ii) of
17 subparagraph (A) with respect to a subchapter
18 S item if the shareholder—

19 “(i) demonstrates to the satisfaction
20 of the Secretary that the treatment of the
21 subchapter S item on the shareholder’s re-
22 turn is consistent with the treatment of the
23 item on the schedule furnished to the
24 shareholder by the corporation, and

1 “(ii) elects to have this paragraph
2 apply with respect to that item.

3 “(3) EFFECT OF FAILURE TO NOTIFY.—In any
4 case—

5 “(A) described in subparagraph (A)(i)(I)
6 of paragraph (2), and

7 “(B) in which the shareholder does not
8 comply with subparagraph (A)(ii) of paragraph
9 (2),

10 any adjustment required to make the treatment of
11 the items by such shareholder consistent with the
12 treatment of the items on the corporate return shall
13 be treated as arising out of mathematical or clerical
14 errors and assessed according to section 6213(b)(1).
15 Paragraph (2) of section 6213(b) shall not apply to
16 any assessment referred to in the preceding sen-
17 tence.

18 “(4) SUBCHAPTER S ITEM.—For purposes of
19 this subsection, the term ‘subchapter S item’ means
20 any item of an S corporation to the extent that reg-
21 ulations prescribed by the Secretary provide that, for
22 purposes of this subtitle, such item is more appro-
23 priately determined at the corporation level than at
24 the shareholder level.

1 “(5) ADDITION TO TAX FOR FAILURE TO COM-
 2 PLY WITH SECTION.—

“For addition to tax in the case of a shareholder’s
 negligence in connection with, or disregard of, the
 requirements of this section, see part II of sub-
 chapter A of chapter 68.”.

3 (3) CONFORMING AMENDMENTS.—

4 (A) Section 1366 is amended by striking
 5 subsection (g).

6 (B) Subsection (b) of section 6233 is
 7 amended to read as follows:

8 “(b) SIMILAR RULES IN CERTAIN CASES.—If a part-
 9 nership return is filed for any taxable year but it is deter-
 10 mined that there is no entity for such taxable year, to the
 11 extent provided in regulations, rules similar to the rules
 12 of subsection (a) shall apply.”.

13 (C) The table of subchapters for chapter
 14 63 is amended by striking the item relating to
 15 subchapter D.

16 **SEC. 1308. S CORPORATIONS PERMITTED TO HOLD SUB-**
 17 **SIDIARIES.**

18 (a) IN GENERAL.—Paragraph (2) of section 1361(b)
 19 (defining ineligible corporation) is amended by striking
 20 subparagraph (A) and by redesignating subparagraphs
 21 (B), (C), (D), and (E) as subparagraphs (A), (B), (C),
 22 and (D), respectively.

1 (b) TREATMENT OF CERTAIN WHOLLY OWNED S
 2 CORPORATION SUBSIDIARIES.—Section 1361(b) (defining
 3 small business corporation) is amended by adding at the
 4 end the following new paragraph:

5 “(3) TREATMENT OF CERTAIN WHOLLY OWNED
 6 SUBSIDIARIES.—

7 “(A) IN GENERAL.—For purposes of this
 8 title—

9 “(i) a corporation which is a qualified
 10 subchapter S subsidiary shall not be treat-
 11 ed as a separate corporation, and

12 “(ii) all assets, liabilities, and items of
 13 income, deduction, and credit of a qualified
 14 subchapter S subsidiary shall be treated as
 15 assets, liabilities, and such items (as the
 16 case may be) of the S corporation.

17 “(B) QUALIFIED SUBCHAPTER S SUBSIDI-
 18 ARY.—For purposes of this paragraph, the term
 19 ‘qualified subchapter S subsidiary’ means any
 20 domestic corporation which is not an ineligible
 21 corporation (as defined in paragraph (2)), if—

22 “(i) 100 percent of the stock of such
 23 corporation is held by the S corporation,
 24 and

1 “(ii) the S corporation elects to treat
2 such corporation as a qualified subchapter
3 S subsidiary.

4 “(C) TREATMENT OF TERMINATIONS OF
5 QUALIFIED SUBCHAPTER S SUBSIDIARY STA-
6 TUS.—For purposes of this title, if any corpora-
7 tion which was a qualified subchapter S subsidi-
8 ary ceases to meet the requirements of subpara-
9 graph (B), such corporation shall be treated as
10 a new corporation acquiring all of its assets
11 (and assuming all of its liabilities) immediately
12 before such cessation from the S corporation in
13 exchange for its stock.”.

14 (c) CERTAIN DIVIDENDS NOT TREATED AS PASSIVE
15 INVESTMENT INCOME.—Paragraph (3) of section 1362(d)
16 is amended by adding at the end the following new sub-
17 paragraph:

18 “(F) TREATMENT OF CERTAIN DIVI-
19 DENDS.—If an S corporation holds stock in a
20 C corporation meeting the requirements of sec-
21 tion 1504(a)(2), the term ‘passive investment
22 income’ shall not include dividends from such C
23 corporation to the extent such dividends are at-
24 tributable to the earnings and profits of such C

1 corporation derived from the active conduct of
2 a trade or business.”.

3 (d) CONFORMING AMENDMENTS.—

4 (1) Subsection (c) of section 1361 is amended
5 by striking paragraph (6).

6 (2) Subsection (b) of section 1504 (defining in-
7 cludible corporation) is amended by adding at the
8 end the following new paragraph:

9 “(8) An S corporation.”.

10 **SEC. 1309. TREATMENT OF DISTRIBUTIONS DURING LOSS**
11 **YEARS.**

12 (a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO
13 ACCOUNT BEFORE LOSSES.—

14 (1) Subparagraph (A) of section 1366(d)(1)
15 (relating to losses and deductions cannot exceed
16 shareholder’s basis in stock and debt) is amended by
17 striking “paragraph (1)” and inserting “paragraphs
18 (1) and (2)(A)”.

19 (2) Subsection (d) of section 1368 (relating to
20 certain adjustments taken into account) is amended
21 by adding at the end the following new sentence:

22 “In the case of any distribution made during any taxable
23 year, the adjusted basis of the stock shall be determined
24 with regard to the adjustments provided in paragraph (1)
25 of section 1367(a) for the taxable year.”.

1 (b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Para-
 2 graph (1) of section 1368(e) (relating to accumulated ad-
 3 justments account) is amended by adding at the end the
 4 following new subparagraph:

5 “(C) NET LOSS FOR YEAR DISREGARDED.—

6 “(i) IN GENERAL.—In applying this section
 7 to distributions made during any taxable year,
 8 the amount in the accumulated adjustments ac-
 9 count as of the close of such taxable year shall
 10 be determined without regard to any net nega-
 11 tive adjustment for such taxable year.

12 “(ii) NET NEGATIVE ADJUSTMENT.—For
 13 purposes of clause (i), the term ‘net negative
 14 adjustment’ means, with respect to any taxable
 15 year, the excess (if any) of—

16 “(I) the reductions in the account for
 17 the taxable year (other than for distribu-
 18 tions), over

19 “(II) the increases in such account for
 20 such taxable year.”.

21 (c) CONFORMING AMENDMENTS.—Subparagraph (A)
 22 of section 1368(e)(1) is amended—

23 (1) by striking “as provided in subparagraph
 24 (B)” and inserting “as otherwise provided in this
 25 paragraph”, and

1 (2) by striking “section 1367(b)(2)(A)” and in-
 2 serting “section 1367(a)(2)”.

3 **SEC. 1310. TREATMENT OF S CORPORATIONS UNDER SUB-**
 4 **CHAPTER C.**

5 Subsection (a) of section 1371 (relating to applica-
 6 tion of subchapter C rules) is amended to read as follows:
 7 “(a) APPLICATION OF SUBCHAPTER C RULES.—Ex-
 8 cept as otherwise provided in this title, and except to the
 9 extent inconsistent with this subchapter, subchapter C
 10 shall apply to an S corporation and its shareholders.”.

11 **SEC. 1311. ELIMINATION OF CERTAIN EARNINGS AND**
 12 **PROFITS.**

13 (a) IN GENERAL.—If—

14 (1) a corporation was an electing small business
 15 corporation under subchapter S of chapter 1 of the
 16 Internal Revenue Code of 1986 for any taxable year
 17 beginning before January 1, 1983, and

18 (2) such corporation is an S corporation under
 19 subchapter S of chapter 1 of such Code for its first
 20 taxable year beginning after December 31, 1996,
 21 the amount of such corporation’s accumulated earnings
 22 and profits (as of the beginning of such first taxable year)
 23 shall be reduced by an amount equal to the portion (if
 24 any) of such accumulated earnings and profits which were
 25 accumulated in any taxable year beginning before January

1 1, 1983, for which such corporation was an electing small
2 business corporation under such subchapter S.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Paragraph (3) of section 1362(d), as
5 amended by section 1308, is amended—

6 (A) by striking “SUBCHAPTER C” in the
7 paragraph heading and inserting “ACCUMU-
8 LATED”,

9 (B) by striking “subchapter C” in sub-
10 paragraph (A)(i)(I) and inserting “accumu-
11 lated”, and

12 (C) by striking subparagraph (B) and re-
13 designating the following subparagraphs accord-
14 ingly.

15 (2)(A) Subsection (a) of section 1375 is amend-
16 ed by striking “subchapter C” in paragraph (1) and
17 inserting “accumulated”.

18 (B) Paragraph (3) of section 1375(b) is amend-
19 ed to read as follows:

20 “(3) PASSIVE INVESTMENT INCOME, ETC.—The
21 terms ‘passive investment income’ and ‘gross re-
22 ceipts’ have the same respective meanings as when
23 used in paragraph (3) of section 1362(d).”.

1 (C) The section heading for section 1375 is
 2 amended by striking “**SUBCHAPTER C**” and insert-
 3 ing “**ACCUMULATED**”.

4 (D) The table of sections for part III of sub-
 5 chapter S of chapter 1 is amended by striking “sub-
 6 chapter C” in the item relating to section 1375 and
 7 inserting “accumulated”.

8 (3) Clause (i) of section 1042(c)(4)(A) is
 9 amended by striking “section 1362(d)(3)(D)” and
 10 inserting “section 1362(d)(3)(C)”.

11 **SEC. 1312. CARRYOVER OF DISALLOWED LOSSES AND DE-**
 12 **DUCTIONS UNDER AT-RISK RULES ALLOWED.**

13 Paragraph (3) of section 1366(d) (relating to carry-
 14 over of disallowed losses and deductions to post-termi-
 15 nation transition period) is amended by adding at the end
 16 the following new subparagraph:

17 “(D) AT-RISK LIMITATIONS.—To the ex-
 18 tent that any increase in adjusted basis de-
 19 scribed in subparagraph (B) would have in-
 20 creased the shareholder’s amount at risk under
 21 section 465 if such increase had occurred on
 22 the day preceding the commencement of the
 23 post-termination transition period, rules similar
 24 to the rules described in subparagraphs (A)

1 through (C) shall apply to any losses disallowed
 2 by reason of section 465(a).”.

3 **SEC. 1313. ADJUSTMENTS TO BASIS OF INHERITED S STOCK**
 4 **TO REFLECT CERTAIN ITEMS OF INCOME.**

5 (a) IN GENERAL.—Subsection (b) of section 1367
 6 (relating to adjustments to basis of stock of shareholders,
 7 etc.) is amended by adding at the end the following new
 8 paragraph:

9 “(4) ADJUSTMENTS IN CASE OF INHERITED
 10 STOCK.—

11 “(A) IN GENERAL.—If any person acquires
 12 stock in an S corporation by reason of the
 13 death of a decedent or by bequest, devise, or in-
 14 heritance, section 691 shall be applied with re-
 15 spect to any item of income of the S corpora-
 16 tion in the same manner as if the decedent had
 17 held directly his pro rata share of such item.

18 “(B) ADJUSTMENTS TO BASIS.—The basis
 19 determined under section 1014 of any stock in
 20 an S corporation shall be reduced by the por-
 21 tion of the value of the stock which is attrib-
 22 utable to items constituting income in respect
 23 of the decedent.”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 subsection (a) shall apply in the case of decedents dying
 3 after the date of the enactment of this Act.

4 **SEC. 1314. S CORPORATIONS ELIGIBLE FOR RULES APPLI-**
 5 **CABLE TO REAL PROPERTY SUBDIVIDED FOR**
 6 **SALE BY NONCORPORATE TAXPAYERS.**

7 (a) IN GENERAL.—Subsection (a) of section 1237
 8 (relating to real property subdivided for sale) is amended
 9 by striking “other than a corporation” in the material pre-
 10 ceding paragraph (1) and inserting “other than a C cor-
 11 poration”.

12 (b) CONFORMING AMENDMENT.—Subparagraph (A)
 13 of section 1237(a)(2) is amended by inserting “an S cor-
 14 poration which included the taxpayer as a shareholder,”
 15 after “controlled by the taxpayer,”.

16 **SEC. 1315. EFFECTIVE DATE.**

17 (a) IN GENERAL.—Except as otherwise provided in
 18 this subtitle, the amendments made by this subtitle shall
 19 apply to taxable years beginning after December 31, 1996.

20 (b) TREATMENT OF CERTAIN ELECTIONS UNDER
 21 PRIOR LAW.—For purposes of section 1362(g) of the In-
 22 ternal Revenue Code of 1986 (relating to election after
 23 termination), any termination under section 1362(d) of
 24 such Code in a taxable year beginning before January 1,
 25 1997, shall not be taken into account.

1 **Subtitle D—Pension Simplification**
2 **CHAPTER 1—SIMPLIFIED DISTRIBUTION**
3 **RULES**

4 **SEC. 1401. REPEAL OF 5-YEAR INCOME AVERAGING FOR**
5 **LUMP-SUM DISTRIBUTIONS.**

6 (a) IN GENERAL.—Subsection (d) of section 402 (re-
7 lating to taxability of beneficiary of employees’ trust) is
8 amended to read as follows:

9 “(d) TAXABILITY OF BENEFICIARY OF CERTAIN
10 FOREIGN SITUS TRUSTS.—For purposes of subsections
11 (a), (b), and (c), a stock bonus, pension, or profit-sharing
12 trust which would qualify for exemption from tax under
13 section 501(a) except for the fact that it is a trust created
14 or organized outside the United States shall be treated
15 as if it were a trust exempt from tax under section
16 501(a).”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) Subparagraph (D) of section 402(e)(4) (re-
19 lating to other rules applicable to exempt trusts) is
20 amended to read as follows:

21 “(D) LUMP-SUM DISTRIBUTION.—For pur-
22 poses of this paragraph—

23 “(i) IN GENERAL.—The term ‘lump
24 sum distribution’ means the distribution or
25 payment within one taxable year of the re-

1 recipient of the balance to the credit of an
2 employee which becomes payable to the re-
3 cipient—

4 “(I) on account of the employee’s
5 death,

6 “(II) after the employee attains
7 age 59½,

8 “(III) on account of the employ-
9 ee’s separation from service, or

10 “(IV) after the employee has be-
11 come disabled (within the meaning of
12 section 72(m)(7)),

13 from a trust which forms a part of a plan
14 described in section 401(a) and which is
15 exempt from tax under section 501 or from
16 a plan described in section 403(a). Sub-
17 clause (III) of this clause shall be applied
18 only with respect to an individual who is
19 an employee without regard to section
20 401(c)(1), and subclause (IV) shall be ap-
21 plied only with respect to an employee
22 within the meaning of section 401(c)(1).
23 For purposes of this clause, a distribution
24 to two or more trusts shall be treated as
25 a distribution to one recipient. For pur-

1 poses of this paragraph, the balance to the
2 credit of the employee does not include the
3 accumulated deductible employee contribu-
4 tions under the plan (within the meaning
5 of section 72(o)(5)).

6 “(ii) AGGREGATION OF CERTAIN
7 TRUSTS AND PLANS.—For purposes of de-
8 termining the balance to the credit of an
9 employee under clause (i)—

10 “(I) all trusts which are part of
11 a plan shall be treated as a single
12 trust, all pension plans maintained by
13 the employer shall be treated as a sin-
14 gle plan, all profit-sharing plans main-
15 tained by the employer shall be treat-
16 ed as a single plan, and all stock
17 bonus plans maintained by the em-
18 ployer shall be treated as a single
19 plan, and

20 “(II) trusts which are not quali-
21 fied trusts under section 401(a) and
22 annuity contracts which do not satisfy
23 the requirements of section 404(a)(2)
24 shall not be taken into account.

1 “(iii) COMMUNITY PROPERTY LAWS.—

2 The provisions of this paragraph shall be
3 applied without regard to community prop-
4 erty laws.

5 “(iv) AMOUNTS SUBJECT TO PEN-
6 ALTY.—This paragraph shall not apply to
7 amounts described in subparagraph (A) of
8 section 72(m)(5) to the extent that section
9 72(m)(5) applies to such amounts.

10 “(v) BALANCE TO CREDIT OF EM-
11 PLOYEE NOT TO INCLUDE AMOUNTS PAY-
12 ABLE UNDER QUALIFIED DOMESTIC RELA-
13 TIONS ORDER.—For purposes of this para-
14 graph, the balance to the credit of an em-
15 ployee shall not include any amount pay-
16 able to an alternate payee under a quali-
17 fied domestic relations order (within the
18 meaning of section 414(p)).

19 “(vi) TRANSFERS TO COST-OF-LIVING
20 ARRANGEMENT NOT TREATED AS DIS-
21 TRIBUTION.—For purposes of this para-
22 graph, the balance to the credit of an em-
23 ployee under a defined contribution plan
24 shall not include any amount transferred
25 from such defined contribution plan to a

1 qualified cost-of-living arrangement (within
2 the meaning of section 415(k)(2)) under a
3 defined benefit plan.

4 “(vii) LUMP-SUM DISTRIBUTIONS OF
5 ALTERNATE PAYEES.—If any distribution
6 or payment of the balance to the credit of
7 an employee would be treated as a lump-
8 sum distribution, then, for purposes of this
9 paragraph, the payment under a qualified
10 domestic relations order (within the mean-
11 ing of section 414(p)) of the balance to the
12 credit of an alternate payee who is the
13 spouse or former spouse of the employee
14 shall be treated as a lump-sum distribu-
15 tion. For purposes of this clause, the bal-
16 ance to the credit of the alternate payee
17 shall not include any amount payable to
18 the employee.”.

19 (2) Section 402(c) (relating to rules applicable
20 to rollovers from exempt trusts) is amended by strik-
21 ing paragraph (10).

22 (3) Paragraph (1) of section 55(c) (defining
23 regular tax) is amended by striking “shall not in-
24 clude any tax imposed by section 402(d) and”.

1 (4) Paragraph (8) of section 62(a) (relating to
2 certain portion of lump-sum distributions from pen-
3 sion plans taxed under section 402(d)) is hereby re-
4 pealed.

5 (5) Section 401(a)(28)(B) (relating to coordina-
6 tion with distribution rules) is amended by striking
7 clause (v).

8 (6) Subparagraph (B)(ii) of section 401(k)(10)
9 (relating to distributions that must be lump-sum dis-
10 tributions) is amended to read as follows:

11 “(ii) LUMP-SUM DISTRIBUTION.—For
12 purposes of this subparagraph, the term
13 ‘lump-sum distribution’ has the meaning
14 given such term by section 402(e)(4)(D)
15 (without regard to subclauses (I), (II),
16 (III), and (IV) of clause (i) thereof).”.

17 (7) Section 406(c) (relating to termination of
18 status as deemed employee not to be treated as sep-
19 aration from service for purposes of limitation of
20 tax) is hereby repealed.

21 (8) Section 407(c) (relating to termination of
22 status as deemed employee not to be treated as sep-
23 aration from service for purposes of limitation of
24 tax) is hereby repealed.

1 (9) Section 691(c) (relating to deduction for es-
2 tate tax) is amended by striking paragraph (5).

3 (10) Paragraph (1) of section 871(b) (relating
4 to imposition of tax) is amended by striking “section
5 1, 55, or 402(d)(1)” and inserting “section 1 or
6 55”.

7 (11) Subsection (b) of section 877 (relating to
8 alternative tax) is amended by striking “section 1,
9 55, or 402(d)(1)” and inserting “section 1 or 55”.

10 (12) Section 4980A(c)(4) is amended—

11 (A) by striking “to which an election under
12 section 402(d)(4)(B) applies” and inserting
13 “(as defined in section 402(e)(4)(D)) with re-
14 spect to which the individual elects to have this
15 paragraph apply”,

16 (B) by adding at the end the following new
17 flush sentence:

18 “An individual may elect to have this paragraph
19 apply to only one lump-sum distribution.”, and

20 (C) by striking the heading and inserting:
21 “(4) SPECIAL ONE-TIME ELECTION.—”.

22 (13) Section 402(e) is amended by striking
23 paragraph (5).

24 (c) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to taxable years beginning
3 after December 31, 1998.

4 (2) RETENTION OF CERTAIN TRANSITION
5 RULES.—Notwithstanding any other provision of
6 this section, the amendments made by this section
7 shall not apply to any distribution for which the tax-
8 payer elects the benefits of section 1122 (h)(3) or
9 (h)(5) of the Tax Reform Act of 1986. For purposes
10 of the preceding sentence, the rules of sections
11 402(c)(10) and 402(d) of the Internal Revenue Code
12 of 1986 (as in effect before the amendments made
13 by this Act) shall apply.

14 **SEC. 1402. REPEAL OF \$5,000 EXCLUSION OF EMPLOYEES’**
15 **DEATH BENEFITS.**

16 (a) IN GENERAL.—Subsection (b) of section 101 is
17 hereby repealed.

18 (b) CONFORMING AMENDMENTS.—

19 (1) Subsection (c) of section 101 is amended by
20 striking “subsection (a) or (b)” and inserting “sub-
21 section (a)”.

22 (2) Sections 406(e) and 407(e) are each amend-
23 ed by striking paragraph (2) and by redesignating
24 paragraph (3) as paragraph (2).

1 (3) Section 7701(a)(20) is amended by striking
2 “, for the purpose of applying the provisions of sec-
3 tion 101(b) with respect to employees’ death bene-
4 fits”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply with respect to decedents dying
7 after the date of the enactment of this Act.

8 **SEC. 1403. SIMPLIFIED METHOD FOR TAXING ANNUITY DIS-**
9 **TRIBUTIONS UNDER CERTAIN EMPLOYER**
10 **PLANS.**

11 (a) GENERAL RULE.—Subsection (d) of section 72
12 (relating to annuities; certain proceeds of endowment and
13 life insurance contracts) is amended to read as follows:

14 “(d) SPECIAL RULES FOR QUALIFIED EMPLOYER
15 RETIREMENT PLANS.—

16 “(1) SIMPLIFIED METHOD OF TAXING ANNUITY
17 PAYMENTS.—

18 “(A) IN GENERAL.—In the case of any
19 amount received as an annuity under a quali-
20 fied employer retirement plan—

21 “(i) subsection (b) shall not apply,
22 and

23 “(ii) the investment in the contract
24 shall be recovered as provided in this para-
25 graph.

1 “(B) METHOD OF RECOVERING INVEST-
2 MENT IN CONTRACT.—

3 “(i) IN GENERAL.—Gross income
4 shall not include so much of any monthly
5 annuity payment under a qualified em-
6 ployer retirement plan as does not exceed
7 the amount obtained by dividing—

8 “(I) the investment in the con-
9 tract (as of the annuity starting date),
10 by

11 “(II) the number of anticipated
12 payments determined under the table
13 contained in clause (iii) (or, in the
14 case of a contract to which subsection
15 (c)(3)(B) applies, the number of
16 monthly annuity payments under such
17 contract).

18 “(ii) CERTAIN RULES MADE APPLICA-
19 BLE.—Rules similar to the rules of para-
20 graphs (2) and (3) of subsection (b) shall
21 apply for purposes of this paragraph.

22 “(iii) NUMBER OF ANTICIPATED PAY-
23 MENTS.—

“If the age of the primary annuitant on the annuity starting date is:	The number of anticipated payments is:
Not more than 55	360
More than 55 but not more than 60 ...	310
More than 60 but not more than 65 ...	260
More than 65 but not more than 70 ...	210
More than 70	160.

1 “(C) ADJUSTMENT FOR REFUND FEATURE
2 NOT APPLICABLE.—For purposes of this para-
3 graph, investment in the contract shall be de-
4 termined under subsection (c)(1) without re-
5 gard to subsection (c)(2).

6 “(D) SPECIAL RULE WHERE LUMP SUM
7 PAID IN CONNECTION WITH COMMENCEMENT
8 OF ANNUITY PAYMENTS.—If, in connection with
9 the commencement of annuity payments under
10 any qualified employer retirement plan, the tax-
11 payer receives a lump sum payment—

12 “(i) such payment shall be taxable
13 under subsection (e) as if received before
14 the annuity starting date, and

15 “(ii) the investment in the contract
16 for purposes of this paragraph shall be de-
17 termined as if such payment had been so
18 received.

19 “(E) EXCEPTION.—This paragraph shall
20 not apply in any case where the primary annu-
21 itant has attained age 75 on the annuity start-

1 ing date unless there are fewer than 5 years of
2 guaranteed payments under the annuity.

3 “(F) ADJUSTMENT WHERE ANNUITY PAY-
4 MENTS NOT ON MONTHLY BASIS.—In any case
5 where the annuity payments are not made on a
6 monthly basis, appropriate adjustments in the
7 application of this paragraph shall be made to
8 take into account the period on the basis of
9 which such payments are made.

10 “(G) QUALIFIED EMPLOYER RETIREMENT
11 PLAN.—For purposes of this paragraph, the
12 term ‘qualified employer retirement plan’ means
13 any plan or contract described in paragraph
14 (1), (2), or (3) of section 4974(c).

15 “(2) TREATMENT OF EMPLOYEE CONTRIBU-
16 TIONS UNDER DEFINED CONTRIBUTION PLANS.—
17 For purposes of this section, employee contributions
18 (and any income allocable thereto) under a defined
19 contribution plan may be treated as a separate con-
20 tract.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply in cases where the annuity starting
23 date is after the 90th day after the date of the enactment
24 of this Act.

1 **SEC. 1404. REQUIRED DISTRIBUTIONS.**

2 (a) IN GENERAL.—Section 401(a)(9)(C) (defining re-
3 quired beginning date) is amended to read as follows:

4 “(C) REQUIRED BEGINNING DATE.—For
5 purposes of this paragraph—

6 “(i) IN GENERAL.—The term ‘re-
7 quired beginning date’ means April 1 of
8 the calendar year following the later of—

9 “(I) the calendar year in which
10 the employee attains age 70½, or

11 “(II) the calendar year in which
12 the employee retires.

13 “(ii) EXCEPTION.—Subclause (II) of
14 clause (i) shall not apply—

15 “(I) except as provided in section
16 409(d), in the case of an employee
17 who is a 5-percent owner (as defined
18 in section 416) with respect to the
19 plan year ending in the calendar year
20 in which the employee attains age
21 70½, or

22 “(II) for purposes of section 408
23 (a)(6) or (b)(3).

24 “(iii) ACTUARIAL ADJUSTMENT.—In
25 the case of an employee to whom clause
26 (i)(II) applies who retires in a calendar

1 year after the calendar year in which the
2 employee attains age 70½, the employee's
3 accrued benefit shall be actuarially in-
4 creased to take into account the period
5 after age 70½ in which the employee was
6 not receiving any benefits under the plan.

7 “(iv) EXCEPTION FOR GOVERN-
8 MENTAL AND CHURCH PLANS.—Clauses
9 (ii) and (iii) shall not apply in the case of
10 a governmental plan or church plan. For
11 purposes of this clause, the term ‘church
12 plan’ means a plan maintained by a church
13 for church employees, and the term
14 ‘church’ means any church (as defined in
15 section 3121(w)(3)(A)) or qualified church-
16 controlled organization (as defined in sec-
17 tion 3121(w)(3)(B)).”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall apply to years beginning after Decem-
20 ber 31, 1996.

**CHAPTER 2—INCREASED ACCESS TO
PENSION PLANS**

Subchapter A—Simple Savings Plans

**SEC. 1421. ESTABLISHMENT OF SAVINGS INCENTIVE
MATCH PLANS FOR EMPLOYEES OF SMALL
EMPLOYERS.**

(a) IN GENERAL.—Section 408 (relating to individual retirement accounts) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

“(p) SIMPLE RETIREMENT ACCOUNTS.—

“(1) IN GENERAL.—For purposes of this title, the term ‘simple retirement account’ means an individual retirement plan (as defined in section 7701(a)(37))—

“(A) with respect to which the requirements of paragraphs (3), (4), and (5) are met; and

“(B) with respect to which the only contributions allowed are contributions under a qualified salary reduction arrangement.

“(2) QUALIFIED SALARY REDUCTION ARRANGEMENT.—

“(A) IN GENERAL.—For purposes of this subsection, the term ‘qualified salary reduction

1 arrangement’ means a written arrangement of
2 an eligible employer under which—

3 “(i) an employee eligible to participate
4 in the arrangement may elect to have the
5 employer make payments—

6 “(I) as elective employer con-
7 tributions to a simple retirement ac-
8 count on behalf of the employee, or

9 “(II) to the employee directly in
10 cash,

11 “(ii) the amount which an employee
12 may elect under clause (i) for any year is
13 required to be expressed as a percentage of
14 compensation and may not exceed a total
15 of \$6,000 for any year,

16 “(iii) the employer is required to make
17 a matching contribution to the simple re-
18 tirement account for any year in an
19 amount equal to so much of the amount
20 the employee elects under clause (i)(I) as
21 does not exceed the applicable percentage
22 of compensation for the year, and

23 “(iv) no contributions may be made
24 other than contributions described in
25 clause (i) or (iii).

1 “(B) EMPLOYER MAY ELECT 2-PERCENT
2 NONELECTIVE CONTRIBUTION.—An employer
3 shall be treated as meeting the requirements of
4 subparagraph (A)(iii) for any year if, in lieu of
5 the contributions described in such clause, the
6 employer elects to make nonelective contribu-
7 tions of 2 percent of compensation for each em-
8 ployee who is eligible to participate in the ar-
9 rangement and who has at least \$5,000 of com-
10 pensation from the employer for the year. If an
11 employer makes an election under this subpara-
12 graph for any year, the employer shall notify
13 employees of such election within a reasonable
14 period of time before the 30-day period for such
15 year under paragraph (5)(C).

16 “(C) DEFINITIONS.—For purposes of this
17 subsection—

18 “(i) ELIGIBLE EMPLOYER.—The term
19 ‘eligible employer’ means an employer who
20 employs 100 or fewer employees on any
21 day during the year.

22 “(ii) APPLICABLE PERCENTAGE.—

23 “(I) IN GENERAL.—The term
24 ‘applicable percentage’ means 3 per-
25 cent.

1 “(II) ELECTION OF LOWER PER-
2 CENTAGE.—An employer may elect to
3 apply a lower percentage (not less
4 than 1 percent) for any year for all
5 employees eligible to participate in the
6 plan for such year if the employer no-
7 tifies the employees of such lower per-
8 centage within a reasonable period of
9 time before the 30-day election period
10 for such year under paragraph (5)(C).
11 An employer may not elect a lower
12 percentage under this subclause for
13 any year if that election would result
14 in the applicable percentage being
15 lower than 3 percent in more than 2
16 of the years in the 5-year period end-
17 ing with such year.

18 “(III) SPECIAL RULE FOR YEARS
19 ARRANGEMENT NOT IN EFFECT.—If
20 any year in the 5-year period de-
21 scribed in subclause (II) is a year
22 prior to the first year for which any
23 qualified salary reduction arrange-
24 ment is in effect with respect to the
25 employer (or any predecessor), the

1 employer shall be treated as if the
2 level of the employer matching con-
3 tribution was at 3 percent of com-
4 pensation for such prior year.

5 “(D) ARRANGEMENT MAY BE ONLY PLAN
6 OF EMPLOYER.—

7 “(i) IN GENERAL.—An arrangement
8 shall not be treated as a qualified salary
9 reduction arrangement for any year if the
10 employer (or any predecessor employer)
11 maintained a qualified plan with respect to
12 which contributions were made, or benefits
13 were accrued, for service in any year in the
14 period beginning with the year such ar-
15 rangement became effective and ending
16 with the year for which the determination
17 is being made.

18 “(ii) QUALIFIED PLAN.—For purposes
19 of this subparagraph, the term ‘qualified
20 plan’ means a plan, contract, pension, or
21 trust described in subparagraph (A) or (B)
22 of section 219(g)(5).

23 “(E) COST-OF-LIVING ADJUSTMENT.—The
24 Secretary shall adjust the \$6,000 amount under
25 subparagraph (A)(ii) at the same time and in

1 the same manner as under section 415(d), ex-
2 cept that the base period taken into account
3 shall be the calendar quarter ending September
4 30, 1995, and any increase under this subpara-
5 graph which is not a multiple of \$500 shall be
6 rounded to the next lower multiple of \$500.

7 “(3) VESTING REQUIREMENTS.—The require-
8 ments of this paragraph are met with respect to a
9 simple retirement account if the employee’s rights to
10 any contribution to the simple retirement account
11 are nonforfeitable. For purposes of this paragraph,
12 rules similar to the rules of subsection (k)(4) shall
13 apply.

14 “(4) PARTICIPATION REQUIREMENTS.—

15 “(A) IN GENERAL.—The requirements of
16 this paragraph are met with respect to any sim-
17 ple retirement account for a year only if, under
18 the qualified salary reduction arrangement, all
19 employees of the employer who—

20 “(i) received at least \$5,000 in com-
21 pensation from the employer during any 2
22 preceding years, and

23 “(ii) are reasonably expected to re-
24 ceive at least \$5,000 in compensation dur-
25 ing the year,

1 are eligible to make the election under para-
2 graph (2)(A)(i) or receive the nonelective con-
3 tribution described in paragraph (2)(B).

4 “(B) EXCLUDABLE EMPLOYEES.—An em-
5 ployer may elect to exclude from the require-
6 ment under subparagraph (A) employees de-
7 scribed in section 410(b)(3).

8 “(5) ADMINISTRATIVE REQUIREMENTS.—The
9 requirements of this paragraph are met with respect
10 to any simplified retirement account if, under the
11 qualified salary reduction arrangement—

12 “(A) an employer must—

13 “(i) make the elective employer con-
14 tributions under paragraph (2)(A)(i) not
15 later than the close of the 30-day period
16 following the last day of the month with
17 respect to which the contributions are to
18 be made, and

19 “(ii) make the matching contributions
20 under paragraph (2)(A)(iii) or the
21 nonelective contributions under paragraph
22 (2)(B) not later than the date described
23 in section 404(m)(2)(B),

24 “(B) an employee may elect to terminate
25 participation in such arrangement at any time

1 during the year, except that if an employee so
2 terminates, the arrangement may provide that
3 the employee may not elect to resume participa-
4 tion until the beginning of the next year, and

5 “(C) each employee eligible to participate
6 may elect, during the 30-day period before the
7 beginning of any year (and the 30-day period
8 before the first day such employee is eligible to
9 participate), to participate in the arrangement,
10 or to modify the amounts subject to such ar-
11 rangement, for such year.

12 “(6) DEFINITIONS.—For purposes of this sub-
13 section—

14 “(A) COMPENSATION.—

15 “(i) IN GENERAL.—The term ‘com-
16 pensation’ means amounts described in
17 paragraphs (3) and (8) of section 6051(a).

18 “(ii) SELF-EMPLOYED.—In the case
19 of an employee described in subparagraph
20 (B), the term ‘compensation’ means net
21 earnings from self-employment determined
22 under section 1402(a) without regard to
23 any contribution under this subsection.

1 “(B) EMPLOYEE.—The term ‘employee’ in-
 2 cludes an employee as defined in section
 3 401(c)(1)."

4 “(C) YEAR.—The term ‘year’ means the
 5 calendar year.”.

6 (b) TAX TREATMENT OF SIMPLE RETIREMENT AC-
 7 COUNTS.—

8 (1) DEDUCTIBILITY OF CONTRIBUTIONS BY EM-
 9 PLOYEES.—

10 (A) Section 219(b) (relating to maximum
 11 amount of deduction) is amended by adding at
 12 the end the following new paragraph:

13 “(4) SPECIAL RULE FOR SIMPLE RETIREMENT
 14 ACCOUNTS.—This section shall not apply with re-
 15 spect to any amount contributed to a simple retire-
 16 ment account established under section 408(p).”.

17 (B) Section 219(g)(5)(A) (defining active
 18 participant) is amended by striking “or” at the
 19 end of clause (iv) and by adding at the end the
 20 following new clause:

21 “(vi) any simple retirement account
 22 (within the meaning of section 408(p)),
 23 or”.

24 (2) DEDUCTIBILITY OF EMPLOYER CONTRIBU-
 25 TIONS.—Section 404 (relating to deductions for con-

1 tributions of an employer to pension, etc. plans) is
2 amended by adding at the end the following new
3 subsection:

4 “(m) SPECIAL RULES FOR SIMPLE RETIREMENT AC-
5 COUNTS.—

6 “(1) IN GENERAL.—Employer contributions to
7 a simple retirement account shall be treated as if
8 they are made to a plan subject to the requirements
9 of this section.

10 “(2) TIMING.—

11 “(A) DEDUCTION.—Contributions de-
12 scribed in paragraph (1) shall be deductible in
13 the taxable year of the employer with or within
14 which the calendar year for which the contribu-
15 tions were made ends.

16 “(B) CONTRIBUTIONS AFTER END OF
17 YEAR.—For purposes of this subsection, con-
18 tributions shall be treated as made for a taxable
19 year if they are made on account of the taxable
20 year and are made not later than the time pre-
21 scribed by law for filing the return for the tax-
22 able year (including extensions thereof).”.

23 (3) CONTRIBUTIONS AND DISTRIBUTIONS.—

1 (A) Section 402 (relating to taxability of
2 beneficiary of employees' trust) is amended by
3 adding at the end the following new subsection:

4 “(k) TREATMENT OF SIMPLE RETIREMENT AC-
5 COUNTS.—Rules similar to the rules of paragraphs (1)
6 and (3) of subsection (h) shall apply to contributions and
7 distributions with respect to a simple retirement account
8 under section 408(p).”.

9 (B) Section 408(d)(3) is amended by add-
10 ing at the end the following new subparagraph:

11 “(G) SIMPLE RETIREMENT ACCOUNTS.—
12 This paragraph shall not apply to any amount
13 paid or distributed out of a simple retirement
14 account (as defined in section 408(p)) unless—

15 “(i) it is paid into another simple re-
16 tirement account, or

17 “(ii) in the case of any payment or
18 distribution to which section 72(t)(8) does
19 not apply, it is paid into an individual re-
20 tirement plan.”.

21 (C) Clause (i) of section 457(c)(2)(B) is
22 amended by striking “section 402(h)(1)(B)”
23 and inserting “section 402(h)(1)(B) or (k)”.

24 (4) PENALTIES.—

1 (A) EARLY WITHDRAWALS.—Section 72(t)
 2 (relating to additional tax in early distribu-
 3 tions), as amended by this Act, is amended by
 4 adding at the end the following new paragraph:

5 “(6) SPECIAL RULES FOR SIMPLE RETIREMENT
 6 ACCOUNTS.—In the case of any amount received
 7 from a simple retirement account (within the mean-
 8 ing of section 408(p)) during the 2-year period be-
 9 ginning on the date such individual first participated
 10 in any qualified salary reduction arrangement main-
 11 tained by the individual’s employer under section
 12 408(p)(2), paragraph (1) shall be applied by sub-
 13 stituting ‘25 percent’ for ‘10 percent’.”.

14 (B) FAILURE TO REPORT.—Section 6693
 15 is amended by redesignating subsection (c) as
 16 subsection (d) and by inserting after subsection
 17 (b) the following new subsection:

18 “(c) PENALTIES RELATING TO SIMPLE RETIREMENT
 19 ACCOUNTS.—

20 “(1) EMPLOYER PENALTIES.—An employer who
 21 fails to provide 1 or more notices required by section
 22 408(l)(2)(C) shall pay a penalty of \$50 for each day
 23 on which such failures continue.

24 “(2) TRUSTEE PENALTIES.—A trustee who
 25 fails—

1 “(A) to provide 1 or more statements re-
2 quired by the last sentence of section 408(i)
3 shall pay a penalty of \$50 for each day on
4 which such failures continue, or

5 “(B) to provide 1 or more summary de-
6 scriptions required by section 408(l)(2)(B) shall
7 pay a penalty of \$50 for each day on which
8 such failures continue.

9 “(3) REASONABLE CAUSE EXCEPTION.—No
10 penalty shall be imposed under this subsection with
11 respect to any failure which the taxpayer shows was
12 due to reasonable cause.”.

13 (5) REPORTING REQUIREMENTS.—

14 (A) Section 408(l) is amended by adding
15 at the end the following new paragraph:

16 “(2) SIMPLE RETIREMENT ACCOUNTS.—

17 “(A) NO EMPLOYER REPORTS.—Except as
18 provided in this paragraph, no report shall be
19 required under this section by an employer
20 maintaining a qualified salary reduction ar-
21 rangement under subsection (p).

22 “(B) SUMMARY DESCRIPTION.—The trust-
23 ee of any simple retirement account established
24 pursuant to a qualified salary reduction ar-
25 rangement under subsection (p) shall provide to

1 the employer maintaining the arrangement,
2 each year a description containing the following
3 information:

4 “(i) The name and address of the em-
5 ployer and the trustee.

6 “(ii) The requirements for eligibility
7 for participation.

8 “(iii) The benefits provided with re-
9 spect to the arrangement.

10 “(iv) The time and method of making
11 elections with respect to the arrangement.

12 “(v) The procedures for, and effects
13 of, withdrawals (including rollovers) from
14 the arrangement.

15 “(C) EMPLOYEE NOTIFICATION.—The em-
16 ployer shall notify each employee immediately
17 before the period for which an election de-
18 scribed in subsection (p)(5)(C) may be made of
19 the employee’s opportunity to make such elec-
20 tion. Such notice shall include a copy of the de-
21 scription described in subparagraph (B).”.

22 (B) Section 408(l) is amended by striking
23 “An employer” and inserting the following:

24 “(1) IN GENERAL.—An employer”.

1 (6) REPORTING REQUIREMENTS.—Section
 2 408(i) is amended by adding at the end the following
 3 new flush sentence:

4 “In the case of a simple retirement account under sub-
 5 section (p), only one report under this subsection shall be
 6 required to be submitted each calendar year to the Sec-
 7 retary (at the time provided under paragraph (2)) but, in
 8 addition to the report under this subsection, there shall
 9 be furnished, within 30 days after each calendar year, to
 10 the individual on whose behalf the account is maintained
 11 a statement with respect to the account balance as of the
 12 close of, and the account activity during, such calendar
 13 year.”.

14 (7) EXEMPTION FROM TOP-HEAVY PLAN
 15 RULES.—Section 416(g)(4) (relating to special rules
 16 for top-heavy plans) is amended by adding at the
 17 end the following new subparagraph:

18 “(G) SIMPLE RETIREMENT ACCOUNTS.—
 19 The term ‘top-heavy plan’ shall not include a
 20 simple retirement account under section
 21 408(p).”.

22 (8) EMPLOYMENT TAXES.—

23 (A) Paragraph (5) of section 3121(a) is
 24 amended by striking “or” at the end of sub-
 25 paragraph (F), by inserting “or” at the end of

1 subparagraph (G), and by adding at the end
2 the following new subparagraph:

3 “(H) under an arrangement to which sec-
4 tion 408(p) applies, other than any elective con-
5 tributions under paragraph (2)(A)(i) thereof,”.

6 (B) Section 209(a)(4) of the Social Security
7 Act is amended by inserting “, or (J) under an ar-
8 rangement to which section 408(p) of such Code ap-
9 plies, other than any elective contributions under
10 paragraph (2)(A)(i) thereof” before the semicolon at
11 the end thereof.

12 (C) Paragraph (5) of section 3306(b) is amend-
13 ed by striking “or” at the end of subparagraph (F),
14 by inserting “or” at the end of subparagraph (G),
15 and by adding at the end the following new subpara-
16 graph:

17 “(H) under an arrangement to which sec-
18 tion 408(p) applies, other than any elective con-
19 tributions under paragraph (2)(A)(i) thereof,”.

20 (D) Paragraph (12) of section 3401(a) is
21 amended by adding the following new subparagraph:

22 “(D) under an arrangement to which sec-
23 tion 408(p) applies; or”.

24 (9) CONFORMING AMENDMENTS.—

1 (A) Section 280G(b)(6) is amended by
2 striking “or” at the end of subparagraph (B),
3 by striking the period at the end of subpara-
4 graph (C) and inserting “, or” and by adding
5 after subparagraph (C) the following new sub-
6 paragraph:

7 “(D) a simple retirement account described
8 in section 408(p).”.

9 (B) Section 402(g)(3) is amended by strik-
10 ing “and” at the end of subparagraph (B), by
11 striking the period at the end of subparagraph
12 (C) and inserting “, and”, and by adding after
13 subparagraph (C) the following new subpara-
14 graph:

15 “(D) any elective employer contribution
16 under section 408(p)(2)(A)(i).”.

17 (C) Subsections (b), (c), (m)(4)(B), and
18 (n)(3)(B) of section 414 are each amended by
19 inserting “408(p),” after “408(k),”.

20 (D) Section 4972(d)(1)(A) is amended by
21 striking “and” at the end of clause (ii), by
22 striking the period at the end of clause (iii) and
23 inserting “, and”, and by adding after clause
24 (iii) the following new clause:

1 “(iv) any simple retirement account
2 (within the meaning of section 408(p)).”.

3 (c) REPEAL OF SALARY REDUCTION SIMPLIFIED EM-
4 PLOYEE PENSIONS.—Section 408(k)(6) is amended by
5 adding at the end the following new subparagraph:

6 “(H) TERMINATION.—This paragraph
7 shall not apply to years beginning after Decem-
8 ber 31, 1996. The preceding sentence shall not
9 apply to a simplified employee pension if the
10 terms of such pension, as in effect on December
11 31, 1996, provide that an employee may make
12 the election described in subparagraph (A).”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 1996.

16 **SEC. 1422. EXTENSION OF SIMPLE PLAN TO 401(k) AR-**
17 **RANGEMENTS.**

18 (a) ALTERNATIVE METHOD OF SATISFYING SECTION
19 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (re-
20 lating to cash or deferred arrangements) is amended by
21 adding at the end the following new paragraph:

22 “(11) ADOPTION OF SIMPLE PLAN TO MEET
23 NONDISCRIMINATION TESTS.—

24 “(A) IN GENERAL.—A cash or deferred ar-
25 rangement maintained by an eligible employer

1 shall be treated as meeting the requirements of
2 paragraph (3)(A)(ii) if such arrangement
3 meets—

4 “(i) the contribution requirements of
5 subparagraph (B),

6 “(ii) the exclusive benefit require-
7 ments of subparagraph (C), and

8 “(iii) the vesting requirements of sec-
9 tion 408(p)(3).

10 “(B) CONTRIBUTION REQUIREMENTS.—

11 “(i) IN GENERAL.—The requirements
12 of this subparagraph are met if, under the
13 arrangement—

14 “(I) an employee may elect to
15 have the employer make elective con-
16 tributions for the year on behalf of
17 the employee to a trust under the plan
18 in an amount which is expressed as a
19 percentage of compensation of the em-
20 ployee but which in no event exceeds
21 \$6,000,

22 “(II) the employer is required to
23 make a matching contribution to the
24 trust for the year in an amount equal
25 to so much of the amount the em-

1 ployee elects under subclause (I) as
2 does not exceed 3 percent of com-
3 pensation for the year, and

4 “(III) no other contributions may
5 be made other than contributions de-
6 scribed in subclause (I) or (II).

7 “(ii) EMPLOYER MAY ELECT 2-PER-
8 CENT NONELECTIVE CONTRIBUTION.—An
9 employer shall be treated as meeting the
10 requirements of clause (i)(II) for any year
11 if, in lieu of the contributions described in
12 such clause, the employer elects (pursuant
13 to the terms of the arrangement) to make
14 nonelective contributions of 2 percent of
15 compensation for each employee who is eli-
16 gible to participate in the arrangement and
17 who has at least \$5,000 of compensation
18 from the employer for the year. If an em-
19 ployer makes an election under this sub-
20 paragraph for any year, the employer shall
21 notify employees of such election within a
22 reasonable period of time before the 30th
23 day before the beginning of such year.

24 “(C) EXCLUSIVE BENEFIT.—The require-
25 ments of this subparagraph are met for any

year to which this paragraph applies if no contributions were made, or benefits were accrued, for services during such year under any qualified plan of the employer on behalf of any employee eligible to participate in the cash or deferred arrangement, other than contributions described in subparagraph (B).

“(D) DEFINITIONS AND SPECIAL RULE.—

“(i) DEFINITIONS.—For purposes of this paragraph, any term used in this paragraph which is also used in section 408(p) shall have the meaning given such term by such section.

“(ii) COORDINATION WITH TOP-HEAVY RULES.—A plan meeting the requirements of this paragraph for any year shall not be treated as a top-heavy plan under section 416 for such year.”.

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

1 “(10) ALTERNATIVE METHOD OF SATISFYING
2 TESTS.—A defined contribution plan shall be treated
3 as meeting the requirements of paragraph (2) with
4 respect to matching contributions if the plan—

5 “(A) meets the contribution requirements
6 of subparagraph (B) of subsection (k)(11),

7 “(B) meets the exclusive benefit require-
8 ments of subsection (k)(11)(C), and

9 “(C) meets the vesting requirements of
10 section 408(p)(3).”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to plan years beginning after De-
13 cember 31, 1996.

14 **Subchapter B—Other Provisions**

15 **SEC. 1426. TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER** 16 **SECTION 401(k).**

17 (a) IN GENERAL.—Subparagraph (B) of section
18 401(k)(4) is amended to read as follows:

19 “(B) ELIGIBILITY OF STATE AND LOCAL
20 GOVERNMENTS AND TAX-EXEMPT ORGANIZA-
21 TIONS.—

22 “(i) TAX-EXEMPTS ELIGIBLE.—Ex-
23 cept as provided in clause (ii), any organi-
24 zation exempt from tax under this subtitle
25 may include a qualified cash or deferred

1 arrangement as part of a plan maintained
2 by it.

3 “(ii) GOVERNMENTS INELIGIBLE.—A
4 cash or deferred arrangement shall not be
5 treated as a qualified cash or deferred ar-
6 rangement if it is part of a plan main-
7 tained by a State or local government or
8 political subdivision thereof, or any agency
9 or instrumentality thereof. This clause
10 shall not apply to a rural cooperative plan
11 or to a plan of an employer described in
12 clause (iii).

13 “(iii) TREATMENT OF INDIAN TRIBAL
14 GOVERNMENTS.—An employer which is an
15 Indian tribal government (as defined in
16 section 7701(a)(40)), a subdivision of an
17 Indian tribal government (determined in
18 accordance with section 7871(d)), an agen-
19 cy or instrumentality of an Indian tribal
20 government or subdivision thereof, or a
21 corporation chartered under Federal,
22 State, or tribal law which is owned in
23 whole or in part by any of the foregoing
24 shall be treated as an organization exempt

1 from tax under this subtitle for purposes
2 of clause (i).”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to plan years beginning after De-
5 cember 31, 1996, but shall not apply to any cash or de-
6 ferred arrangement to which clause (i) of section
7 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

8 **CHAPTER 3—NONDISCRIMINATION**
9 **PROVISIONS**

10 **SEC. 1431. DEFINITION OF HIGHLY COMPENSATED EM-**
11 **PLOYEES; REPEAL OF FAMILY AGGREGATION.**

12 (a) IN GENERAL.—Paragraph (1) of section 414(q)
13 (defining highly compensated employee) is amended to
14 read as follows:

15 “(1) IN GENERAL.—The term ‘highly com-
16 pensated employee’ means any employee who—

17 “(A) was a 5-percent owner at any time
18 during the year or the preceding year, or

19 “(B) for the preceding year—

20 “(i) had compensation from the em-
21 ployer in excess of \$80,000, and

22 “(ii) was in the top-paid group of the
23 employer.

24 The Secretary shall adjust the \$80,000 amount
25 under subparagraph (B) at the same time and in the

1 same manner as under section 415(d), except that
 2 the base period shall be the calendar quarter ending
 3 September 30, 1996.”.

4 (b) REPEAL OF FAMILY AGGREGATION RULES.—

5 (1) IN GENERAL.—Paragraph (6) of section
 6 414(q) is hereby repealed.

7 (2) COMPENSATION LIMIT.—Paragraph (17)(A)
 8 of section 401(a) is amended by striking the last
 9 sentence.

10 (3) DEDUCTION.—Subsection (l) of section 404
 11 is amended by striking the last sentence.

12 (c) CONFORMING AMENDMENTS.—

13 (1)(A) Subsection (q) of section 414 is amended
 14 by striking paragraphs (2), (5), (8), and (12) and by
 15 redesignating paragraphs (3), (4), (7), (9), (10), and
 16 (11) as paragraphs (2) through (7), respectively.

17 (B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii),
 18 408(k)(2)(C), and 416(i)(1)(D) are each amended
 19 by striking “section 414(q)(7)” and inserting “sec-
 20 tion 414(q)(4)”.

21 (C) Section 416(i)(1)(A) is amended by striking
 22 “section 414(q)(8)” and inserting “section
 23 414(r)(9)”.

24 (2)(A) Section 414(r) is amended by adding at
 25 the end the following new paragraph:

1 “(9) EXCLUDED EMPLOYEES.—For purposes of
2 this subsection, the following employees shall be ex-
3 cluded:

4 “(A) Employees who have not completed 6
5 months of service.

6 “(B) Employees who normally work less
7 than 17½ hours per week.

8 “(C) Employees who normally work not
9 more than 6 months during any year.

10 “(D) Employees who have not attained the
11 age of 21.

12 “(E) Except to the extent provided in reg-
13 ulations, employees who are included in a unit
14 of employees covered by an agreement which
15 the Secretary of Labor finds to be a collective
16 bargaining agreement between employee rep-
17 resentatives and the employer.

18 Except as provided by the Secretary, the employer
19 may elect to apply subparagraph (A), (B), (C), or
20 (D) by substituting a shorter period of service,
21 smaller number of hours or months, or lower age for
22 the period of service, number of hours or months, or
23 age (as the case may be) specified in such subpara-
24 graph.”.

1 (B) Subparagraph (A) of section 414(r)(2) is
2 amended by striking “subsection (q)(8)” and insert-
3 ing “paragraph (9)”.

4 (3) Section 1114(c)(4) of the Tax Reform Act
5 of 1986 is amended by adding at the end the follow-
6 ing new sentence: “Any reference in this paragraph
7 to section 414(q) shall be treated as a reference to
8 such section as in effect on the day before the date
9 of the enactment of the Small Business Job Protec-
10 tion Act of 1996.”.

11 (d) EFFECTIVE DATE.—

12 (1) IN GENERAL.—The amendments made by
13 this section shall apply to years beginning after De-
14 cember 31, 1996, except that in determining wheth-
15 er an employee is a highly compensated employee for
16 years beginning in 1997, such amendments shall be
17 treated as having been in effect for years beginning
18 in 1996.

19 (2) FAMILY AGGREGATION.—The amendments
20 made by subsection (b) shall apply to years begin-
21 ning after December 31, 1996.

1 **SEC. 1432. MODIFICATION OF ADDITIONAL PARTICIPATION**
2 **REQUIREMENTS.**

3 (a) GENERAL RULE.—Section 401(a)(26)(A) (relat-
4 ing to additional participation requirements) is amended
5 to read as follows:

6 “(A) IN GENERAL.—In the case of a trust
7 which is a part of a defined benefit plan, such
8 trust shall not constitute a qualified trust under
9 this subsection unless on each day of the plan
10 year such trust benefits at least the lesser of—

11 “(i) 50 employees of the employer, or

12 “(ii) the greater of—

13 “(I) 40 percent of all employees
14 of the employer, or

15 “(II) 2 employees (or if there is
16 only 1 employee, such employee).”.

17 (b) SEPARATE LINE OF BUSINESS TEST.—Section
18 401(a)(26)(G) (relating to separate line of business) is
19 amended by striking “paragraph (7)” and inserting “para-
20 graph (2)(A) or (7)”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to years beginning after December
23 31, 1996.

1 **SEC. 1433. NONDISCRIMINATION RULES FOR QUALIFIED**
2 **CASH OR DEFERRED ARRANGEMENTS AND**
3 **MATCHING CONTRIBUTIONS.**

4 (a) ALTERNATIVE METHODS OF SATISFYING SEC-
5 TION 401(k) NONDISCRIMINATION TESTS.—Section
6 401(k) (relating to cash or deferred arrangements), as
7 amended by section 1422, is amended by adding at the
8 end the following new paragraph:

9 “(12) ALTERNATIVE METHODS OF MEETING
10 NONDISCRIMINATION REQUIREMENTS.—

11 “(A) IN GENERAL.—A cash or deferred ar-
12 rangement shall be treated as meeting the re-
13 quirements of paragraph (3)(A)(ii) if such ar-
14 rangement—

15 “(i) meets the contribution require-
16 ments of subparagraph (B) or (C), and

17 “(ii) meets the notice requirements of
18 subparagraph (D).

19 “(B) MATCHING CONTRIBUTIONS.—

20 “(i) IN GENERAL.—The requirements
21 of this subparagraph are met if, under the
22 arrangement, the employer makes match-
23 ing contributions on behalf of each em-
24 ployee who is not a highly compensated
25 employee in an amount equal to—

1 “(I) 100 percent of the elective
2 contributions of the employee to the
3 extent such elective contributions do
4 not exceed 3 percent of the employee’s
5 compensation, and

6 “(II) 50 percent of the elective
7 contributions of the employee to the
8 extent that such elective contributions
9 exceed 3 percent but do not exceed 5
10 percent of the employee’s compensa-
11 tion.

12 “(ii) RATE FOR HIGHLY COM-
13 PENSATED EMPLOYEES.—The require-
14 ments of this subparagraph are not met if,
15 under the arrangement, the rate of match-
16 ing contribution with respect to any elec-
17 tive contribution of a highly compensated
18 employee at any rate of elective contribu-
19 tion is greater than that with respect to an
20 employee who is not a highly compensated
21 employee.

22 “(iii) ALTERNATIVE PLAN DESIGNS.—
23 If the rate of any matching contribution
24 with respect to any rate of elective con-
25 tribution is not equal to the percentage re-

1 quired under clause (i), an arrangement
2 shall not be treated as failing to meet the
3 requirements of clause (i) if—

4 “(I) the rate of an employer’s
5 matching contribution does not in-
6 crease as an employee’s rate of elec-
7 tive contributions increase, and

8 “(II) the aggregate amount of
9 matching contributions at such rate of
10 elective contribution is at least equal
11 to the aggregate amount of matching
12 contributions which would be made if
13 matching contributions were made on
14 the basis of the percentages described
15 in clause (i).

16 “(C) NONELECTIVE CONTRIBUTIONS.—

17 The requirements of this subparagraph are met
18 if, under the arrangement, the employer is re-
19 quired, without regard to whether the employee
20 makes an elective contribution or employee con-
21 tribution, to make a contribution to a defined
22 contribution plan on behalf of each employee
23 who is not a highly compensated employee and
24 who is eligible to participate in the arrangement

1 in an amount equal to at least 3 percent of the
2 employee's compensation.

3 “(D) NOTICE REQUIREMENT.—An ar-
4 rangement meets the requirements of this para-
5 graph if, under the arrangement, each employee
6 eligible to participate is, within a reasonable pe-
7 riod before any year, given written notice of the
8 employee's rights and obligations under the ar-
9 rangement which—

10 “(i) is sufficiently accurate and com-
11 prehensive to appraise the employee of
12 such rights and obligations, and

13 “(ii) is written in a manner calculated
14 to be understood by the average employee
15 eligible to participate.

16 “(E) OTHER REQUIREMENTS.—

17 “(i) WITHDRAWAL AND VESTING RE-
18 STRICTIONS.—An arrangement shall not be
19 treated as meeting the requirements of
20 subparagraph (B) or (C) of this paragraph
21 unless the requirements of subparagraphs
22 (B) and (C) of paragraph (2) are met with
23 respect to all employer contributions (in-
24 cluding matching contributions) taken into
25 account in determining whether the re-

1 requirements of subparagraphs (B) and (C)
2 of this paragraph are met.

3 “(ii) SOCIAL SECURITY AND SIMILAR
4 CONTRIBUTIONS NOT TAKEN INTO AC-
5 COUNT.—An arrangement shall not be
6 treated as meeting the requirements of
7 subparagraph (B) or (C) unless such re-
8 quirements are met without regard to sub-
9 section (l), and, for purposes of subsection
10 (l), employer contributions under subpara-
11 graph (B) or (C) shall not be taken into
12 account.

13 “(F) OTHER PLANS.—An arrangement
14 shall be treated as meeting the requirements
15 under subparagraph (A)(i) if any other plan
16 maintained by the employer meets such require-
17 ments with respect to employees eligible under
18 the arrangement.”.

19 (b) ALTERNATIVE METHODS OF SATISFYING SEC-
20 TION 401(m) NONDISCRIMINATION TESTS.—Section
21 401(m) (relating to nondiscrimination test for matching
22 contributions and employee contributions), as amended by
23 this Act, is amended by redesignating paragraph (11) as
24 paragraph (12) and by adding after paragraph (10) the
25 following new paragraph:

1 “(11) ALTERNATIVE METHOD OF SATISFYING
2 TESTS.—

3 “(A) IN GENERAL.—A defined contribution
4 plan shall be treated as meeting the require-
5 ments of paragraph (2) with respect to match-
6 ing contributions if the plan—

7 “(i) meets the contribution require-
8 ments of subparagraph (B) or (C) of sub-
9 section (k)(12),

10 “(ii) meets the notice requirements of
11 subsection (k)(12)(D), and

12 “(iii) meets the requirements of sub-
13 paragraph (B).

14 “(B) LIMITATION ON MATCHING CON-
15 TRIBUTIONS.—The requirements of this sub-
16 paragraph are met if—

17 “(i) matching contributions on behalf
18 of any employee may not be made with re-
19 spect to an employee’s contributions or
20 elective deferrals in excess of 6 percent of
21 the employee’s compensation,

22 “(ii) the rate of an employer’s match-
23 ing contribution does not increase as the
24 rate of an employee’s contributions or elec-
25 tive deferrals increase, and

1 “(iii) the matching contribution with
 2 respect to any highly compensated em-
 3 ployee at any rate of an employee contribu-
 4 tion or rate of elective deferral is not
 5 greater than that with respect to an em-
 6 ployee who is not a highly compensated
 7 employee.”.

8 (c) YEAR FOR COMPUTING NONHIGHLY COM-
 9 PENSATED EMPLOYEE PERCENTAGE.—

10 (1) CASH OR DEFERRED ARRANGEMENTS.—

11 Clause (ii) of section 401(k)(3)(A) is amended—

12 (A) by striking “such year” and inserting
 13 “the plan year”,

14 (B) by striking “for such plan year” and
 15 inserting “for the preceding plan year”, and

16 (C) by adding at the end the following new
 17 sentence: “An arrangement may apply this
 18 clause by using the plan year rather than the
 19 preceding plan year if the employer so elects,
 20 except that if such an election is made, it may
 21 not be changed except as provided by the Sec-
 22 retary.”.

23 (2) MATCHING AND EMPLOYEE CONTRIBU-
 24 TIONS.—Section 401(m)(2)(A) is amended—

1 (A) by inserting “for such plan year” after
 2 “highly compensated employees”,

3 (B) by inserting “for the preceding plan
 4 year” after “eligible employees” each place it
 5 appears in clause (i) and clause (ii), and

6 (C) by adding at the end the following
 7 flush sentence: “This subparagraph may be ap-
 8 plied by using the plan year rather than the
 9 preceding plan year if the employer so elects,
 10 except that if such an election is made, it may
 11 not be changed except as provided the Sec-
 12 retary.”.

13 (d) SPECIAL RULE FOR DETERMINING AVERAGE DE-
 14 FERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

15 (1) Paragraph (3) of section 401(k) is amended
 16 by adding at the end the following new subpara-
 17 graph:

18 “(E) For purposes of this paragraph, in
 19 the case of the first plan year of any plan
 20 (other than a successor plan), the amount taken
 21 into account as the actual deferral percentage
 22 of nonhighly compensated employees for the
 23 preceding plan year shall be—

24 “(i) 3 percent, or

1 “(ii) if the employer makes an election
2 under this subclause, the actual deferral
3 percentage of nonhighly compensated em-
4 ployees determined for such first plan
5 year.”.

6 (2) Paragraph (3) of section 401(m) is amend-
7 ed by adding at the end the following: “Rules similar
8 to the rules of subsection (k)(3)(E) shall apply for
9 purposes of this subsection.”.

10 (e) DISTRIBUTION OF EXCESS CONTRIBUTIONS AND
11 EXCESS AGGREGATE CONTRIBUTIONS.—

12 (1) Subparagraph (C) of section 401(k)(8) (re-
13 lating to arrangement not disqualified if excess con-
14 tributions distributed) is amended by striking “on
15 the basis of the respective portions of the excess con-
16 tributions attributable to each of such employees”
17 and inserting “on the basis of the amount of con-
18 tributions by, or on behalf of, each of such employ-
19 ees”.

20 (2) Subparagraph (C) of section 401(m)(6) (re-
21 lating to method of distributing excess aggregate
22 contributions) is amended by striking “on the basis
23 of the respective portions of such amounts attrib-
24 utable to each of such employees” and inserting “on

1 the basis of the amount of contributions on behalf
2 of, or by, each such employee”.

3 (f) EFFECTIVE DATES.—

4 (1) IN GENERAL.—The amendments made by
5 this section shall apply to years beginning after De-
6 cember 31, 1998.

7 (2) EXCEPTIONS.—The amendments made by
8 subsections (c), (d), and (e) shall apply to years be-
9 ginning after December 31, 1996.

10 **SEC. 1434. DEFINITION OF COMPENSATION FOR SECTION**
11 **415 PURPOSES.**

12 (a) GENERAL RULE.—Section 415(c)(3) (defining
13 participant’s compensation) is amended by adding at the
14 end the following new subparagraph:

15 “(D) CERTAIN DEFERRALS INCLUDED.—

16 The term ‘participant’s compensation’ shall in-
17 clude—

18 “(i) any elective deferral (as defined
19 in section 402(g)(3)), and

20 “(ii) any amount which is contributed
21 by the employer at the election of the em-
22 ployee and which is not includible in the
23 gross income of the employee under section
24 125 or 457.”.

25 (b) CONFORMING AMENDMENTS.—

6 (2) Section 414(s)(2) is amended by inserting
7 “not” after “elect” in the text and heading thereof.

11 **CHAPTER 4—MISCELLANEOUS**
12 **PROVISIONS**

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

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1 employee may be made only with respect to the earned
2 income of such owner-employee which is derived from the
3 trade or business with respect to which such plan is estab-
4 lished.”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to years beginning after December
7 31, 1996.

8 **SEC. 1442. ELIMINATION OF SPECIAL VESTING RULE FOR**
9 **MULTIEMPLOYER PLANS.**

10 (a) IN GENERAL.—Paragraph (2) of section 411(a)
11 (relating to minimum vesting standards) is amended—

12 (1) by striking “subparagraph (A), (B), or (C)”
13 and inserting “subparagraph (A) or (B)”; and

14 (2) by striking subparagraph (C).

15 (b) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to plan years beginning on or after
17 the earlier of—

18 (1) the later of—

19 (A) January 1, 1997, or

20 (B) the date on which the last of the col-
21 lective bargaining agreements pursuant to
22 which the plan is maintained terminates (deter-
23 mined without regard to any extension thereof
24 after the date of the enactment of this Act), or

25 (2) January 1, 1999.

1 Such amendments shall not apply to any individual who
 2 does not have more than 1 hour of service under the plan
 3 on or after the 1st day of the 1st plan year to which such
 4 amendments apply.

5 **SEC. 1443. DISTRIBUTIONS UNDER RURAL COOPERATIVE**
 6 **PLANS.**

7 (a) DISTRIBUTIONS FOR HARDSHIP OR AFTER A
 8 CERTAIN AGE.—Section 401(k)(7) is amended by adding
 9 at the end the following new subparagraph:

10 “(C) SPECIAL RULE FOR CERTAIN DIS-
 11 TRIBUTIONS.—A rural cooperative plan which
 12 includes a qualified cash or deferred arrange-
 13 ment shall not be treated as violating the re-
 14 quirements of section 401(a) or of paragraph
 15 (2) merely by reason of a hardship distribution
 16 or a distribution to a participant after attain-
 17 ment of age 59½. For purposes of this section,
 18 the term ‘hardship distribution’ means a dis-
 19 tribution described in paragraph (2)(B)(i)(IV)
 20 (without regard to the limitation of its applica-
 21 tion to profit-sharing or stock bonus plans).”.

22 (b) PUBLIC UTILITY DISTRICTS.—Clause (i) of sec-
 23 tion 401(k)(7)(B) (defining rural cooperative) is amended
 24 to read as follows:

25 “(i) any organization which—

1 “(I) is engaged primarily in pro-
 2 viding electric service on a mutual or
 3 cooperative basis, or

4 “(II) is engaged primarily in pro-
 5 viding electric service to the public in
 6 its area of service and which is ex-
 7 empt from tax under this subtitle or
 8 which is a State or local government
 9 (or an agency or instrumentality
 10 thereof), other than a municipality (or
 11 an agency or instrumentality there-
 12 of),”.

13 (c) EFFECTIVE DATES.—

14 (1) DISTRIBUTIONS.—The amendments made
 15 by subsection (a) shall apply to distributions after
 16 the date of the enactment of this Act.

17 (2) RURAL COOPERATIVE.—The amendments
 18 made by subsection (b) shall apply to plan years be-
 19 ginning after December 31, 1996.

20 **SEC. 1444. TREATMENT OF GOVERNMENTAL PLANS UNDER**
 21 **SECTION 415.**

22 (a) COMPENSATION LIMIT.—Subsection (b) of sec-
 23 tion 415 is amended by adding immediately after para-
 24 graph (10) the following new paragraph:

1 “(11) SPECIAL LIMITATION RULE FOR GOVERN-
2 MENTAL PLANS.—In the case of a governmental
3 plan (as defined in section 414(d)), subparagraph
4 (B) of paragraph (1) shall not apply.”.

5 (b) TREATMENT OF CERTAIN EXCESS BENEFIT
6 PLANS.—

7 (1) IN GENERAL.—Section 415 is amended by
8 adding at the end the following new subsection:

9 “(m) TREATMENT OF QUALIFIED GOVERNMENTAL
10 EXCESS BENEFIT ARRANGEMENTS.—

11 “(1) GOVERNMENTAL PLAN NOT AFFECTED.—
12 In determining whether a governmental plan (as de-
13 fined in section 414(d)) meets the requirements of
14 this section, benefits provided under a qualified gov-
15 ernmental excess benefit arrangement shall not be
16 taken into account. Income accruing to a govern-
17 mental plan (or to a trust that is maintained solely
18 for the purpose of providing benefits under a quali-
19 fied governmental excess benefit arrangement) in re-
20 spect of a qualified governmental excess benefit ar-
21 rangement shall constitute income derived from the
22 exercise of an essential governmental function upon
23 which such governmental plan (or trust) shall be ex-
24 empt from tax under section 115.

1 “(2) TAXATION OF PARTICIPANT.—For pur-
2 poses of this chapter—

3 “(A) the taxable year or years for which
4 amounts in respect of a qualified governmental
5 excess benefit arrangement are includible in
6 gross income by a participant, and

7 “(B) the treatment of such amounts when
8 so includible by the participant,
9 shall be determined as if such qualified govern-
10 mental excess benefit arrangement were treated as a
11 plan for the deferral of compensation which is main-
12 tained by a corporation not exempt from tax under
13 this chapter and which does not meet the require-
14 ments for qualification under section 401.

15 “(3) QUALIFIED GOVERNMENTAL EXCESS BEN-
16 EFIT ARRANGEMENT.—For purposes of this sub-
17 section, the term ‘qualified governmental excess ben-
18 efit arrangement’ means a portion of a governmental
19 plan if—

20 “(A) such portion is maintained solely for
21 the purpose of providing to participants in the
22 plan that part of the participant’s annual bene-
23 fit otherwise payable under the terms of the
24 plan that exceeds the limitations on benefits im-
25 posed by this section,

1 “(B) under such portion no election is pro-
2 vided at any time to the participant (directly or
3 indirectly) to defer compensation, and

4 “(C) benefits described in subparagraph
5 (A) are not paid from a trust forming a part
6 of such governmental plan unless such trust is
7 maintained solely for the purpose of providing
8 such benefits.”.

9 (2) COORDINATION WITH SECTION 457.—Sub-
10 section (e) of section 457 is amended by adding at
11 the end the following new paragraph:

12 “(14) TREATMENT OF QUALIFIED GOVERN-
13 MENTAL EXCESS BENEFIT ARRANGEMENTS.—Sub-
14 sections (b)(2) and (c)(1) shall not apply to any
15 qualified governmental excess benefit arrangement
16 (as defined in section 415(m)(3)), and benefits pro-
17 vided under such an arrangement shall not be taken
18 into account in determining whether any other plan
19 is an eligible deferred compensation plan.”.

20 (3) CONFORMING AMENDMENT.—Paragraph (2)
21 of section 457(f) is amended by striking “and” at
22 the end of subparagraph (C), by striking the period
23 at the end of subparagraph (D) and inserting “,
24 and”, and by inserting immediately thereafter the
25 following new subparagraph:

1 “(E) a qualified governmental excess bene-
2 fit arrangement described in section 415(m).”.

3 (c) EXEMPTION FOR SURVIVOR AND DISABILITY
4 BENEFITS.—Paragraph (2) of section 415(b) is amended
5 by adding at the end the following new subparagraph:

6 “(I) EXEMPTION FOR SURVIVOR AND DIS-
7 ABILITY BENEFITS PROVIDED UNDER GOVERN-
8 MENTAL PLANS.—Subparagraph (C) of this
9 paragraph and paragraph (5) shall not apply
10 to—

11 “(i) income received from a govern-
12 mental plan (as defined in section 414(d))
13 as a pension, annuity, or similar allowance
14 as the result of the recipient becoming dis-
15 abled by reason of personal injuries or
16 sickness, or

17 “(ii) amounts received from a govern-
18 mental plan by the beneficiaries, survivors,
19 or the estate of an employee as the result
20 of the death of the employee.”.

21 (d) REVOCATION OF GRANDFATHER ELECTION.—

22 (1) IN GENERAL.—Subparagraph (C) of section
23 415(b)(10) is amended by adding at the end the fol-
24 lowing new clause:

1 “(ii) REVOCATION OF ELECTION.—An
2 election under clause (i) may be revoked
3 not later than the last day of the third
4 plan year beginning after the date of the
5 enactment of this clause. The revocation
6 shall apply to all plan years to which the
7 election applied and to all subsequent plan
8 years. Any amount paid by a plan in a tax-
9 able year ending after the revocation shall
10 be includible in income in such taxable
11 year under the rules of this chapter in ef-
12 fect for such taxable year, except that, for
13 purposes of applying the limitations im-
14 posed by this section, any portion of such
15 amount which is attributable to any tax-
16 able year during which the election was in
17 effect shall be treated as received in such
18 taxable year.”.

19 (2) CONFORMING AMENDMENT.—Subparagraph
20 (C) of section 415(b)(10) is amended by striking
21 “‘This” and inserting:

22 “(i) IN GENERAL.—This”.

23 (e) EFFECTIVE DATE.—

24 (1) IN GENERAL.—The amendments made by
25 subsections (a), (b), and (c) shall apply to years be-

ginning after December 31, 1994. The amendments made by subsection (d) shall apply with respect to revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE JANUARY 1, 1995.—Nothing in the amendments made by this section shall be construed to infer that a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) fails to satisfy the requirements of section 415 of such Code for any taxable year beginning before January 1, 1995.

SEC. 1445. UNIFORM RETIREMENT AGE.

(a) DISCRIMINATION TESTING.—Paragraph (5) of section 401(a) (relating to special rules relating to non-discrimination requirements) is amended by adding at the end the following new subparagraph:

“(F) SOCIAL SECURITY RETIREMENT AGE.—For purposes of testing for discrimination under paragraph (4)—

“(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

“(ii) subsidized early retirement benefits and joint and survivor annuities shall

1 not be treated as being unavailable to em-
2 ployees on the same terms merely because
3 such benefits or annuities are based in
4 whole or in part on an employee's social
5 security retirement age (as so defined)."

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to years beginning after December
8 31, 1996.

9 **SEC. 1446. CONTRIBUTIONS ON BEHALF OF DISABLED EM-**
10 **PLOYEES.**

11 (a) ALL DISABLED PARTICIPANTS RECEIVING CON-
12 TRIBUTIONS.—Section 415(c)(3)(C) is amended by adding
13 at the end the following: "If a defined contribution plan
14 provides for the continuation of contributions on behalf
15 of all participants described in clause (i) for a fixed or
16 determinable period, this subparagraph shall be applied
17 without regard to clauses (ii) and (iii).".

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to years beginning after December
20 31, 1996.

1 **SEC. 1447. TREATMENT OF DEFERRED COMPENSATION**
2 **PLANS OF STATE AND LOCAL GOVERNMENTS**
3 **AND TAX-EXEMPT ORGANIZATIONS.**

4 (a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—
5 Paragraph (9) of section 457(e) (relating to other defini-
6 tions and special rules) is amended to read as follows:

7 “(9) BENEFITS NOT TREATED AS MADE AVAIL-
8 ABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

9 “(A) TOTAL AMOUNT PAYABLE IS \$3,500
10 OR LESS.—The total amount payable to a par-
11 ticipant under the plan shall not be treated as
12 made available merely because the participant
13 may elect to receive such amount (or the plan
14 may distribute such amount without the partici-
15 pant’s consent) if—

16 “(i) such amount does not exceed
17 \$3,500, and

18 “(ii) such amount may be distributed
19 only if—

20 “(I) no amount has been deferred
21 under the plan with respect to such
22 participant during the 2-year period
23 ending on the date of the distribution,
24 and

25 “(II) there has been no prior dis-
26 tribution under the plan to such par-

1 ticipant to which this subparagraph
2 applied.

3 A plan shall not be treated as failing to meet
4 the distribution requirements of subsection (d)
5 by reason of a distribution to which this sub-
6 paragraph applies.

7 “(B) ELECTION TO DEFER COMMENCE-
8 MENT OF DISTRIBUTIONS.—The total amount
9 payable to a participant under the plan shall
10 not be treated as made available merely because
11 the participant may elect to defer commence-
12 ment of distributions under the plan if—

13 “(i) such election is made after
14 amounts may be available under the plan
15 in accordance with subsection (d)(1)(A)
16 and before commencement of such dis-
17 tributions, and

18 “(ii) the participant may make only 1
19 such election.”.

20 (b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DE-
21 FERRAL AMOUNT.—Subsection (e) of section 457, as
22 amended by section 1444(b)(2) (relating to governmental
23 plans), is amended by adding at the end the following new
24 paragraph:

1 “(15) COST-OF-LIVING ADJUSTMENT OF MAXI-
 2 MUM DEFERRAL AMOUNT.—The Secretary shall ad-
 3 just the \$7,500 amount specified in subsections
 4 (b)(2) and (c)(1) at the same time and in the same
 5 manner as under section 415(d), except that the
 6 base period shall be the calendar quarter ending
 7 September 30, 1994, and any increase under this
 8 paragraph which is not a multiple of \$500 shall be
 9 rounded to the next lowest multiple of \$500.”.

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to taxable years beginning after
 12 December 31, 1996.

13 **SEC. 1448. TRUST REQUIREMENT FOR DEFERRED COM-**
 14 **PENSATION PLANS OF STATE AND LOCAL**
 15 **GOVERNMENTS.**

16 (a) IN GENERAL.—Section 457 is amended by adding
 17 at the end the following new subsection:

18 “(g) GOVERNMENTAL PLANS MUST MAINTAIN SET-
 19 ASIDES FOR EXCLUSIVE BENEFIT OF PARTICIPANTS.—

20 “(1) IN GENERAL.—A plan maintained by an
 21 eligible employer described in subsection (e)(1)(A)
 22 shall not be treated as an eligible deferred com-
 23 pensation plan unless all assets and income of the
 24 plan described in subsection (b)(6) are held in trust

1 for the exclusive benefit of participants and their
2 beneficiaries.

3 “(2) TAXABILITY OF TRUSTS AND PARTICI-
4 PANTS.—For purposes of this title—

5 “(A) a trust described in paragraph (1)
6 shall be treated as an organization exempt from
7 taxation under section 501(a), and

8 “(B) notwithstanding any other provision
9 of this title, amounts in the trust shall be in-
10 cludible in the gross income of participants and
11 beneficiaries only to the extent, and at the time,
12 provided in this section.

13 “(3) CUSTODIAL ACCOUNTS AND CONTRACTS.—
14 For purposes of this subsection, custodial accounts
15 and contracts described in section 401(f) shall be
16 treated as trusts under rules similar to the rules
17 under section 401(f).”.

18 (b) CONFORMING AMENDMENT.—Paragraph (6) of
19 section 457(b) is amended by inserting “except as pro-
20 vided in subsection (g),” before “which provides that”.

21 (c) EFFECTIVE DATES.—

22 (1) IN GENERAL.—Except as provided in para-
23 graph (2), the amendments made by this section
24 shall apply to assets and income described in section
25 457(b)(6) of the Internal Revenue Code of 1986

1 held by a plan on and after the date of the enact-
2 ment of this Act.

3 (2) TRANSITION RULE.—In the case of assets
4 and income described in paragraph (1) held by a
5 plan on the date of the enactment of this Act, a
6 trust need not be established by reason of the
7 amendments made by this section before January 1,
8 1999.

9 **SEC. 1449. TRANSITION RULE FOR COMPUTING MAXIMUM**
10 **BENEFITS UNDER SECTION 415 LIMITATIONS.**

11 (a) IN GENERAL.—Subparagraph (A) of section
12 767(d)(3) of the Uruguay Round Agreements Act is
13 amended to read as follows:

14 “(A) EXCEPTION.—A plan that was adopt-
15 ed and in effect before December 8, 1994, shall
16 not be required to apply the amendments made
17 by subsection (b) with respect to benefits ac-
18 crued before the earlier of—

19 “(i) the later of the date a plan
20 amendment applying such amendment is
21 adopted or made effective, or

22 “(ii) the first day of the first limita-
23 tion year beginning after December 31,
24 1999.

1 Determinations under section 415(b)(2)(E) of
2 the Internal Revenue Code of 1986 before such
3 earlier date shall be made with respect to such
4 benefits on the basis of such section as in effect
5 on December 7, 1994 (except that the modifica-
6 tion made by section 1449(b) of the Small
7 Business Job Protection Act of 1996 shall be
8 taken into account), and the provisions of the
9 plan as in effect on December 7, 1994, but only
10 if such provisions of the plan meet the require-
11 ments of such section (as so in effect).”.

12 (b) MODIFICATION OF CERTAIN ASSUMPTIONS FOR
13 ADJUSTING BENEFITS OF DEFINED BENEFIT PLANS FOR
14 EARLY RETIREES.—Subparagraph (E) of section
15 415(b)(2) (relating to limitation on certain assumptions)
16 is amended—

17 (1) by striking “Except as provided in clause
18 (ii), for purposes of adjusting any benefit or limita-
19 tion under subparagraph (B) or (C),” in clause (i)
20 and inserting “For purposes of adjusting any limita-
21 tion under subparagraph (C) and, except as provided
22 in clause (ii), for purposes of adjusting any benefit
23 under subparagraph (B),”, and

24 (2) by striking “For purposes of adjusting the
25 benefit or limitation of any form of benefit subject

1 to section 417(e)(3),” in clause (ii) and inserting
2 “For purposes of adjusting any benefit under sub-
3 paragraph (B) for any form of benefit subject to sec-
4 tion 417(e)(3),”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall take effect as if included in the provisions
7 of section 767 of the Uruguay Round Agreements Act.

8 (d) TRANSITIONAL RULE.—In the case of a plan that
9 was adopted and in effect before December 8, 1994, if—

10 (1) a plan amendment was adopted or made ef-
11 fective on or before the date of the enactment of this
12 Act applying the amendments made by section 767
13 of the Uruguay Round Agreements Act, and

14 (2) within 1 year after the date of the enact-
15 ment of this Act, a plan amendment is adopted
16 which repeals the amendment referred to in para-
17 graph (1),

18 the amendment referred to in paragraph (1) shall not be
19 taken into account in applying section 767(d)(3)(A) of the
20 Uruguay Round Agreements Act, as amended by sub-
21 section (a).

22 **SEC. 1450. MODIFICATIONS OF SECTION 403(b).**

23 (a) MULTIPLE SALARY REDUCTION AGREEMENTS
24 PERMITTED.—

1 (1) GENERAL RULE.—For purposes of section
2 403(b) of the Internal Revenue Code of 1986, the
3 frequency that an employee is permitted to enter
4 into a salary reduction agreement, the salary to
5 which such an agreement may apply, and the ability
6 to revoke such an agreement shall be determined
7 under the rules applicable to cash or deferred elec-
8 tions under section 401(k) of such Code.

9 (2) EFFECTIVE DATE.—This subsection shall
10 apply to taxable years beginning after December 31,
11 1995.

12 (b) TREATMENT OF INDIAN TRIBAL GOVERN-
13 MENTS.—

14 (1) IN GENERAL.—In the case of any contract
15 purchased in a plan year beginning before January
16 1, 1995, section 403(b) of the Internal Revenue
17 Code of 1986 shall be applied as if any reference to
18 an employer described in section 501(c)(3) of the In-
19 ternal Revenue Code of 1986 which is exempt from
20 tax under section 501 of such Code included a ref-
21 erence to an employer which is an Indian tribal gov-
22 ernment (as defined by section 7701(a)(40) of such
23 Code), a subdivision of an Indian tribal government
24 (determined in accordance with section 7871(d) of
25 such Code), an agency or instrumentality of an In-

1 dian tribal government or subdivision thereof, or a
 2 corporation chartered under Federal, State, or tribal
 3 law which is owned in whole or in part by any of the
 4 foregoing.

5 (2) ROLLOVERS.—Solely for purposes of apply-
 6 ing section 403(b)(8) of such Code to a contract to
 7 which paragraph (1) applies, a qualified cash or de-
 8 ferred arrangement under section 401(k) of such
 9 Code shall be treated as if it were a plan or contract
 10 described in clause (ii) of section 403(b)(8)(A) of
 11 such Code.

12 (c) ELECTIVE DEFERRALS.—

13 (1) IN GENERAL.—Subparagraph (E) of section
 14 403(b)(1) is amended to read as follows:

15 “(E) in the case of a contract purchased
 16 under a salary reduction agreement, the con-
 17 tract meets the requirements of section
 18 401(a)(30),”.

19 (2) EFFECTIVE DATE.—The amendment made
 20 by this subsection shall apply to years beginning
 21 after December 31, 1995, except a contract shall not
 22 be required to meet any change in any requirement
 23 by reason of such amendment before the 90th day
 24 after the date of the enactment of this Act.

1 **SEC. 1451. WAIVER OF MINIMUM PERIOD FOR JOINT AND**
2 **SURVIVOR ANNUITY EXPLANATION BEFORE**
3 **ANNUITY STARTING DATE.**

4 (a) GENERAL RULE.—For purposes of section
5 417(a)(3)(A) of the Internal Revenue Code of 1986 (relat-
6 ing to plan to provide written explanations), the minimum
7 period prescribed by the Secretary of the Treasury be-
8 tween the date that the explanation referred to in such
9 section is provided and the annuity starting date shall not
10 apply if waived by the participant and, if applicable, the
11 participant's spouse.

12 (b) EFFECTIVE DATE.—Subsection (a) shall apply to
13 plan years beginning after December 31, 1996.

14 **SEC. 1452. REPEAL OF LIMITATION IN CASE OF DEFINED**
15 **BENEFIT PLAN AND DEFINED CONTRIBUTION**
16 **PLAN FOR SAME EMPLOYEE; EXCESS DIS-**
17 **TRIBUTIONS.**

18 (a) IN GENERAL.—Section 415(e) is repealed.

19 (b) EXCESS DISTRIBUTIONS.—Section 4980A is
20 amended by adding at the end the following new sub-
21 section:

22 “(g) LIMITATION ON APPLICATION.—This section
23 shall not apply to distributions during years beginning
24 after December 31, 1995, and before January 1, 1999,
25 and such distributions shall be treated as made first from
26 amounts not described in subsection (f).”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) Paragraph (1) of section 415(a) is amend-
3 ed—

4 (A) by adding “or” at the end of subpara-
5 graph (A),

6 (B) by striking “, or” at the end of sub-
7 paragraph (B) and inserting a period, and

8 (C) by striking subparagraph (C).

9 (2) Subparagraph (B) of section 415(b)(5) is
10 amended by striking “and subsection (e)”.

11 (3) Paragraph (1) of section 415(f) is amended
12 by striking “subsections (b), (c), and (e)” and in-
13 serting “subsections (b) and (c)”.

14 (4) Subsection (g) of section 415 is amended by
15 striking “subsections (e) and (f)” in the last sen-
16 tence and inserting “subsection (f)”.

17 (5) Clause (i) of section 415(k)(2)(A) is amend-
18 ed to read as follows:

19 “(i) any contribution made directly by
20 an employee under such an arrangement
21 shall not be treated as an annual addition
22 for purposes of subsection (c), and”.

23 (6) Clause (ii) of section 415(k)(2)(A) is
24 amended by striking “subsections (c) and (e)” and
25 inserting “subsection (c)”.

1 (7) Section 416 is amended by striking sub-
2 section (h).

3 (d) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), the amendments made by this section
6 shall apply to limitation years beginning after De-
7 cember 31, 1998.

8 (2) EXCESS DISTRIBUTIONS.—The amendment
9 made by subsection (b) shall apply to years begin-
10 ning after December 31, 1995.

11 **SEC. 1453. TAX ON PROHIBITED TRANSACTIONS.**

12 (a) IN GENERAL.—Section 4975(a) is amended by
13 striking “5 percent” and inserting “10 percent”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to prohibited transactions occur-
16 ring after the date of the enactment of this Act.

17 **SEC. 1454. TREATMENT OF LEASED EMPLOYEES.**

18 (a) GENERAL RULE.—Subparagraph (C) of section
19 414(n)(2) (defining leased employee) is amended to read
20 as follows:

21 “(C) such services are performed under
22 primary direction or control by the recipient.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 subsection (a) shall apply to years beginning after Decem-
25 ber 31, 1996, but shall not apply to any relationship deter-

1 mined under an Internal Revenue Service ruling issued be-
 2 fore the date of the enactment of this Act pursuant to
 3 section 414(n)(2)(C) of the Internal Revenue Code of
 4 1986 (as in effect on the day before such date) not to
 5 involve a leased employee.

6 **SEC. 1455. UNIFORM PENALTY PROVISIONS TO APPLY TO**
 7 **CERTAIN PENSION REPORTING REQUIRE-**
 8 **MENTS.**

9 (a) PENALTIES.—

10 (1) STATEMENTS.—Paragraph (1) of section
 11 6724(d) is amended by striking “and” at the end of
 12 subparagraph (A), by striking the period at the end
 13 of subparagraph (B) and inserting “, and”, and by
 14 inserting after subparagraph (B) the following new
 15 subparagraph:

16 “(C) any statement of the amount of pay-
 17 ments to another person required to be made to
 18 the Secretary under—

19 “(i) section 408(i) (relating to reports
 20 with respect to individual retirement ac-
 21 counts or annuities), or

22 “(ii) section 6047(d) (relating to re-
 23 ports by employers, plan administrators,
 24 etc.).”.

1 (2) REPORTS.—Paragraph (2) of section
 2 6724(d), as amended by section 1116, is amended
 3 by striking “or” at the end of subparagraph (T), by
 4 striking the period at the end of subparagraph (U)
 5 and inserting a comma, and by inserting after sub-
 6 paragraph (U) the following new subparagraphs:

7 “(V) section 408(i) (relating to reports
 8 with respect to individual retirement plans) to
 9 any person other than the Secretary with re-
 10 spect to the amount of payments made to such
 11 person, or

12 “(W) section 6047(d) (relating to reports
 13 by plan administrators) to any person other
 14 than the Secretary with respect to the amount
 15 of payments made to such person.”.

16 (b) MODIFICATION OF REPORTABLE DESIGNATED
 17 DISTRIBUTIONS.—

18 (1) SECTION 408.—Subsection (i) of section 408
 19 (relating to individual retirement account reports) is
 20 amended by inserting “aggregating \$10 or more in
 21 any calendar year” after “distributions”.

22 (2) SECTION 6047.—Paragraph (1) of section
 23 6047(d) (relating to reports by employers, plan ad-
 24 ministrators, etc.) is amended by adding at the end
 25 the following new sentence: “No return or report

1 may be required under the preceding sentence with
 2 respect to distributions to any person during any
 3 year unless such distributions aggregate \$10 or
 4 more.”.

5 (c) QUALIFYING ROLLOVER DISTRIBUTIONS.—Sec-
 6 tion 6652(i) is amended—

7 (1) by striking “the \$10” and inserting
 8 “\$100”, and

9 (2) by striking “\$5,000” and inserting
 10 “\$50,000”.

11 (d) CONFORMING AMENDMENTS.—

12 (1) Paragraph (1) of section 6047(f) is amend-
 13 ed to read as follows:

**“(1) For provisions relating to penalties for fail-
 ures to file returns and reports required under this
 section, see sections 6652(e), 6721, and 6722.”.**

14 (2) Subsection (e) of section 6652 is amended
 15 by adding at the end the following new sentence:
 16 “This subsection shall not apply to any return or
 17 statement which is an information return described
 18 in section 6724(d)(1)(C)(ii) or a payee statement de-
 19 scribed in section 6724(d)(2)(W).”.

20 (3) Subsection (a) of section 6693 is amended
 21 by adding at the end the following new sentence:
 22 “This subsection shall not apply to any report which
 23 is an information return described in section

1 6724(d)(1)(C)(i) or a payee statement described in
2 section 6724(d)(2)(V).”.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to returns, reports, and other
5 statements the due date for which (determined without re-
6 gard to extensions) is after December 31, 1996.

7 **SEC. 1456. RETIREMENT BENEFITS OF MINISTERS NOT SUB-**
8 **JECT TO TAX ON NET EARNINGS FROM SELF-**
9 **EMPLOYMENT.**

10 (a) IN GENERAL.—Section 1402(a)(8) (defining net
11 earning from self-employment) is amended by inserting “,
12 but shall not include in such net earnings from self-em-
13 ployment the rental value of any parsonage (whether or
14 not excludable under section 107) provided after the indi-
15 vidual retires, or any other retirement benefit received by
16 such individual from a church plan (as defined in section
17 414(e)) after the individual retires” before the semicolon
18 at the end.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to years beginning before, on, or
21 after December 31, 1994.

22 **SEC. 1457. DATE FOR ADOPTION OF PLAN AMENDMENTS.**

23 If any amendment made by this subtitle requires an
24 amendment to any plan or annuity contract, such amend-
25 ment shall not be required to be made before the first day

1 of the first plan year beginning on or after January 1,
2 1997, if—

3 (1) during the period after such amendment
4 takes effect and before such first plan year, the plan
5 or contract is operated in accordance with the re-
6 quirements of such amendment, and

7 (2) such amendment applies retroactively to
8 such period.

9 In the case of a governmental plan (as defined in section
10 414(d) of the Internal Revenue Code of 1986), this section
11 shall be applied by substituting “1999” for “1997”.

12 **Subtitle E—Foreign Simplification**

13 **SEC. 1501. REPEAL OF INCLUSION OF CERTAIN EARNINGS** 14 **INVESTED IN EXCESS PASSIVE ASSETS.**

15 (a) IN GENERAL.—

16 (1) REPEAL OF INCLUSION.—Paragraph (1) of
17 section 951(a) (relating to amounts included in
18 gross income of United States shareholders) is
19 amended by striking subparagraph (C), by striking
20 “; and” at the end of subparagraph (B) and insert-
21 ing a period, and by adding “and” at the end of
22 subparagraph (A).

23 (2) REPEAL OF INCLUSION AMOUNT.—Section
24 956A (relating to earnings invested in excess passive
25 assets) is repealed.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Paragraph (1) of section 956(b) is amended
3 to read as follows:

4 “(1) APPLICABLE EARNINGS.—For purposes of
5 this section, the term ‘applicable earnings’ means,
6 with respect to any controlled foreign corporation,
7 the sum of—

8 “(A) the amount (not including a deficit)
9 referred to in section 316(a)(1), and

10 “(B) the amount referred to in section
11 316(a)(2),

12 but reduced by distributions made during the tax-
13 able year.”.

14 (2) Paragraph (3) of section 956(b) is amended
15 to read as follows:

16 “(3) SPECIAL RULE WHERE CORPORATION
17 CEASES TO BE CONTROLLED FOREIGN CORPORA-
18 TION.—If any foreign corporation ceases to be a
19 controlled foreign corporation during any taxable
20 year—

21 “(A) the determination of any United
22 States shareholder’s pro rata share shall be
23 made on the basis of stock owned (within the
24 meaning of section 958(a)) by such shareholder
25 on the last day during the taxable year on

1 which the foreign corporation is a controlled
2 foreign corporation,

3 “(B) the average referred to in subsection
4 (a)(1)(A) for such taxable year shall be deter-
5 mined by only taking into account quarters end-
6 ing on or before such last day, and

7 “(C) in determining applicable earnings,
8 the amount taken into account by reason of
9 being described in paragraph (2) of section
10 316(a) shall be the portion of the amount so
11 described which is allocable (on a pro rata
12 basis) to the part of such year during which the
13 corporation is a controlled foreign corpora-
14 tion.”.

15 (3) Subsection (a) of section 959 (relating to
16 exclusion from gross income of previously taxed
17 earnings and profits) is amended by adding “or” at
18 the end of paragraph (1), by striking “or” at the
19 end of paragraph (2), and by striking paragraph (3).

20 (4) Subsection (a) of section 959 is amended by
21 striking “paragraphs (2) and (3)” in the last sen-
22 tence and inserting “paragraph (2)”.

23 (5) Subsection (c) of section 959 is amended by
24 adding at the end the following flush sentence:

1 “References in this subsection to section 951(a)(1)(C) and
2 subsection (a)(3) shall be treated as references to such
3 provisions as in effect on the day before the date of the
4 enactment of the Small Business Job Protection Act of
5 1996.”.

6 (6) Paragraph (1) of section 959(f) is amended
7 to read as follows:

8 “(1) IN GENERAL.—For purposes of this sec-
9 tion, amounts that would be included under subpara-
10 graph (B) of section 951(a)(1) (determined without
11 regard to this section) shall be treated as attrib-
12 utable first to earnings described in subsection
13 (c)(2), and then to earnings described in subsection
14 (c)(3).”.

15 (7) Paragraph (2) of section 959(f) is amended
16 by striking “subparagraphs (B) and (C) of section
17 951(a)(1)” and inserting “section 951(a)(1)(B)”.

18 (8) Subsection (b) of section 989 is amended by
19 striking “subparagraph (B) or (C) of section
20 951(a)(1)” and inserting “section 951(a)(1)(B)”.

21 (9) Paragraph (9) of section 1297(b) is amend-
22 ed by striking “subparagraph (B) or (C) of section
23 951(a)(1)” and inserting “section 951(a)(1)(B)”.

1 (10) Subsections (d)(3)(B) and (e)(2)(B)(ii) of
 2 section 1297 are each amended by striking “or sec-
 3 tion 956A”.

4 (c) CLERICAL AMENDMENT.—The table of sections
 5 for subpart F of part III of subchapter N of chapter 1
 6 is amended by striking the item relating to section 956A.

7 (d) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to taxable years of foreign corpora-
 9 tions beginning after December 31, 1996, and to taxable
 10 years of United States shareholders within which or with
 11 which such taxable years of foreign corporations end.

12 **Subtitle F—Revenue Offsets**

13 **SEC. 1601. TERMINATION OF PUERTO RICO AND POSSES-** 14 **SION TAX CREDIT.**

15 (a) IN GENERAL.—Section 936 is amended by adding
 16 at the end the following new subsection:

17 “(j) TERMINATION.—

18 “(1) IN GENERAL.—Except as otherwise pro-
 19 vided in this subsection, this section shall not apply
 20 to any taxable year beginning after December 31,
 21 1995.

22 “(2) TRANSITION RULES FOR ACTIVE BUSINESS
 23 INCOME CREDIT.—Except as provided in paragraph
 24 (3)—

1 “(A) ECONOMIC ACTIVITY CREDIT.—In the
2 case of an existing credit claimant—

3 “(i) with respect to a possession other
4 than Puerto Rico, and

5 “(ii) to which subsection (a)(4)(B)
6 does not apply,

7 the credit determined under subsection
8 (a)(1)(A) shall be allowed for taxable years be-
9 ginning after December 31, 1995, and before
10 January 1, 2002.

11 “(B) SPECIAL RULE FOR REDUCED CRED-
12 IT.—

13 “(i) IN GENERAL.—In the case of an
14 existing credit claimant to which sub-
15 section (a)(4)(B) applies, the credit deter-
16 mined under subsection (a)(1)(A) shall be
17 allowed for taxable years beginning after
18 December 31, 1995, and before January 1,
19 1998.

20 “(ii) ELECTION IRREVOCABLE AFTER
21 1997.—An election under subsection
22 (a)(4)(B)(iii) which is in effect for the tax-
23 payer’s last taxable year beginning before
24 1997 may not be revoked unless it is re-
25 voked for the taxpayer’s first taxable year

1 beginning in 1997 and all subsequent tax-
2 able years.

3 “(C) ECONOMIC ACTIVITY CREDIT FOR
4 PUERTO RICO.—

“For economic activity credit for Puerto Rico, see
section 30A.

5 “(3) ADDITIONAL RESTRICTED CREDIT.—

6 “(A) IN GENERAL.—In the case of an ex-
7 isting credit claimant—

8 “(i) the credit under subsection
9 (a)(1)(A) shall be allowed for the period
10 beginning with the first taxable year after
11 the last taxable year to which subpara-
12 graph (A) or (B) of paragraph (2), which-
13 ever is appropriate, applied and ending
14 with the last taxable year beginning before
15 January 1, 2006, except that

16 “(ii) the aggregate amount of taxable
17 income taken into account under sub-
18 section (a)(1)(A) for any such taxable year
19 shall not exceed the adjusted base period
20 income of such claimant.

21 “(B) COORDINATION WITH SUBSECTION
22 (a)(4).—The amount of income described in sub-
23 section (a)(1)(A) which is taken into account in

1 applying subsection (a)(4) shall be such income
2 as reduced under this paragraph.

3 “(4) ADJUSTED BASE PERIOD INCOME.—For
4 purposes of paragraph (3)—

5 “(A) IN GENERAL.—The term ‘adjusted
6 base period income’ means the average of the
7 inflation-adjusted possession incomes of the cor-
8 poration for each base period year.

9 “(B) INFLATION-ADJUSTED POSSESSION
10 INCOME.—For purposes of subparagraph (A),
11 the inflation-adjusted possession income of any
12 corporation for any base period year shall be an
13 amount equal to the sum of—

14 “(i) the possession income of such
15 corporation for such base period year, plus

16 “(ii) such possession income multi-
17 plied by the inflation adjustment percent-
18 age for such base period year.

19 “(C) INFLATION ADJUSTMENT PERCENT-
20 AGE.—For purposes of subparagraph (B), the
21 inflation adjustment percentage for any base
22 period year means the percentage (if any) by
23 which—

24 “(i) the CPI for 1995, exceeds

1 “(ii) the CPI for the calendar year in
2 which the base period year for which the
3 determination is being made ends.

4 For purposes of the preceding sentence, the
5 CPI for any calendar year is the CPI (as de-
6 fined in section 1(f)(5)) for such year under
7 section 1(f)(4).

8 “(D) INCREASE IN INFLATION ADJUST-
9 MENT PERCENTAGE FOR GROWTH DURING BASE
10 YEARS.—The inflation adjustment percentage
11 (determined under subparagraph (C) without
12 regard to this subparagraph) for each of the 5
13 taxable years referred to in paragraph (5)(A)
14 shall be increased by—

15 “(i) 5 percentage points in the case of
16 a taxable year ending during the 1-year pe-
17 riod ending on October 13, 1995;

18 “(ii) 10.25 percentage points in the
19 case of a taxable year ending during the 1-
20 year period ending on October 13, 1994;

21 “(iii) 15.76 percentage points in the
22 case of a taxable year ending during the 1-
23 year period ending on October 13, 1993;

24 “(iv) 21.55 percentage points in the
25 case of a taxable year ending during the 1-

1 year period ending on October 13, 1992;
2 and

3 “(v) 27.63 percentage points in the
4 case of a taxable year ending during the 1-
5 year period ending on October 13, 1991.

6 “(5) BASE PERIOD YEAR.—For purposes of this
7 subsection—

8 “(A) IN GENERAL.—The term ‘base period
9 year’ means each of 3 taxable years which are
10 among the 5 most recent taxable years of the
11 corporation ending before October 14, 1995, de-
12 termined by disregarding—

13 “(i) one taxable year for which the
14 corporation had the largest inflation-ad-
15 justed possession income, and

16 “(ii) one taxable year for which the
17 corporation had the smallest inflation-ad-
18 justed possession income.

19 “(B) CORPORATIONS NOT HAVING SIGNIFI-
20 CANT POSSESSION INCOME THROUGHOUT 5-
21 YEAR PERIOD.—

22 “(i) IN GENERAL.—If a corporation
23 does not have significant possession income
24 for each of the most recent 5 taxable years
25 ending before October 14, 1995, then, in

1 lieu of applying subparagraph (A), the
2 term ‘base period year’ means only those
3 taxable years (of such 5 taxable years) for
4 which the corporation has significant pos-
5 session income; except that, if such cor-
6 poration has significant possession income
7 for 4 of such 5 taxable years, the rule of
8 subparagraph (A)(ii) shall apply.

9 “(ii) SPECIAL RULE.—If there is no
10 year (of such 5 taxable years) for which a
11 corporation has significant possession in-
12 come—

13 “(I) the term ‘base period year’
14 means the first taxable year ending on
15 or after October 14, 1995, but

16 “(II) the amount of possession
17 income for such year which is taken
18 into account under paragraph (4)
19 shall be the amount which would be
20 determined if such year were a short
21 taxable year ending on September 30,
22 1995.

23 “(iii) SIGNIFICANT POSSESSION IN-
24 COME.—For purposes of this subpara-
25 graph, the term ‘significant possession in-

1 come’ means possession income which ex-
2 ceeds 2 percent of the possession income of
3 the taxpayer for the taxable year (of the
4 period of 6 taxable years ending with the
5 first taxable year ending on or after Octo-
6 ber 14, 1995) having the greatest posses-
7 sion income.

8 “(C) ELECTION TO USE ONE BASE PERIOD
9 YEAR.—

10 “(i) IN GENERAL.—At the election of
11 the taxpayer, the term ‘base period year’
12 means—

13 “(I) only the last taxable year of
14 the corporation ending in calendar
15 year 1992, or

16 “(II) a deemed taxable year
17 which includes the first ten months of
18 calendar year 1995.

19 “(ii) BASE PERIOD INCOME FOR
20 1995.—In determining the adjusted base
21 period income of the corporation for the
22 deemed taxable year under clause (i)(II),
23 the possession income shall be annualized
24 and shall be determined without regard to
25 any extraordinary item.

1 “(iii) ELECTION.—An election under
2 this subparagraph by any possession cor-
3 poration may be made only for the cor-
4 poration’s first taxable year beginning
5 after December 31, 1995, for which it is a
6 possession corporation. The rules of sub-
7 clauses (II) and (III) of subsection
8 (a)(4)(B)(iii) shall apply to the election
9 under this subparagraph.

10 “(D) ACQUISITIONS AND DISPOSITIONS.—
11 Rules similar to the rules of subparagraphs (A)
12 and (B) of section 41(f)(3) shall apply for pur-
13 poses of this subsection.

14 “(6) POSSESSION INCOME.—For purposes of
15 this subsection, the term ‘possession income’ means,
16 with respect to any possession, the income referred
17 to in subsection (a)(1)(A) determined with respect to
18 that possession. In no event shall possession income
19 be treated as being less than zero.

20 “(7) SHORT YEARS.—If the current year or a
21 base period year is a short taxable year, the applica-
22 tion of this subsection shall be made with such
23 annualizations as the Secretary shall prescribe.

24 “(8) SPECIAL RULES FOR CERTAIN POSSES-
25 SIONS.—

1 “(A) IN GENERAL.—In the case of an ex-
2 isting credit claimant with respect to an appli-
3 cable possession, this section (other than the
4 preceding paragraphs of this subsection) shall
5 apply to such claimant with respect to such ap-
6 plicable possession for taxable years beginning
7 after December 31, 1995, and before January
8 1, 2006.

9 “(B) APPLICABLE POSSESSION.—For pur-
10 poses of this paragraph, the term ‘applicable
11 possession’ means Guam, American Samoa, and
12 the Commonwealth of the Northern Mariana Is-
13 lands.

14 “(9) EXISTING CREDIT CLAIMANT.—For pur-
15 poses of this subsection—

16 “(A) IN GENERAL.—The term ‘existing
17 credit claimant’ means a corporation—

18 “(i) which was actively conducting a
19 trade or business in a possession on Octo-
20 ber 13, 1995, and

21 “(ii) with respect to which an election
22 under this section is in effect for the cor-
23 poration’s taxable year which includes Oc-
24 tober 13, 1995.

1 “(B) NEW LINES OF BUSINESS PROHIB-
2 ITED.—If, after October 13, 1995, a corpora-
3 tion which would (but for this subparagraph) be
4 an existing credit claimant adds a substantial
5 new line of business, such corporation shall
6 cease to be treated as an existing credit claim-
7 ant as of the close of the taxable year ending
8 before the date of such addition.

9 “(C) BINDING CONTRACT EXCEPTION.—If,
10 on October 13, 1995, and at all times there-
11 after, there is in effect with respect to a cor-
12 poration a binding contract for the acquisition
13 of assets to be used in, or for the sale of assets
14 to be produced from, a trade or business, the
15 corporation shall be treated for purposes of this
16 paragraph as actively conducting such trade or
17 business on October 13, 1995. The preceding
18 sentence shall not apply if such trade or busi-
19 ness is not actively conducted before January 1,
20 1996.

21 “(10) SEPARATE APPLICATION TO EACH POS-
22 SESSION.—For purposes of determining—

23 “(A) whether a taxpayer is an existing
24 credit claimant, and

1 “(B) the amount of the credit allowed
2 under this section,
3 this subsection (and so much of this section as re-
4 lates to this subsection) shall be applied separately
5 with respect to each possession.”.

6 (b) ECONOMIC ACTIVITY CREDIT FOR PUERTO
7 RICO.—

8 (1) IN GENERAL.—Subpart B of part IV of
9 subchapter A of chapter 1 is amended by adding at
10 the end the following new section:

11 **“SEC. 30A. PUERTO RICAN ECONOMIC ACTIVITY CREDIT.**

12 “(a) ALLOWANCE OF CREDIT.—

13 “(1) IN GENERAL.—Except as otherwise pro-
14 vided in this section, if the conditions of both para-
15 graph (1) and paragraph (2) of subsection (b) are
16 satisfied with respect to a qualified domestic cor-
17 poration, there shall be allowed as a credit against
18 the tax imposed by this chapter an amount equal to
19 the portion of the tax which is attributable to the
20 taxable income, from sources without the United
21 States, from—

22 “(A) the active conduct of a trade or busi-
23 ness within Puerto Rico, or

1 “(B) the sale or exchange of substantially
2 all of the assets used by the taxpayer in the ac-
3 tive conduct of such trade or business.

4 In the case of any taxable year beginning after De-
5 cember 31, 2001, the aggregate amount of taxable
6 income taken into account under the preceding sen-
7 tence (and in applying subsection (d)) shall not ex-
8 ceed the adjusted base period income of such cor-
9 poration, as determined in the same manner as
10 under section 936(j).

11 “(2) QUALIFIED DOMESTIC CORPORATION.—
12 For purposes of paragraph (1), the term ‘qualified
13 domestic corporation’ means a domestic corpora-
14 tion—

15 “(A) which is an existing credit claimant
16 with respect to Puerto Rico, and

17 “(B) with respect to which section
18 936(a)(4)(B) does not apply for the taxable
19 year.

20 “(3) SEPARATE APPLICATION.—For purposes of
21 determining—

22 “(A) whether a taxpayer is an existing
23 credit claimant with respect to Puerto Rico, and

24 “(B) the amount of the credit allowed
25 under this section,

1 this section (and so much of section 936 as relates
2 to this section) shall be applied separately with re-
3 spect to Puerto Rico.

4 “(b) CONDITIONS WHICH MUST BE SATISFIED.—
5 The conditions referred to in subsection (a) are—

6 “(1) 3-YEAR PERIOD.—If 80 percent or more of
7 the gross income of the qualified domestic corpora-
8 tion for the 3-year period immediately preceding the
9 close of the taxable year (or for such part of such
10 period immediately preceding the close of such tax-
11 able year as may be applicable) was derived from
12 sources within a possession (determined without re-
13 gard to section 904(f)).

14 “(2) TRADE OR BUSINESS.—If 75 percent or
15 more of the gross income of the qualified domestic
16 corporation for such period or such part thereof was
17 derived from the active conduct of a trade or busi-
18 ness within a possession.

19 “(c) CREDIT NOT ALLOWED AGAINST CERTAIN
20 TAXES.—The credit provided by subsection (a) shall not
21 be allowed against the tax imposed by—

22 “(1) section 59A (relating to environmental
23 tax),

24 “(2) section 531 (relating to the tax on accu-
25 mulated earnings),

1 “(3) section 541 (relating to personal holding
2 company tax), or

3 “(4) section 1351 (relating to recoveries of for-
4 eign expropriation losses).

5 “(d) LIMITATIONS ON CREDIT FOR ACTIVE BUSI-
6 NESS INCOME.—The amount of the credit determined
7 under subsection (a) for any taxable year shall not exceed
8 the sum of the following amounts:

9 “(1) 60 percent of the sum of—

10 “(A) the aggregate amount of the qualified
11 domestic corporation’s qualified possession
12 wages for such taxable year, plus

13 “(B) the allocable employee fringe benefit
14 expenses of the qualified domestic corporation
15 for such taxable year.

16 “(2) The sum of—

17 “(A) 15 percent of the depreciation allow-
18 ances for the taxable year with respect to short-
19 life qualified tangible property,

20 “(B) 40 percent of the depreciation allow-
21 ances for the taxable year with respect to me-
22 dium-life qualified tangible property, and

23 “(C) 65 percent of the depreciation allow-
24 ances for the taxable year with respect to long-
25 life qualified tangible property.

1 “(3) If the qualified domestic corporation does
2 not have an election to use the method described in
3 section 936(h)(5)(C)(ii) (relating to profit split) in
4 effect for the taxable year, the amount of the quali-
5 fied possession income taxes for the taxable year al-
6 locable to nonsheltered income.

7 “(e) ADMINISTRATIVE PROVISIONS.—For purposes of
8 this title—

9 “(1) the provisions of section 936 (including
10 any applicable election thereunder) shall apply in the
11 same manner as if the credit under this section were
12 a credit under section 936(a)(1)(A) for a domestic
13 corporation to which section 936(a)(4)(A) applies,

14 “(2) the credit under this section shall be treat-
15 ed in the same manner as the credit under section
16 936, and

17 “(3) a corporation to which this section applies
18 shall be treated in the same manner as if it were a
19 corporation electing the application of section 936.

20 “(f) DEFINITIONS.—For purposes of this section, any
21 term used in this section which is also used in section 936
22 shall have the same meaning given such term by section
23 936.

1 “(g) APPLICATION OF SECTION.—This section shall
 2 apply to taxable years beginning after December 31, 1995,
 3 and before January 1, 2006.”.

4 (2) CONFORMING AMENDMENTS.—

5 (A) Paragraph (1) of section 55(c) is
 6 amended by striking “and the section 936 cred-
 7 it allowable under section 27(b)” and inserting
 8 “, the section 936 credit allowable under section
 9 27(b), and the Puerto Rican economic activity
 10 credit under section 30A”.

11 (B) Subclause (I) of section 56(g)(4)(C)(ii)
 12 is amended—

13 (i) by inserting “30A,” before “936”,
 14 and

15 (ii) by striking “and (i)” and inserting
 16 “, (i), and (j)”.

17 (C) Clause (iii) of section 56(g)(4)(C) is
 18 amended by adding at the end the following
 19 new subclause:

20 “(VI) APPLICATION TO SECTION
 21 30A CORPORATIONS.—References in
 22 this clause to section 936 shall be
 23 treated as including references to sec-
 24 tion 30A.”.

1 (D) Subsection (b) of section 59 is amend-
 2 ed by striking “section 936,” and all that fol-
 3 lows and inserting “section 30A or 936, alter-
 4 native minimum taxable income shall not in-
 5 clude any income with respect to which a credit
 6 is determined under section 30A or 936.”.

7 (E) The table of sections for subpart B of
 8 part IV of subchapter A of chapter 1 is amend-
 9 ed by adding at the end the following new item:

“Sec. 30A. Puerto Rican economic activity credit.”.

10 (F)(i) The heading for subpart B of part
 11 IV of subchapter A of chapter 1 is amended to
 12 read as follows:

13 **“Subpart B—Other Credits”.**

14 (ii) The table of subparts for part IV of
 15 subchapter A of chapter 1 is amended by strik-
 16 ing the item relating to subpart B and inserting
 17 the following new item:

“Subpart B. Other credits.”.

18 (c) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to taxable years beginning after
 20 December 31, 1995.

1 **SEC. 1602. REPEAL OF EXCLUSION FOR INTEREST ON**
2 **LOANS USED TO ACQUIRE EMPLOYER SECURITIES.**
3 **RITIES.**

4 (a) IN GENERAL.—Section 133 (relating to interest
5 on certain loans used to acquire employer securities) is
6 hereby repealed.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Subparagraph (B) of section 291(e)(1) is
9 amended by striking clause (iv) and by redesignating
10 clause (v) as clause (iv).

11 (2) Section 812 is amended by striking sub-
12 section (g).

13 (3) Paragraph (5) of section 852(b) is amended
14 by striking subparagraph (C).

15 (4) Paragraph (2) of section 4978(b) is amend-
16 ed by striking subparagraph (A) and all that follows
17 and inserting the following:

18 “(A) first from qualified securities to
19 which section 1042 applied acquired during the
20 3-year period ending on the date of the disposi-
21 tion, beginning with the securities first so ac-
22 quired, and

23 “(B) then from any other employer securi-
24 ties.

25 If subsection (d) applies to a disposition, the disposi-
26 tion shall be treated as made from employer securi-

1 ties in the opposite order of the preceding sen-
2 tence.”.

3 (5)(A) Section 4978B (relating to tax on dis-
4 position of employer securities to which section 133
5 applied) is hereby repealed.

6 (B) The table of sections for chapter 43 is
7 amended by striking the item relating to section
8 4978B.

9 (6) Subsection (e) of section 6047 is amended
10 by striking paragraphs (1), (2), and (3) and insert-
11 ing the following new paragraphs:

12 “(1) any employer maintaining, or the plan ad-
13 ministrator (within the meaning of section 414(g))
14 of, an employee stock ownership plan which holds
15 stock with respect to which section 404(k) applies to
16 dividends paid on such stock, or

17 “(2) both such employer or plan adminis-
18 trator,”.

19 (7) Subsection (f) of section 7872 is amended
20 by striking paragraph (12).

21 (8) The table of sections for part III of sub-
22 chapter B of chapter 1 is amended by striking the
23 item relating to section 133.

24 (c) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to loans made after October
3 13, 1995.

4 (2) REFINANCINGS.—The amendments made by
5 this section shall not apply to loans made after Octo-
6 ber 13, 1995, to refinance securities acquisition
7 loans (determined without regard to section
8 133(b)(1)(B) of the Internal Revenue Code of 1986,
9 as in effect on the day before the date of the enact-
10 ment of this Act) made on or before such date or
11 to refinance loans described in this paragraph if—

12 (A) the refinancing loans meet the require-
13 ments of section 133 of such Code (as so in ef-
14 fect),

15 (B) immediately after the refinancing the
16 principal amount of the loan resulting from the
17 refinancing does not exceed the principal
18 amount of the refinanced loan (immediately be-
19 fore the refinancing), and

20 (C) the term of such refinancing loan does
21 not extend beyond the last day of the term of
22 the original securities acquisition loan.

23 For purposes of this paragraph, the term “securities
24 acquisition loan” includes a loan from a corporation

1 to an employee stock ownership plan described in
2 section 133(b)(3) of such Code (as so in effect).

3 (3) EXCEPTION.—Any loan made pursuant to a
4 binding written contract in effect on October 13,
5 1995, and at all times thereafter before such loan is
6 made, shall be treated for purposes of paragraphs
7 (1) and (2) as a loan made before such date.

8 **SEC. 1603. CERTAIN AMOUNTS DERIVED FROM FOREIGN**
9 **CORPORATIONS TREATED AS UNRELATED**
10 **BUSINESS TAXABLE INCOME.**

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

14 “(17) TREATMENT OF CERTAIN AMOUNTS DE-
15 RIVED FROM FOREIGN CORPORATIONS.—

16 “(A) IN GENERAL.—Notwithstanding para-
17 graph (1), any amount included in gross income
18 under section 951(a)(1)(A) shall be included as
19 an item of gross income derived from an unre-
20 lated trade or business to the extent the
21 amount so included is attributable to insurance
22 income (as defined in section 953) which, if de-
23 rived directly by the organization, would be
24 treated as gross income from an unrelated
25 trade or business. There shall be allowed all de-

1 ductions directly connected with amounts in-
2 cluded in gross income under the preceding sen-
3 tence.

4 “(B) EXCEPTION.—Subparagraph (A)
5 shall not apply to income attributable to a pol-
6 icy of insurance or reinsurance with respect to
7 which the person (directly or indirectly) insured
8 is—

9 “(i) such organization,

10 “(ii) an affiliate of such organization
11 which is exempt from tax under section
12 501(a), or

13 “(iii) a director or officer of, or an in-
14 dividual who (directly or indirectly) per-
15 forms services for, such organization or af-
16 filiate but only if the insurance covers pri-
17 marily risks associated with the perform-
18 ance of services in connection with such or-
19 ganization or affiliate.

20 For purposes of this subparagraph, the deter-
21 mination as to whether an entity is an affiliate
22 of an organization shall be made under rules
23 similar to the rules of section 168(h)(4)(B).

24 “(C) REGULATIONS.—The Secretary shall
25 prescribe such regulations as may be necessary

1 or appropriate to carry out the purposes of this
 2 paragraph, including regulations for the appli-
 3 cation of this paragraph in the case of income
 4 paid through 1 or more entities or between 2 or
 5 more chains of entities.”.

6 (b) EFFECTIVE DATE.—The amendment made by
 7 this section shall apply to amounts included in gross in-
 8 come in any taxable year beginning after December 31,
 9 1995.

10 **SEC. 1604. DEPRECIATION UNDER INCOME FORECAST**
 11 **METHOD.**

12 (a) GENERAL RULE.—Section 167 (relating to depre-
 13 ciation) is amended by redesignating subsection (g) as
 14 subsection (h) and by inserting after subsection (f) the
 15 following new subsection:

16 “(g) DEPRECIATION UNDER INCOME FORECAST
 17 METHOD.—

18 “(1) IN GENERAL.—If the depreciation deduc-
 19 tion allowable under this section to any taxpayer
 20 with respect to any property is determined under the
 21 income forecast method or any similar method—

22 “(A) the income from the property to be
 23 taken into account in determining the deprecia-
 24 tion deduction under such method shall be
 25 equal to the amount of income earned in con-

nection with the property before the close of the 10th taxable year following the taxable year in which the property was placed in service,

“(B) the adjusted basis of the property shall only include amounts with respect to which the requirements of section 461(h) are satisfied,

“(C) the depreciation deduction under such method for the 10th taxable year beginning after the taxable year in which the property was placed in service shall be equal to the adjusted basis of such property as of the beginning of such 10th taxable year, and

“(D) such taxpayer shall pay (or be entitled to receive) interest computed under the look-back method of paragraph (2) for any recomputation year.

“(2) LOOK-BACK METHOD.—The interest computed under the look-back method of this paragraph for any recomputation year shall be determined by—

“(A) first determining the depreciation deductions under this section with respect to such property which would have been allowable for prior taxable years if the determination of the amounts so allowable had been made on the

1 basis of the sum of the following (instead of the
2 estimated income from such property)—

3 “(i) the actual income earned in con-
4 nection with such property for periods be-
5 fore the close of the recomputation year,
6 and

7 “(ii) an estimate of the future income
8 to be earned in connection with such prop-
9 erty for periods after the recomputation
10 year and before the close of the 10th tax-
11 able year following the taxable year in
12 which the property was placed in service,

13 “(B) second, determining (solely for pur-
14 poses of computing such interest) the overpay-
15 ment or underpayment of tax for each such
16 prior taxable year which would result solely
17 from the application of subparagraph (A), and

18 “(C) then using the adjusted overpayment
19 rate (as defined in section 460(b)(7)),
20 compounded daily, on the overpayment or
21 underpayment determined under subparagraph
22 (B).

23 For purposes of the preceding sentence, any cost in-
24 curred after the property is placed in service (which
25 is not treated as a separate property under para-

graph (5)) shall be taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time such cost is incurred) such cost to its value as of the date the property is placed in service. The taxpayer may elect with respect to any property to have the preceding sentence not apply to such property.

“(3) EXCEPTION FROM LOOK-BACK METHOD.—Paragraph (1)(D) shall not apply with respect to any property which, when placed in service by the taxpayer, had a basis of \$100,000 or less.

“(4) RECOMPUTATION YEAR.—For purposes of this subsection, except as provided in regulations, the term ‘recomputation year’ means, with respect to any property, the 3d and the 10th taxable years beginning after the taxable year in which the property was placed in service, unless the actual income earned in connection with the property for the period before the close of such 3d or 10th taxable year is within 10 percent of the income earned in connection with the property for such period which was taken into account under paragraph (1)(A).

“(5) SPECIAL RULES.—

“(A) CERTAIN COSTS TREATED AS SEPARATE PROPERTY.—For purposes of this sub-

1 section, the following costs shall be treated as
2 separate properties:

3 “(i) Any costs incurred with respect
4 to any property after the 10th taxable year
5 beginning after the taxable year in which
6 the property was placed in service.

7 “(ii) Any costs incurred after the
8 property is placed in service and before the
9 close of such 10th taxable year if such
10 costs are significant and give rise to a sig-
11 nificant increase in the income from the
12 property which was not included in the es-
13 timated income from the property.

14 “(B) SYNDICATION INCOME FROM TELE-
15 VISION SERIES.—In the case of property which
16 is an episode in a television series, income from
17 syndicating such series shall not be required to
18 be taken into account under this subsection be-
19 fore the earlier of—

20 “(i) the 4th taxable year beginning
21 after the date the first episode in such se-
22 ries is placed in service, or

23 “(ii) the earliest taxable year in which
24 the taxpayer has an arrangement relating
25 to the future syndication of such series.

1 “(C) SPECIAL RULES FOR FINANCIAL EX-
2 PLOITATION OF CHARACTERS, ETC.—For pur-
3 poses of this subsection, in the case of television
4 and motion picture films, the income from the
5 property shall include income from the exploi-
6 tation of characters, designs, scripts, scores,
7 and other incidental income associated with
8 such films, but only to the extent that such in-
9 come is earned in connection with the ultimate
10 use of such items by, or the ultimate sale of
11 merchandise to, persons who are not related
12 persons (within the meaning of section 267(b))
13 to the taxpayer.

14 “(D) COLLECTION OF INTEREST.—For
15 purposes of subtitle F (other than sections
16 6654 and 6655), any interest required to be
17 paid by the taxpayer under paragraph (1) for
18 any recomputation year shall be treated as an
19 increase in the tax imposed by this chapter for
20 such year.

21 “(E) DETERMINATIONS.—For purposes of
22 paragraph (2), determinations of the amount of
23 income earned in connection with any property
24 shall be made in the same manner as for pur-
25 poses of applying the income forecast method;

1 except that any income from the disposition of
2 such property shall be taken into account.

3 “(F) TREATMENT OF PASS-THRU ENTI-
4 TIES.—Rules similar to the rules of section
5 460(b)(4) shall apply for purposes of this sub-
6 section.”.

7 (b) EFFECTIVE DATE.—

8 (1) IN GENERAL.—The amendment made by
9 subsection (a) shall apply to property placed in serv-
10 ice after September 13, 1995.

11 (2) BINDING CONTRACTS.—The amendment
12 made by subsection (a) shall not apply to any prop-
13 erty produced or acquired by the taxpayer pursuant
14 to a written contract which was binding on Septem-
15 ber 13, 1995, and at all times thereafter before such
16 production or acquisition.

17 **SEC. 1605. REPEAL OF EXCLUSION FOR PUNITIVE DAMAGES**
18 **AND FOR DAMAGES NOT ATTRIBUTABLE TO**
19 **PHYSICAL INJURIES OR SICKNESS.**

20 (a) IN GENERAL.—Paragraph (2) of section 104(a)
21 (relating to compensation for injuries or sickness) is
22 amended to read as follows:

23 “(2) the amount of any damages (other than
24 punitive damages) received (whether by suit or
25 agreement and whether as lump sums or as periodic

1 payments) on account of personal physical injuries
2 or physical sickness;”.

3 (b) EMOTIONAL DISTRESS AS SUCH TREATED AS
4 NOT PHYSICAL INJURY OR PHYSICAL SICKNESS.—Sec-
5 tion 104(a) is amended by striking the last sentence and
6 inserting the following new sentence: “For purposes of
7 paragraph (2), emotional distress shall not be treated as
8 a physical injury or physical sickness. The preceding sen-
9 tence shall not apply to an amount of damages not in ex-
10 cess of the amount paid for medical care (described in sub-
11 paragraph (A) or (B) of section 213(d)(1)) attributable
12 to emotional distress.”.

13 (c) APPLICATION OF PRIOR LAW FOR STATES IN
14 WHICH ONLY PUNITIVE DAMAGES MAY BE AWARDED IN
15 WRONGFUL DEATH ACTIONS.—Section 104 is amended
16 by redesignating subsection (c) as subsection (d) and by
17 inserting after subsection (b) the following new subsection:

18 “(c) APPLICATION OF PRIOR LAW IN CERTAIN
19 CASES.—The phrase ‘(other than punitive damages)’ shall
20 not apply to punitive damages awarded in a civil action—

21 “(1) which is a wrongful death action, and

22 “(2) with respect to which applicable State law
23 (as in effect on September 13, 1995 and without re-
24 gard to any modification after such date) provides,
25 or has been construed to provide by a court of com-

1 petent jurisdiction pursuant to a decision issued on
 2 or before September 13, 1995, that only punitive
 3 damages may be awarded in such an action.

4 This subsection shall cease to apply to any civil action filed
 5 on or after the first date on which the applicable State
 6 law ceases to provide (or is no longer construed to provide)
 7 the treatment described in paragraph (2).”.

8 (d) EFFECTIVE DATE.—

9 (1) IN GENERAL.—Except as provided in para-
 10 graph (2), the amendments made by this section
 11 shall apply to amounts received after June 30, 1996,
 12 in taxable years ending after such date.

13 (2) EXCEPTION.—The amendments made by
 14 this section shall not apply to any amount received
 15 under a written binding agreement, court decree, or
 16 mediation award in effect on (or issued on or before)
 17 September 13, 1995.

18 **SEC. 1606. REPEAL OF DIESEL FUEL TAX REBATE TO PUR-**
 19 **CHASERS OF DIESEL-POWERED AUTO-**
 20 **MOBILES AND LIGHT TRUCKS.**

21 (a) IN GENERAL.—Section 6427 (relating to fuels
 22 not used for taxable purposes) is amended by striking sub-
 23 section (g).

24 (b) CONFORMING AMENDMENTS.—

1 (1) Paragraph (3) of section 34(a) is amended
2 to read as follows:

3 “(3) under section 6427 with respect to fuels
4 used for nontaxable purposes or resold during the
5 taxable year (determined without regard to section
6 6427(k)).”.

7 (2) Paragraphs (1) and (2)(A) of section
8 6427(i) are each amended—

9 (A) by striking “(g),” and

10 (B) by striking “(or a qualified diesel pow-
11 ered highway vehicle purchased)” each place it
12 appears.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to vehicles purchased after the date
15 of the enactment of this Act.

16 **Subtitle G—Technical Corrections**

17 **SEC. 1701. COORDINATION WITH OTHER SUBTITLES.**

18 For purposes of applying the amendments made by
19 any subtitle of this title other than this subtitle, the provi-
20 sions of this subtitle shall be treated as having been en-
21 acted immediately before the provisions of such other sub-
22 titles.

23 **SEC. 1702. AMENDMENTS RELATED TO REVENUE REC- 24 ONCILIATION ACT OF 1990.**

25 (a) AMENDMENTS RELATED TO SUBTITLE A.—

1 (1) Subparagraph (B) of section 59(j)(3) is
2 amended by striking “section 1(i)(3)(B)” and insert-
3 ing “section 1(g)(3)(B)”.

4 (2) Clause (i) of section 151(d)(3)(C) is amend-
5 ed by striking “joint of a return” and inserting
6 “joint return”.

7 (b) AMENDMENTS RELATED TO SUBTITLE B.—

8 (1) Paragraph (1) of section 11212(e) of the
9 Revenue Reconciliation Act of 1990 is amended by
10 striking “Paragraph (1) of section 6724(d)” and in-
11 serting “Subparagraph (B) of section 6724(d)(1)”.

12 (2)(A) Subparagraph (B) of section 4093(c)(2),
13 as in effect before the amendments made by the
14 Revenue Reconciliation Act of 1993, is amended by
15 inserting before the period “unless such fuel is sold
16 for exclusive use by a State or any political subdivi-
17 sion thereof”.

18 (B) Paragraph (4) of section 6427(l), as in ef-
19 fect before the amendments made by the Revenue
20 Reconciliation Act of 1993, is amended by inserting
21 before the period “unless such fuel was used by a
22 State or any political subdivision thereof”.

23 (3) Paragraph (1) of section 6416(b) is amend-
24 ed by striking “chapter 32 or by section 4051” and
25 inserting “chapter 31 or 32”.

1 (4) Section 7012 is amended—

2 (A) by striking “production or importation
3 of gasoline” in paragraph (3) and inserting
4 “taxes on gasoline and diesel fuel”, and

5 (B) by striking paragraph (4) and redesign-
6 ating paragraphs (5) and (6) as paragraphs
7 (4) and (5), respectively.

8 (5) Subsection (c) of section 5041 is amended
9 by striking paragraph (6) and by inserting the fol-
10 lowing new paragraphs:

11 “(6) CREDIT FOR TRANSFEREE IN BOND.—If—

12 “(A) wine produced by any person would
13 be eligible for any credit under paragraph (1)
14 if removed by such person during the calendar
15 year,

16 “(B) wine produced by such person is re-
17 moved during such calendar year by any other
18 person (hereafter in this paragraph referred to
19 as the ‘transferee’) to whom such wine was
20 transferred in bond and who is liable for the tax
21 imposed by this section with respect to such
22 wine, and

23 “(C) such producer holds title to such wine
24 at the time of its removal and provides to the
25 transferee such information as is necessary to

1 properly determine the transferee's credit under
2 this paragraph,
3 then, the transferee (and not the producer) shall be
4 allowed the credit under paragraph (1) which would
5 be allowed to the producer if the wine removed by
6 the transferee had been removed by the producer on
7 that date.

8 “(7) REGULATIONS.—The Secretary may pre-
9 scribe such regulations as may be necessary to carry
10 out the purposes of this subsection, including regula-
11 tions—

12 “(A) to prevent the credit provided in this
13 subsection from benefiting any person who pro-
14 duces more than 250,000 wine gallons during a
15 calendar year, and

16 “(B) to assure proper reduction of such
17 credit for persons producing more than 150,000
18 wine gallons of wine during a calendar year.”.

19 (6) Paragraph (3) of section 5061(b) is amend-
20 ed to read as follows:

21 “(3) section 5041(f),”.

22 (7) Section 5354 is amended by inserting “(tak-
23 ing into account the appropriate amount of credit
24 with respect to such wine under section 5041(c))”
25 after “any one time”.

1 (c) AMENDMENTS RELATED TO SUBTITLE C.—

2 (1) Paragraph (4) of section 56(g) is amended
3 by redesignating subparagraphs (I) and (J) as sub-
4 paragraphs (H) and (I), respectively.

5 (2) Subparagraph (B) of section 6724(d)(1) is
6 amended—

7 (A) by striking “or” at the end of clause
8 (xii), and

9 (B) by striking the period at the end of
10 clause (xiii) and inserting “, or”.

11 (3) Subsection (g) of section 6302 is amended
12 by inserting “, 22,” after “chapters 21”.

13 (4) The earnings and profits of any insurance
14 company to which section 11305(c)(3) of the Reve-
15 nue Reconciliation Act of 1990 applies shall be de-
16 termined without regard to any deduction allowed
17 under such section; except that, for purposes of ap-
18 plying sections 56 and 902, and subpart F of part
19 III of subchapter N of chapter 1 of the Internal
20 Revenue Code of 1986, such deduction shall be
21 taken into account.

22 (5) Subparagraph (D) of section 6038A(e)(4) is
23 amended—

1 (A) by striking “any transaction to which
2 the summons relates” and inserting “any af-
3 fected taxable year”, and

4 (B) by adding at the end thereof the fol-
5 lowing new sentence: “For purposes of this sub-
6 paragraph, the term ‘affected taxable year’
7 means any taxable year if the determination of
8 the amount of tax imposed for such taxable
9 year is affected by the treatment of the trans-
10 action to which the summons relates.”.

11 (6) Subparagraph (A) of section 6621(c)(2) is
12 amended by adding at the end thereof the following
13 new flush sentence:

14 “The preceding sentence shall be applied with-
15 out regard to any such letter or notice which is
16 withdrawn by the Secretary.”.

17 (7) Clause (i) of section 6621(c)(2)(B) is
18 amended by striking “this subtitle” and inserting
19 “this title”.

20 (d) AMENDMENTS RELATED TO SUBTITLE D.—

21 (1) Notwithstanding section 11402(c) of the
22 Revenue Reconciliation Act of 1990, the amendment
23 made by section 11402(b)(1) of such Act shall apply
24 to taxable years ending after December 31, 1989.

1 (2) Clause (ii) of section 143(m)(4)(C) is
2 amended—

3 (A) by striking “any month of the 10-year
4 period” and inserting “any year of the 4-year
5 period”,

6 (B) by striking “succeeding months” and
7 inserting “succeeding years”, and

8 (C) by striking “over the remainder of
9 such period (or, if lesser, 5 years)” and insert-
10 ing “to zero over the succeeding 5 years”.

11 (e) AMENDMENTS RELATED TO SUBTITLE E.—

12 (1)(A) Clause (ii) of section 56(d)(1)(B) is
13 amended to read as follows:

14 “(ii) appropriate adjustments in the
15 application of section 172(b)(2) shall be
16 made to take into account the limitation of
17 subparagraph (A).”.

18 (B) For purposes of applying sections 56(g)(1)
19 and 56(g)(3) of the Internal Revenue Code of 1986
20 with respect to taxable years beginning in 1991 and
21 1992, the reference in such sections to the alter-
22 native tax net operating loss deduction shall be
23 treated as including a reference to the deduction
24 under section 56(h) of such Code as in effect before

1 the amendments made by section 1915 of the En-
2 ergy Policy Act of 1992.

3 (2) Clause (i) of section 613A(c)(3)(A) is
4 amended by striking “the table contained in”.

5 (3) Section 6501 is amended—

6 (A) by striking subsection (m) (relating to
7 deficiency attributable to election under section
8 44B) and by redesignating subsections (n) and
9 (o) as subsections (m) and (n), respectively, and

10 (B) by striking “section 40(f) or 51(j)” in
11 subsection (m) (as redesignated by subpara-
12 graph (A)) and inserting “section 40(f), 43, or
13 51(j)”.

14 (4) Subparagraph (C) of section 38(c)(2) (as in
15 effect on the day before the date of the enactment
16 of the Revenue Reconciliation Act of 1990) is
17 amended by inserting before the period at the end
18 of the first sentence the following: “and without re-
19 gard to the deduction under section 56(h)”.

20 (5) The amendment made by section
21 1913(b)(2)(C)(i) of the Energy Policy Act of 1992
22 shall apply to taxable years beginning after Decem-
23 ber 31, 1990.

24 (f) AMENDMENTS RELATED TO SUBTITLE F.—

1 (1)(A) Section 2701(a)(3) is amended by add-
2 ing at the end thereof the following new subpara-
3 graph:

4 “(C) VALUATION OF QUALIFIED PAYMENTS
5 WHERE NO LIQUIDATION, ETC. RIGHTS.—In the
6 case of an applicable retained interest which is
7 described in subparagraph (B)(i) but not sub-
8 paragraph (B)(ii), the value of the distribution
9 right shall be determined without regard to this
10 section.”.

11 (B) Section 2701(a)(3)(B) is amended by in-
12 serting “CERTAIN” before “QUALIFIED” in the head-
13 ing thereof.

14 (C) Sections 2701 (d)(1) and (d)(4) are each
15 amended by striking “subsection (a)(3)(B)” and in-
16 serting “subsection (a)(3) (B) or (C)”.

17 (2) Clause (i) of section 2701(a)(4)(B) is
18 amended by inserting “(or, to the extent provided in
19 regulations, the rights as to either income or cap-
20 ital)” after “income and capital”.

21 (3)(A) Section 2701(b)(2) is amended by add-
22 ing at the end thereof the following new subpara-
23 graph:

24 “(C) APPLICABLE FAMILY MEMBER.—For
25 purposes of this subsection, the term ‘applicable

1 family member’ includes any lineal descendant
2 of any parent of the transferor or the transfer-
3 or’s spouse.”.

4 (B) Section 2701(e)(3) is amended—

5 (i) by striking subparagraph (B), and

6 (ii) by striking so much of paragraph (3)
7 as precedes “shall be treated as holding” and
8 inserting:

9 “(3) ATTRIBUTION OF INDIRECT HOLDINGS
10 AND TRANSFERS.—An individual”.

11 (C) Section 2704(e)(3) is amended by striking
12 “section 2701(e)(3)(A)” and inserting “section
13 2701(e)(3)”.

14 (4) Clause (i) of section 2701(c)(1)(B) is
15 amended to read as follows:

16 “(i) a right to distributions with re-
17 spect to any interest which is junior to the
18 rights of the transferred interest,”.

19 (5)(A) Clause (i) of section 2701(c)(3)(C) is
20 amended to read as follows:

21 “(i) IN GENERAL.—Payments under
22 any interest held by a transferor which
23 (without regard to this subparagraph) are
24 qualified payments shall be treated as
25 qualified payments unless the transferor

1 elects not to treat such payments as quali-
2 fied payments. Payments described in the
3 preceding sentence which are held by an
4 applicable family member shall be treated
5 as qualified payments only if such member
6 elects to treat such payments as qualified
7 payments.”.

8 (B) The first sentence of section
9 2701(c)(3)(C)(ii) is amended to read as follows: “A
10 transferor or applicable family member holding any
11 distribution right which (without regard to this sub-
12 paragraph) is not a qualified payment may elect to
13 treat such right as a qualified payment, to be paid
14 in the amounts and at the times specified in such
15 election.”.

16 (C) The time for making an election under the
17 second sentence of section 2701(c)(3)(C)(i) of the
18 Internal Revenue Code of 1986 (as amended by sub-
19 paragraph (A)) shall not expire before the due date
20 (including extensions) for filing the transferor’s re-
21 turn of the tax imposed by section 2501 of such
22 Code for the first calendar year ending after the
23 date of enactment.

24 (6) Section 2701(d)(3)(A)(iii) is amended by
25 striking “the period ending on the date of”.

1 (7) Subclause (I) of section 2701(d)(3)(B)(ii) is
2 amended by inserting “or the exclusion under sec-
3 tion 2503(b),” after “section 2523,”.

4 (8) Section 2701(e)(5) is amended—

5 (A) by striking “such contribution to cap-
6 ital or such redemption, recapitalization, or
7 other change” in subparagraph (A) and insert-
8 ing “such transaction”, and

9 (B) by striking “the transfer” in subpara-
10 graph (B) and inserting “such transaction”.

11 (9) Section 2701(d)(4) is amended by adding at
12 the end thereof the following new subparagraph:

13 “(C) TRANSFER TO TRANSFERORS.—In
14 the case of a taxable event described in para-
15 graph (3)(A)(ii) involving a transfer of an ap-
16 plicable retained interest from an applicable
17 family member to a transferor, this subsection
18 shall continue to apply to the transferor during
19 any period the transferor holds such interest.”.

20 (10) Section 2701(e)(6) is amended by insert-
21 ing “or to reflect the application of subsection (d)”
22 before the period at the end thereof.

23 (11)(A) Section 2702(a)(3)(A) is amended—

24 (i) by striking “to the extent” and insert-
25 ing “if” in clause (i),

1 (ii) by striking “or” at the end of clause

2 (i),

3 (iii) by striking the period at the end of

4 clause (ii) and inserting “, or”, and

5 (iv) by adding at the end thereof the fol-

6 lowing new clause:

7 “(iii) to the extent that regulations

8 provide that such transfer is not inconsis-

9 ent with the purposes of this section.”.

10 (B)(i) Section 2702(a)(3) is amended by strik-

11 ing “incomplete transfer” each place it appears and

12 inserting “incomplete gift”.

13 (ii) The heading for section 2702(a)(3)(B) is

14 amended by striking “INCOMPLETE TRANSFER” and

15 inserting “INCOMPLETE GIFT”.

16 (g) AMENDMENTS RELATED TO SUBTITLE G.—

17 (1)(A) Subsection (a) of section 1248 is

18 amended—

19 (i) by striking “, or if a United States per-

20 son receives a distribution from a foreign cor-

21 poration which, under section 302 or 331, is

22 treated as an exchange of stock” in paragraph

23 (1), and

24 (ii) by adding at the end thereof the follow-

25 ing new sentence: “For purposes of this section,

1 a United States person shall be treated as hav-
2 ing sold or exchanged any stock if, under any
3 provision of this subtitle, such person is treated
4 as realizing gain from the sale or exchange of
5 such stock.”.

6 (B) Paragraph (1) of section 1248(e) is amend-
7 ed by striking “, or receives a distribution from a
8 domestic corporation which, under section 302 or
9 331, is treated as an exchange of stock”.

10 (C) Subparagraph (B) of section 1248(f)(1) is
11 amended by striking “or 361(c)(1)” and inserting
12 “355(c)(1), or 361(c)(1)”.

13 (D) Paragraph (1) of section 1248(i) is amend-
14 ed to read as follows:

15 “(1) IN GENERAL.—If any shareholder of a 10-
16 percent corporate shareholder of a foreign corpora-
17 tion exchanges stock of the 10-percent corporate
18 shareholder for stock of the foreign corporation,
19 such 10-percent corporate shareholder shall recog-
20 nize gain in the same manner as if the stock of the
21 foreign corporation received in such exchange had
22 been—

23 “(A) issued to the 10-percent corporate
24 shareholder, and

1 “(B) then distributed by the 10-percent
2 corporate shareholder to such shareholder in re-
3 demption or liquidation (whichever is appro-
4 priate).

5 The amount of gain recognized by such 10-percent
6 corporate shareholder under the preceding sentence
7 shall not exceed the amount treated as a dividend
8 under this section.”.

9 (2) Section 897 is amended by striking sub-
10 section (f).

11 (3) Paragraph (13) of section 4975(d) is
12 amended by striking “section 408(b)” and inserting
13 “section 408(b)(12)”.

14 (4) Clause (iii) of section 56(g)(4)(D) is
15 amended by inserting “, but only with respect to
16 taxable years beginning after December 31, 1989”
17 before the period at the end thereof.

18 (5)(A) Paragraph (11) of section 11701(a) of
19 the Revenue Reconciliation Act of 1990 (and the
20 amendment made by such paragraph) are hereby re-
21 pealed, and section 7108(r)(2) of the Revenue Rec-
22 onciliation Act of 1989 shall be applied as if such
23 paragraph (and amendment) had never been en-
24 acted.

1 (B) Subparagraph (A) shall not apply to any
 2 building if the owner of such building establishes to
 3 the satisfaction of the Secretary of the Treasury or
 4 his delegate that such owner reasonably relied on the
 5 amendment made by such paragraph (11).

6 (h) AMENDMENTS RELATED TO SUBTITLE H.—

7 (1)(A) Clause (vi) of section 168(e)(3)(B) is
 8 amended by striking “or” at the end of subclause
 9 (I), by striking the period at the end of subclause
 10 (II) and inserting “, or”, and by adding at the end
 11 thereof the following new subclause:

12 “(III) is described in section
 13 48(l)(3)(A)(ix) (as in effect on the
 14 day before the date of the enactment
 15 of the Revenue Reconciliation Act of
 16 1990).”.

17 (B) Subparagraph (B) of section 168(e)(3) (re-
 18 lating to 5-year property) is amended by adding at
 19 the end the following flush sentence:

20 “Nothing in any provision of law shall be con-
 21 strued to treat property as not being described
 22 in clause (vi)(I) (or the corresponding provi-
 23 sions of prior law) by reason of being public
 24 utility property (within the meaning of section
 25 48(a)(3)).”.

1 (C) Subparagraph (K) of section 168(g)(4) is
2 amended by striking “section 48(a)(3)(A)(iii)” and
3 inserting “section 48(l)(3)(A)(ix) (as in effect on the
4 day before the date of the enactment of the Revenue
5 Reconciliation Act of 1990)”.

6 (2) Clause (ii) of section 172(b)(1)(E) is
7 amended by striking “subsection (m)” and inserting
8 “subsection (h)”.

9 (3) Sections 805(a)(4)(E), 832(b)(5)(C)(ii)(II),
10 and 832(b)(5)(D)(ii)(II) are each amended by strik-
11 ing “243(b)(5)” and inserting “243(b)(2)”.

12 (4) Subparagraph (A) of section 243(b)(3) is
13 amended by inserting “of” after “In the case”.

14 (5) The subsection heading for subsection (a) of
15 section 280F is amended by striking “INVESTMENT
16 TAX CREDIT AND”.

17 (6) Clause (i) of section 1504(c)(2)(B) is
18 amended by inserting “section” before “243(b)(2)”.

19 (7) Paragraph (3) of section 341(f) is amended
20 by striking “351, 361, 371(a), or 374(a)” and in-
21 serting “351, or 361”.

22 (8) Paragraph (2) of section 243(b) is amended
23 to read as follows:

24 “(2) AFFILIATED GROUP.—For purposes of this
25 subsection:

1 “(A) IN GENERAL.—The term ‘affiliated
2 group’ has the meaning given such term by sec-
3 tion 1504(a), except that for such purposes sec-
4 tions 1504(b)(2), 1504(b)(4), and 1504(c) shall
5 not apply.

6 “(B) GROUP MUST BE CONSISTENT IN
7 FOREIGN TAX TREATMENT.—The requirements
8 of paragraph (1)(A) shall not be treated as
9 being met with respect to any dividend received
10 by a corporation if, for any taxable year which
11 includes the day on which such dividend is re-
12 ceived—

13 “(i) 1 or more members of the affili-
14 ated group referred to in paragraph (1)(A)
15 choose to any extent to take the benefits of
16 section 901, and

17 “(ii) 1 or more other members of such
18 group claim to any extent a deduction for
19 taxes otherwise creditable under section
20 901.”.

21 (9) The amendment made by section
22 11813(b)(17) of the Revenue Reconciliation Act of
23 1990 shall be applied as if the material stricken by
24 such amendment included the closing parenthesis
25 after “section 48(a)(5)”.

1 (10) Paragraph (1) of section 179(d) is amend-
2 ed by striking “in a trade or business” and inserting
3 “a trade or business”.

4 (11) Subparagraph (E) of section 50(a)(2) is
5 amended by striking “section 48(a)(5)(A)” and in-
6 serting “section 48(a)(5)”.

7 (12) The amendment made by section
8 11801(c)(9)(G)(ii) of the Revenue Reconciliation Act
9 of 1990 shall be applied as if it struck “Section
10 422A(c)(2)” and inserted “Section 422(c)(2)”.

11 (13) Subparagraph (B) of section 424(c)(3) is
12 amended by striking “a qualified stock option, an in-
13 centive stock option, an option granted under an em-
14 ployee stock purchase plan, or a restricted stock op-
15 tion” and inserting “an incentive stock option or an
16 option granted under an employee stock purchase
17 plan”.

18 (14) Subparagraph (E) of section 1367(a)(2) is
19 amended by striking “section 613A(c)(13)(B)” and
20 inserting “section 613A(c)(11)(B)”.

21 (15) Subparagraph (B) of section 460(e)(6) is
22 amended by striking “section 167(k)” and inserting
23 “section 168(e)(2)(A)(ii)”.

1 (16) Subparagraph (C) of section 172(h)(4) is
2 amended by striking “subsection (b)(1)(M)” and in-
3 serting “subsection (b)(1)(E)”.

4 (17) Section 6503 is amended—

5 (A) by redesignating the subsection relat-
6 ing to extension in case of certain summonses
7 as subsection (j), and

8 (B) by redesignating the subsection relat-
9 ing to cross references as subsection (k).

10 (18) Paragraph (4) of section 1250(e) is hereby
11 repealed.

12 (i) EFFECTIVE DATE.—Except as otherwise expressly
13 provided—

14 (1) the amendments made by this section shall
15 be treated as amendments to the Internal Revenue
16 Code of 1986 as amended by the Revenue Reconcili-
17 ation Act of 1993; and

18 (2) any amendment made by this section shall
19 apply to periods before the date of the enactment of
20 this section in the same manner as if it had been in-
21 cluded in the provision of the Revenue Reconciliation
22 Act of 1990 to which such amendment relates.

1 **SEC. 1703. AMENDMENTS RELATED TO REVENUE REC-**
2 **ONCILIATION ACT OF 1993.**

3 (a) AMENDMENT RELATED TO SECTION 13114.—
4 Paragraph (2) of section 1044(c) is amended to read as
5 follows:

6 “(2) PURCHASE.—The taxpayer shall be consid-
7 ered to have purchased any property if, but for sub-
8 section (d), the unadjusted basis of such property
9 would be its cost within the meaning of section
10 1012.”.

11 (b) AMENDMENTS RELATED TO SECTION 13142.—

12 (1) Subparagraph (B) of section 13142(b)(6) of
13 the Revenue Reconciliation Act of 1993 is amended
14 to read as follows:

15 “(B) FULL-TIME STUDENTS, WAIVER AU-
16 THORITY, AND PROHIBITED DISCRIMINATION.—
17 The amendments made by paragraphs (2), (3),
18 and (4) shall take effect on the date of the en-
19 actment of this Act.”.

20 (2) Subparagraph (C) of section 13142(b)(6) of
21 such Act is amended by striking “paragraph (2)”
22 and inserting “paragraph (5)”.

23 (c) AMENDMENT RELATED TO SECTION 13161.—

24 (1) IN GENERAL.—Subsection (e) of section
25 4001 (relating to inflation adjustment) is amended
26 to read as follows:

1 “(e) INFLATION ADJUSTMENT.—

2 “(1) IN GENERAL.—The \$30,000 amount in
3 subsection (a) and section 4003(a) shall be increased
4 by an amount equal to—

5 “(A) \$30,000, multiplied by

6 “(B) the cost-of-living adjustment under
7 section 1(f)(3) for the calendar year in which
8 the vehicle is sold, determined by substituting
9 ‘calendar year 1990’ for ‘calendar year 1992’ in
10 subparagraph (B) thereof.

11 “(2) ROUNDING.—If any amount as adjusted
12 under paragraph (1) is not a multiple of \$2,000,
13 such amount shall be rounded to the next lowest
14 multiple of \$2,000.”.

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 (d) AMENDMENT RELATED TO SECTION 13201.—
19 Clause (ii) of section 135(b)(2)(B) is amended by insert-
20 ing before the period at the end thereof the following: “,
21 determined by substituting ‘calendar year 1989’ for ‘cal-
22 endar year 1992’ in subparagraph (B) thereof”.

23 (e) AMENDMENTS RELATED TO SECTION 13203.—
24 Subsection (a) of section 59 is amended—

1 (1) by striking “the amount determined under
2 section 55(b)(1)(A)” in paragraph (1)(A) and
3 (2)(A)(i) and inserting “the pre-credit tentative min-
4 imum tax”,

5 (2) by striking “specified in section
6 55(b)(1)(A)” in paragraph (1)(C) and inserting
7 “specified in subparagraph (A)(i) or (B)(i) of section
8 55(b)(1) (whichever applies)”,

9 (3) by striking “which would be determined
10 under section 55(b)(1)(A)” in paragraph (2)(A)(ii)
11 and inserting “which would be the pre-credit ten-
12 tative minimum tax”, and

13 (4) by adding at the end thereof the following
14 new paragraph:

15 “(3) PRE-CREDIT TENTATIVE MINIMUM TAX.—
16 For purposes of this subsection, the term ‘pre-credit
17 tentative minimum tax’ means—

18 “(A) in the case of a taxpayer other than
19 a corporation, the amount determined under the
20 first sentence of section 55(b)(1)(A)(i), or

21 “(B) in the case of a corporation, the
22 amount determined under section
23 55(b)(1)(B)(i).”.

24 (f) AMENDMENT RELATED TO SECTION 13221.—
25 Sections 1201(a) and 1561(a) are each amended by strik-

1 ing “last sentence” each place it appears and inserting
 2 “last 2 sentences”.

3 (g) AMENDMENTS RELATED TO SECTION 13222.—

4 (1) Subparagraph (B) of section 6033(e)(1) is
 5 amended by adding at the end thereof the following
 6 new clause:

7 “(iii) COORDINATION WITH SECTION
 8 527(f).—This subsection shall not apply to
 9 any amount on which tax is imposed by
 10 reason of section 527(f).”.

11 (2) Clause (i) of section 6033(e)(1)(B) is
 12 amended by striking “this subtitle” and inserting
 13 “section 501”.

14 (h) AMENDMENT RELATED TO SECTION 13225.—

15 Paragraph (3) of section 6655(g) is amended by striking
 16 all that follows “‘3rd month’” in the sentence following
 17 subparagraph (C) and inserting “, subsection (e)(2)(A)
 18 shall be applied by substituting ‘2 months’ for ‘3 months’
 19 in clause (i)(I), the election under clause (i) of subsection
 20 (e)(2)(C) may be made separately for each installment,
 21 and clause (ii) of subsection (e)(2)(C) shall not apply.”.

22 (i) AMENDMENTS RELATED TO SECTION 13231.—

23 (1) Subparagraph (G) of section 904(d)(3) is
 24 amended by striking “section 951(a)(1)(B)” and in-

1 serting “subparagraph (B) or (C) of section
2 951(a)(1)”.

3 (2) Paragraph (1) of section 956A(b) is amend-
4 ed to read as follows:

5 “(1) the amount (not including a deficit) re-
6 ferred to in section 316(a)(1) to the extent such
7 amount was accumulated in prior taxable years be-
8 ginning after September 30, 1993, and”.

9 (3) Subsection (f) of section 956A is amended
10 by inserting before the period at the end thereof:
11 “and regulations coordinating the provisions of sub-
12 sections (c)(3)(A) and (d)”.

13 (4) Subsection (b) of section 958 is amended by
14 striking “956(b)(2)” each place it appears and in-
15 serting “956(c)(2)”.

16 (5)(A) Subparagraph (A) of section 1297(d)(2)
17 is amended by striking “The adjusted basis of any
18 asset” and inserting “The amount taken into ac-
19 count under section 1296(a)(2) with respect to any
20 asset”.

21 (B) The paragraph heading of paragraph (2) of
22 section 1297(d) is amended to read as follows:

23 “(2) AMOUNT TAKEN INTO ACCOUNT.—”.

1 (6) Subsection (e) of section 1297 is amended
2 by inserting “For purposes of this part—” after the
3 subsection heading.

4 (j) AMENDMENT RELATED TO SECTION 13241.—
5 Subparagraph (B) of section 40(e)(1) is amended to read
6 as follows:

7 “(B) for any period before January 1,
8 2001, during which the rates of tax under sec-
9 tion 4081(a)(2)(A) are 4.3 cents per gallon.”.

10 (k) AMENDMENT RELATED TO SECTION 13261.—
11 Clause (iii) of section 13261(g)(2)(A) of the Revenue Rec-
12 onciliation Act of 1993 is amended by striking “by the
13 taxpayer” and inserting “by the taxpayer or a related
14 person”.

15 (l) AMENDMENT RELATED TO SECTION 13301.—
16 Subparagraph (B) of section 1397B(d)(5) is amended by
17 striking “preceding”.

18 (m) CLERICAL AMENDMENTS.—

19 (1) Subsection (d) of section 39 is amended—

20 (A) by striking “45” in the heading of
21 paragraph (5) and inserting “45A”, and

22 (B) by striking “45” in the heading of
23 paragraph (6) and inserting “45B”.

1 (2) Subparagraph (A) of section 108(d)(9) is
2 amended by striking “paragraph (3)(B)” and insert-
3 ing “paragraph (3)(C)”.

4 (3) Subparagraph (C) of section 143(d)(2) is
5 amended by striking the period at the end thereof
6 and inserting a comma.

7 (4) Clause (ii) of section 163(j)(6)(E) is amend-
8 ed by striking “which is a” and inserting “which is”.

9 (5) Subparagraph (A) of section 1017(b)(4) is
10 amended by striking “subsection (b)(2)(D)” and in-
11 serting “subsection (b)(2)(E)”.

12 (6) So much of section 1245(a)(3) as precedes
13 subparagraph (A) thereof is amended to read as
14 follows:

15 “(3) SECTION 1245 PROPERTY.—For purposes
16 of this section, the term ‘section 1245 property’
17 means any property which is or has been property
18 of a character subject to the allowance for deprecia-
19 tion provided in section 167 and is either—”.

20 (7) Paragraph (2) of section 1394(e) is amend-
21 ed—

22 (A) by striking “(i)” and inserting “(A)”,

23 and

24 (B) by striking “(ii)” and inserting “(B)”.

1 (8) Subsection (m) of section 6501 (as redesign-
2 nated by section 1602) is amended by striking “or
3 51(j)” and inserting “45B, or 51(j)”.

4 (9)(A) The section 6714 added by section
5 13242(b)(1) of the Revenue Reconciliation Act of
6 1993 is hereby redesignated as section 6715.

7 (B) The table of sections for part I of sub-
8 chapter B of chapter 68 is amended by striking
9 “6714” in the item added by such section
10 13242(b)(2) of such Act and inserting “6715”.

11 (10) Paragraph (2) of section 9502(b) is
12 amended by inserting “and before” after “1982,”.

13 (11) Subsection (a)(3) of section 13206 of the
14 Revenue Reconciliation Act of 1993 is amended by
15 striking “this section” and inserting “this sub-
16 section”.

17 (12) Paragraph (1) of section 13215(c) of the
18 Revenue Reconciliation Act of 1993 is amended by
19 striking “Public Law 92–21” and inserting “Public
20 Law 98–21”.

21 (13) Paragraph (2) of section 13311(e) of the
22 Revenue Reconciliation Act of 1993 is amended by
23 striking “section 1393(a)(3)” and inserting “section
24 1393(a)(2)”.

1 (14) Subparagraph (B) of section 117(d)(2) is
2 amended by striking “section 132(f)” and inserting
3 “section 132(h)”.

4 (n) EFFECTIVE DATE.—Any amendment made by
5 this section shall take effect as if included in the provision
6 of the Revenue Reconciliation Act of 1993 to which such
7 amendment relates.

8 **SEC. 1704. MISCELLANEOUS PROVISIONS.**

9 (a) APPLICATION OF AMENDMENTS MADE BY TITLE
10 XII OF OMNIBUS BUDGET RECONCILIATION ACT OF
11 1990.—Except as otherwise expressly provided, whenever
12 in title XII of the Omnibus Budget Reconciliation Act of
13 1990 an amendment or repeal is expressed in terms of
14 an amendment to, or repeal of, a section or other provi-
15 sion, the reference shall be considered to be made to a
16 section or other provision of the Internal Revenue Code
17 of 1986.

18 (b) TREATMENT OF CERTAIN AMOUNTS UNDER
19 HEDGE BOND RULES.—

20 (1) Clause (iii) of section 149(g)(3)(B) is
21 amended to read as follows:

22 “(iii) AMOUNTS HELD PENDING REIN-
23 VESTMENT OR REDEMPTION.—Amounts
24 held for not more than 30 days pending re-
25 investment or bond redemption shall be

1 treated as invested in bonds described in
2 clause (i).”.

3 (2) The amendment made by paragraph (1)
4 shall take effect as if included in the amendments
5 made by section 7651 of the Omnibus Budget Rec-
6 onciliation Act of 1989.

7 (c) TREATMENT OF CERTAIN DISTRIBUTIONS
8 UNDER SECTION 1445.—

9 (1) IN GENERAL.—Paragraph (3) of section
10 1445(e) is amended by adding at the end thereof
11 the following new sentence: “Rules similar to the
12 rules of the preceding provisions of this paragraph
13 shall apply in the case of any distribution to which
14 section 301 applies and which is not made out of the
15 earnings and profits of such a domestic corpora-
16 tion.”.

17 (2) EFFECTIVE DATE.—The amendment made
18 by paragraph (1) shall apply to distributions after
19 the date of the enactment of this Act.

20 (d) TREATMENT OF CERTAIN CREDITS UNDER SEC-
21 TION 469.—

22 (1) IN GENERAL.—Subparagraph (B) of section
23 469(c)(3) is amended by adding at the end thereof
24 the following new sentence: “If the preceding sen-
25 tence applies to the net income from any property

1 for any taxable year, any credits allowable under
 2 subpart B (other than section 27(a)) or D of part
 3 IV of subchapter A for such taxable year which are
 4 attributable to such property shall be treated as
 5 credits not from a passive activity to the extent the
 6 amount of such credits does not exceed the regular
 7 tax liability of the taxpayer for the taxable year
 8 which is allocable to such net income.”.

9 (2) EFFECTIVE DATE.—The amendment made
 10 by paragraph (1) shall apply to taxable years begin-
 11 ning after December 31, 1986.

12 (e) TREATMENT OF DISPOSITIONS UNDER PASSIVE
 13 LOSS RULES.—

14 (1) IN GENERAL.—Subparagraph (A) of section
 15 469(g)(1) is amended to read as follows:

16 “(A) IN GENERAL.—If all gain or loss real-
 17 ized on such disposition is recognized, the ex-
 18 cess of—

19 “(i) any loss from such activity for
 20 such taxable year (determined after the ap-
 21 plication of subsection (b)), over

22 “(ii) any net income or gain for such
 23 taxable year from all other passive activi-
 24 ties (determined after the application of
 25 subsection (b)),

1 shall be treated as a loss which is not from a
2 passive activity.”.

3 (2) EFFECTIVE DATE.—The amendment made
4 by paragraph (1) shall apply to taxable years begin-
5 ning after December 31, 1986.

6 (f) MISCELLANEOUS AMENDMENTS TO FOREIGN
7 PROVISIONS.—

8 (1) COORDINATION OF UNIFIED ESTATE TAX
9 CREDIT WITH TREATIES.—Subparagraph (A) of sec-
10 tion 2102(c)(3) is amended by adding at the end
11 thereof the following new sentence: “For purposes
12 of the preceding sentence, property shall not be
13 treated as situated in the United States if such
14 property is exempt from the tax imposed by this
15 subchapter under any treaty obligation of the United
16 States.”.

17 (2) TREATMENT OF CERTAIN INTEREST PAID
18 TO RELATED PERSON.—

19 (A) Subparagraph (B) of section 163(j)(1)
20 is amended by inserting before the period at the
21 end thereof the following: “(and clause (ii) of
22 paragraph (2)(A) shall not apply for purposes
23 of applying this subsection to the amount so
24 treated)”.

1 (B) Subsection (j) of section 163 is amend-
2 ed by redesignating paragraph (7) as paragraph
3 (8) and by inserting after paragraph (6) the
4 following new paragraph:

5 “(7) COORDINATION WITH PASSIVE LOSS
6 RULES, ETC.—This subsection shall be applied be-
7 fore sections 465 and 469.”.

8 (C) The amendments made by this para-
9 graph shall apply as if included in the amend-
10 ments made by section 7210(a) of the Revenue
11 Reconciliation Act of 1989.

12 (3) TREATMENT OF INTEREST ALLOCABLE TO
13 EFFECTIVELY CONNECTED INCOME.—

14 (A) IN GENERAL.—

15 (i) Subparagraph (B) of section
16 884(f)(1) is amended by striking “to the
17 extent” and all that follows down through
18 “subparagraph (A)” and inserting “to the
19 extent that the allocable interest exceeds
20 the interest described in subparagraph
21 (A)”.

22 (ii) The second sentence of section
23 884(f)(1) is amended by striking “reason-
24 ably expected” and all that follows down
25 through the period at the end thereof and

1 inserting “reasonably expected to be allocable interest.”

2
3 (iii) Paragraph (2) of section 884(f) is
4 amended to read as follows:

5 “(2) **ALLOCABLE INTEREST.**—For purposes of
6 this subsection, the term ‘allocable interest’ means
7 any interest which is allocable to income which is ef-
8 fectively connected (or treated as effectively con-
9 nected) with the conduct of a trade or business in
10 the United States.”.

11 (B) **EFFECTIVE DATE.**—The amendments
12 made by subparagraph (A) shall take effect as
13 if included in the amendments made by section
14 1241(a) of the Tax Reform Act of 1986.

15 (4) **CLARIFICATION OF SOURCE RULE.**—

16 (A) **IN GENERAL.**—Paragraph (2) of sec-
17 tion 865(b) is amended by striking “863(b)”
18 and inserting “863”.

19 (B) **EFFECTIVE DATE.**—The amendment
20 made by subparagraph (A) shall take effect as
21 if included in the amendments made by section
22 1211 of the Tax Reform Act of 1986.

23 (5) **REPEAL OF OBSOLETE PROVISIONS.**—

24 (A) Paragraph (1) of section 6038(a) is
25 amended by striking “, and” at the end of sub-

1 paragraph (E) and inserting a period, and by
2 striking subparagraph (F).

3 (B) Subsection (b) of section 6038A is
4 amended by adding “and” at the end of para-
5 graph (2), by striking “, and” at the end of
6 paragraph (3) and inserting a period, and by
7 striking paragraph (4).

8 (g) TREATMENT OF ASSIGNMENT OF INTEREST IN
9 CERTAIN BOND-FINANCED FACILITIES.—

10 (1) IN GENERAL.—Subparagraph (A) of section
11 1317(3) of the Tax Reform Act of 1986 is amended
12 by adding at the end thereof the following new sen-
13 tence: “A facility shall not fail to be treated as de-
14 scribed in this subparagraph by reason of an assign-
15 ment (or an agreement to an assignment) by the
16 governmental unit on whose behalf the bonds are is-
17 sued of any part of its interest in the property fi-
18 nanced by such bonds to another governmental
19 unit.”.

20 (2) EFFECTIVE DATE.—The amendment made
21 by paragraph (1) shall take effect as if included in
22 such section 1317 on the date of the enactment of
23 the Tax Reform Act of 1986.

24 (h) CLARIFICATION OF TREATMENT OF MEDICARE
25 ENTITLEMENT UNDER COBRA PROVISIONS.—

1 (1) IN GENERAL.—

2 (A) Subclause (V) of section
3 4980B(f)(2)(B)(i) is amended to read as
4 follows:

5 “(V) MEDICARE ENTITLEMENT
6 FOLLOWED BY QUALIFYING EVENT.—

7 In the case of a qualifying event de-
8 scribed in paragraph (3)(B) that oc-
9 curs less than 18 months after the
10 date the covered employee became en-
11 titled to benefits under title XVIII of
12 the Social Security Act, the period of
13 coverage for qualified beneficiaries
14 other than the covered employee shall
15 not terminate under this clause before
16 the close of the 36-month period be-
17 ginning on the date the covered em-
18 ployee became so entitled.”.

19 (B) Clause (v) of section 602(2)(A) of the
20 Employee Retirement Income Security Act of
21 1974 is amended to read as follows:

22 “(v) MEDICARE ENTITLEMENT FOL-
23 LOWED BY QUALIFYING EVENT.—In the
24 case of a qualifying event described in sec-
25 tion 603(2) that occurs less than 18

1 months after the date the covered em-
2 ployee became entitled to benefits under
3 title XVIII of the Social Security Act, the
4 period of coverage for qualified bene-
5 ficiaries other than the covered employee
6 shall not terminate under this subpara-
7 graph before the close of the 36-month pe-
8 riod beginning on the date the covered em-
9 ployee became so entitled.”.

10 (C) Clause (iv) of section 2202(2)(A) of
11 the Public Health Service Act is amended to
12 read as follows:

13 “(iv) MEDICARE ENTITLEMENT FOL-
14 LOWED BY QUALIFYING EVENT.—In the
15 case of a qualifying event described in sec-
16 tion 2203(2) that occurs less than 18
17 months after the date the covered em-
18 ployee became entitled to benefits under
19 title XVIII of the Social Security Act, the
20 period of coverage for qualified bene-
21 ficiaries other than the covered employee
22 shall not terminate under this subpara-
23 graph before the close of the 36-month pe-
24 riod beginning on the date the covered em-
25 ployee became so entitled.”.

1 (2) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to plan years begin-
3 ning after December 31, 1989.

4 (i) TREATMENT OF CERTAIN REMIC INCLUSIONS.—

5 (1) IN GENERAL.—Subsection (a) of section
6 860E is amended by adding at the end thereof the
7 following new paragraph:

8 “(6) COORDINATION WITH MINIMUM TAX.—For
9 purposes of part VI of subchapter A of this
10 chapter—

11 “(A) the reference in section 55(b)(2) to
12 taxable income shall be treated as a reference
13 to taxable income determined without regard to
14 this subsection,

15 “(B) the alternative minimum taxable in-
16 come of any holder of a residual interest in a
17 REMIC for any taxable year shall in no event
18 be less than the excess inclusion for such tax-
19 able year, and

20 “(C) any excess inclusion shall be dis-
21 regarded for purposes of computing the alter-
22 native tax net operating loss deduction.

23 The preceding sentence shall not apply to any orga-
24 nization to which section 593 applies, except to the

1 extent provided in regulations prescribed by the Sec-
2 retary under paragraph (2).”.

3 (2) EFFECTIVE DATE.—The amendment made
4 by paragraph (1) shall take effect as if included in
5 the amendments made by section 671 of the Tax Re-
6 form Act of 1986 unless the taxpayer elects to apply
7 such amendment only to taxable years beginning
8 after the date of the enactment of this Act.

9 (j) EXEMPTION FROM HARBOR MAINTENANCE TAX
10 FOR CERTAIN PASSENGERS.—

11 (1) IN GENERAL.—Subparagraph (D) of section
12 4462(b)(1) (relating to special rule for Alaska, Ha-
13 waii, and possessions) is amended by inserting be-
14 fore the period the following: “, or passengers trans-
15 ported on United States flag vessels operating solely
16 within the State waters of Alaska or Hawaii and ad-
17 jacent international waters”.

18 (2) EFFECTIVE DATE.—The amendment made
19 by paragraph (1) shall take effect as if included in
20 the amendments made by section 1402(a) of the
21 Harbor Maintenance Revenue Act of 1986.

22 (k) AMENDMENTS RELATED TO REVENUE PROVI-
23 SIONS OF ENERGY POLICY ACT OF 1992.—

24 (1) Effective with respect to taxable years be-
25 ginning after December 31, 1990, subclause (II) of

1 section 53(d)(1)(B)(iv) is amended to read as
2 follows:

3 “(II) the adjusted net minimum
4 tax for any taxable year is the amount
5 of the net minimum tax for such year
6 increased in the manner provided in
7 clause (iii).”.

8 (2) Subsection (g) of section 179A is redesignig-
9 nated as subsection (f).

10 (3) Subparagraph (E) of section 6724(d)(3) is
11 amended by striking “section 6109(f)” and inserting
12 “section 6109(h)”.

13 (4)(A) Subsection (d) of section 30 is amend-
14 ed—

15 (i) by inserting “(determined without re-
16 gard to subsection (b)(3))” before the period at
17 the end of paragraph (1) thereof, and

18 (ii) by adding at the end thereof the follow-
19 ing new paragraph:

20 “(4) ELECTION TO NOT TAKE CREDIT.—No
21 credit shall be allowed under subsection (a) for any
22 vehicle if the taxpayer elects to not have this section
23 apply to such vehicle.”.

1 (B) Subsection (m) of section 6501 (as redesign-
 2 nated by section 1602) is amended by striking “sec-
 3 tion 40(f)” and inserting “section 30(d)(4), 40(f)”.

4 (5) Subclause (III) of section 501(c)(21)(D)(ii)
 5 is amended by striking “section 101(6)” and insert-
 6 ing “section 101(7)” and by striking “1752(6)” and
 7 inserting “1752(7)”.

8 (6) Paragraph (1) of section 1917(b) of the En-
 9 ergy Policy Act of 1992 shall be applied as if “at a
 10 rate” appeared instead of “at the rate” in the mate-
 11 rial proposed to be stricken.

12 (7) Paragraph (2) of section 1921(b) of the En-
 13 ergy Policy Act of 1992 shall be applied as if a
 14 comma appeared after “(2)” in the material pro-
 15 posed to be stricken.

16 (8) Subsection (a) of section 1937 of the En-
 17 ergy Policy Act of 1992 shall be applied as if “Sub-
 18 part B” appeared instead of “Subpart C”.

19 (I) TREATMENT OF QUALIFIED FOOTBALL COACHES
 20 PLAN.—

21 (1) IN GENERAL.—Subparagraph (F) of section
 22 3(37) of the Employee Retirement Income Security
 23 Act of 1974 (29 U.S.C. 1002(37)(F)) is amended by
 24 redesignating clause (ii) as clause (iii) and by insert-
 25 ing after clause (i) the following new clause:

1 “(ii) For purposes of the Internal Revenue Code of
2 1986—

3 “(I) clause (i) shall apply, and

4 “(II) a qualified football coaches plan shall be
5 treated as a multiemployer collectively bargained
6 plan.”.

7 (2) EFFECTIVE DATE.—The amendment made
8 by paragraph (1) shall apply to years beginning
9 after December 22, 1987.

10 (m) DETERMINATION OF UNRECOVERED INVEST-
11 MENT IN ANNUITY CONTRACT.—

12 (1) IN GENERAL.—Subparagraph (A) of section
13 72(b)(4) is amended by inserting “(determined with-
14 out regard to subsection (c)(2))” after “contract”.

15 (2) EFFECTIVE DATE.—The amendment made
16 by paragraph (1) shall take effect as if included in
17 the amendments made by section 1122(c) of the Tax
18 Reform Act of 1986.

19 (n) MODIFICATIONS TO ELECTION TO INCLUDE
20 CHILD’S INCOME ON PARENT’S RETURN.—

21 (1) ELIGIBILITY FOR ELECTION.—Clause (ii) of
22 section 1(g)(7)(A) (relating to election to include
23 certain unearned income of child on parent’s return)
24 is amended to read as follows:

1 “(ii) such gross income is more than
2 the amount described in paragraph
3 (4)(A)(ii)(I) and less than 10 times the
4 amount so described.”.

5 (2) COMPUTATION OF TAX.—Subparagraph (B)
6 of section 1(g)(7) (relating to income included on
7 parent’s return) is amended—

8 (A) by striking “\$1,000” in clause (i) and
9 inserting “twice the amount described in para-
10 graph (4)(A)(ii)(I)”, and

11 (B) by amending subclause (II) of clause
12 (ii) to read as follows:

13 “(II) for each such child, 15 per-
14 cent of the lesser of the amount de-
15 scribed in paragraph (4)(A)(ii)(I) or
16 the excess of the gross income of such
17 child over the amount so described,
18 and”.

19 (3) MINIMUM TAX.—Subparagraph (B) of sec-
20 tion 59(j)(1) is amended by striking “\$1,000” and
21 inserting “twice the amount in effect for the taxable
22 year under section 63(c)(5)(A)”.

23 (4) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply to taxable years begin-
25 ning after December 31, 1995.

1 (o) TREATMENT OF CERTAIN VETERANS' REEM-
2 PLOYMENT RIGHTS.—

3 (1) IN GENERAL.—Section 414 is amended by
4 adding at the end the following new subsection:

5 “(u) SPECIAL RULES RELATING TO VETERANS' RE-
6 EMPLOYMENT RIGHTS UNDER USERRA.—

7 “(1) TREATMENT OF CERTAIN CONTRIBUTIONS
8 MADE PURSUANT TO VETERANS' REEMPLOYMENT
9 RIGHTS.—If any contribution is made by an em-
10 ployer or an employee under an individual account
11 plan with respect to an employee, or by an employee
12 to a defined benefit plan that provides for employee
13 contributions, and such contribution is required by
14 reason of such employee's rights under chapter 43 of
15 title 38, United States Code, resulting from qualified
16 military service, then—

17 “(A) such contribution shall not be subject
18 to any otherwise applicable limitation contained
19 in section 402(g), 402(h), 403(b), 404(a),
20 404(h), 408, 415, or 457, and shall not be
21 taken into account in applying such limitations
22 to other contributions or benefits under such
23 plan or any other plan, with respect to the year
24 in which the contribution is made,

1 “(B) such contribution shall be subject to
 2 the limitations referred to in subparagraph (A)
 3 with respect to the year to which the contribu-
 4 tion relates (in accordance with rules prescribed
 5 by the Secretary), and

6 “(C) such plan shall not be treated as fail-
 7 ing to meet the requirements of section
 8 401(a)(4), 401(a)(26), 401(k)(3), 401(k)(11),
 9 401(k)(12), 401(m), 403(b)(12), 408(k)(3),
 10 408(k)(6), 408(p), 410(b), or 416 by reason of
 11 the making of (or the right to make) such con-
 12 tribution.

13 For purposes of the preceding sentence, any elective
 14 deferral or employee contribution made under para-
 15 graph (2) shall be treated as required by reason of
 16 the employee’s rights under such chapter 43.

17 “(2) REEMPLOYMENT RIGHTS UNDER USERRA
 18 WITH RESPECT TO ELECTIVE DEFERRALS.—

19 “(A) IN GENERAL.—For purposes of this
 20 subchapter and section 457, if an employee is
 21 entitled to the benefits of chapter 43 of title 38,
 22 United States Code, with respect to any plan
 23 which provides for elective deferrals, the em-
 24 ployer sponsoring the plan shall be treated as
 25 meeting the requirements of such chapter 43

1 with respect to such elective deferrals only if
2 such employer—

3 “(i) permits such employee to make
4 additional elective deferrals under such
5 plan (in the amount determined under sub-
6 paragraph (B) or such lesser amount as is
7 elected by the employee) during the period
8 which begins on the date of the reemploy-
9 ment of such employee with such employer
10 and has the same length as the lesser of—

11 “(I) the product of 3 and the pe-
12 riod of qualified military service which
13 resulted in such rights, and

14 “(II) 5 years, and

15 “(ii) makes a matching contribution
16 with respect to any additional elective de-
17 ferral made pursuant to clause (i) which
18 would have been required had such defer-
19 ral actually been made during the period of
20 such qualified military service.

21 “(B) AMOUNT OF MAKEUP REQUIRED.—

22 The amount determined under this subpara-
23 graph with respect to any plan is the maximum
24 amount of the elective deferrals that the indi-
25 vidual would have been permitted to make

1 under the plan in accordance with the limita-
2 tions referred to in paragraph (1)(A) during the
3 period of qualified military service if the indi-
4 vidual had continued to be employed by the em-
5 ployer during such period and received com-
6 pensation as determined under paragraph (7).
7 Proper adjustment shall be made to the amount
8 determined under the preceding sentence for
9 any elective deferrals actually made during the
10 period of such qualified military service.

11 “(C) ELECTIVE DEFERRAL.—For purposes
12 of this paragraph, the term ‘elective deferral’
13 has the meaning given such term by section
14 402(g)(3); except that such term shall include
15 any deferral of compensation under an eligible
16 deferred compensation plan (as defined in sec-
17 tion 457(b)).

18 “(D) AFTER-TAX EMPLOYEE CONTRIBU-
19 TIONS.—References in subparagraphs (A) and
20 (B) to elective deferrals shall be treated as in-
21 cluding references to employee contributions.

22 “(3) CERTAIN RETROACTIVE ADJUSTMENTS
23 NOT REQUIRED.—For purposes of this subchapter
24 and subchapter E, no provision of chapter 43 of title

1 38, United States Code, shall be construed as re-
2 quiring—

3 “(A) any crediting of earnings to an em-
4 ployee with respect to any contribution before
5 such contribution is actually made, or

6 “(B) any allocation of any forfeiture with
7 respect to the period of qualified military serv-
8 ice.

9 “(4) LOAN REPAYMENT SUSPENSIONS PER-
10 MITTED.—If any plan suspends the obligation to
11 repay any loan made to an employee from such plan
12 for any part of any period during which such em-
13 ployee is performing service in the uniformed serv-
14 ices (as defined in chapter 43 of title 38, United
15 States Code), whether or not qualified military serv-
16 ice, such suspension shall not be taken into account
17 for purposes of section 72(p), 401(a), or 4975(d)(1).

18 “(5) QUALIFIED MILITARY SERVICE.—For pur-
19 poses of this subsection, the term ‘qualified military
20 service’ means any service in the uniformed services
21 (as defined in chapter 43 of title 38, United States
22 Code) by any individual if such individual is entitled
23 to reemployment rights under such chapter with re-
24 spect to such service.

1 “(6) INDIVIDUAL ACCOUNT PLAN.—For pur-
2 poses of this subsection, the term ‘individual account
3 plan’ means any defined contribution plan (including
4 any tax-sheltered annuity plan under section 403(b),
5 any simplified employee pension under section
6 408(k), any qualified salary reduction arrangement
7 under section 408(p), and any eligible deferred com-
8 pensation plan (as defined in section 457(b)).

9 “(7) COMPENSATION.—For purposes of sections
10 403(b)(3), 415(c)(3), and 457(e)(5), an employee
11 who is in qualified military service shall be treated
12 as receiving compensation from the employer during
13 such period of qualified military service equal to—

14 “(A) the compensation the employee would
15 have received during such period if the em-
16 ployee were not in qualified military service, de-
17 termined based on the rate of pay the employee
18 would have received from the employer but for
19 absence during the period of qualified military
20 service, or

21 “(B) if the compensation the employee
22 would have received during such period was not
23 reasonably certain, the employee’s average com-
24 pensation from the employer during the 12-
25 month period immediately preceding the quali-

1 fied military service (or, if shorter, the period of
2 employment immediately preceding the qualified
3 military service).

4 “(8) USERRA REQUIREMENTS FOR QUALIFIED
5 RETIREMENT PLANS.—For purposes of this sub-
6 chapter and section 457, an employer sponsoring a
7 retirement plan shall be treated as meeting the re-
8 quirements of chapter 43 of title 38, United States
9 Code, only if each of the following requirements is
10 met:

11 “(A) An individual reemployed under such
12 chapter is treated with respect to such plan as
13 not having incurred a break in service with the
14 employer maintaining the plan by reason of
15 such individual’s period of qualified military
16 service.

17 “(B) Each period of qualified military
18 service served by an individual is, upon reem-
19 ployment under such chapter, deemed with re-
20 spect to such plan to constitute service with the
21 employer maintaining the plan for the purpose
22 of determining the nonforfeitability of the indi-
23 vidual’s accrued benefits under such plan and
24 for the purpose of determining the accrual of
25 benefits under such plan.

1 “(C) An individual reemployed under such
2 chapter is entitled to accrued benefits that are
3 contingent on the making of, or derived from,
4 employee contributions or elective deferrals only
5 to the extent the individual makes payment to
6 the plan with respect to such contributions or
7 deferrals. No such payment may exceed the
8 amount the individual would have been per-
9 mitted or required to contribute had the indi-
10 vidual remained continuously employed by the
11 employer throughout the period of qualified
12 military service. Any payment to such plan shall
13 be made during the period beginning with the
14 date of reemployment and whose duration is 3
15 times the period of the qualified military service
16 (but not greater than 5 years).

17 “(9) PLANS NOT SUBJECT TO TITLE 38.—This
18 subsection shall not apply to any retirement plan to
19 which chapter 43 of title 38, United States Code,
20 does not apply.

21 “(10) REFERENCES.—For purposes of this sec-
22 tion, any reference to chapter 43 of title 38, United
23 States Code, shall be treated as a reference to such
24 chapter as in effect on December 12, 1994 (without
25 regard to any subsequent amendment).”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by this subsection shall be effective as of December
3 12, 1994.

4 (p) REPORTING OF REAL ESTATE TRANSACTIONS.—

5 (1) IN GENERAL.—Paragraph (3) of section
6 6045(e) (relating to prohibition of separate charge
7 for filing return) is amended by adding at the end
8 the following new sentence: “Nothing in this para-
9 graph shall be construed to prohibit the real estate
10 reporting person from taking into account its cost of
11 complying with such requirement in establishing its
12 charge (other than a separate charge for complying
13 with such requirement) to any customer for perform-
14 ing services in the case of a real estate trans-
15 action.”.

16 (2) EFFECTIVE DATE.—The amendment made
17 by paragraph (1) shall take effect as if included in
18 section 1015(e)(2)(A) of the Technical and Mis-
19 cellaneous Revenue Act of 1988.

20 (q) CLARIFICATION OF DENIAL OF DEDUCTION FOR
21 STOCK REDEMPTION EXPENSES.

22 (1) IN GENERAL.—Paragraph (1) of section
23 162(k) is amended by striking “the redemption of
24 its stock” and inserting “the reacquisition of its

1 stock or of the stock of any related person (as de-
 2 fined in section 465(b)(3)(C))”.

3 (2) CERTAIN DEDUCTIONS PERMITTED.—Sub-
 4 paragraph (A) of section 162(k)(2) is amended by
 5 striking “or” at the end of clause (i), by redesignat-
 6 ing clause (ii) as clause (iii), and by inserting after
 7 clause (i) the following new clause:

8 “(ii) deduction for amounts which are
 9 properly allocable to indebtedness and am-
 10 ortized over the term of such indebtedness,
 11 or”.

12 (3) CLERICAL AMENDMENT.—The subsection
 13 heading for subsection (k) of section 162 is amended
 14 by striking “REDEMPTION” and inserting “REAC-
 15 QUISSION”.

16 (4) EFFECTIVE DATE.—

17 (A) IN GENERAL.—Except as provided in
 18 subparagraph (B), the amendments made by
 19 this subsection shall apply to amounts paid or
 20 incurred after September 13, 1995, in taxable
 21 years ending after such date.

22 (B) PARAGRAPH (2).—The amendment
 23 made by paragraph (2) shall take effect as if
 24 included in the amendment made by section
 25 613 of the Tax Reform Act of 1986.

1 (r) CLERICAL AMENDMENT TO SECTION 404.—

2 (1) IN GENERAL.—Paragraph (1) of section
3 404(j) is amended by striking “(10)” and inserting
4 “(9)”.

5 (2) EFFECTIVE DATE.—The amendment made
6 by paragraph (1) shall take effect as if included in
7 the amendments made by section 713(d)(4)(A) of
8 the Deficit Reduction Act of 1984.

9 (s) PASSIVE INCOME NOT TO INCLUDE FSC IN-
10 COME, ETC.—

11 (1) IN GENERAL.—Paragraph (2) of section
12 1296(b) is amended by striking “or” at the end of
13 subparagraph (B), by striking the period at the end
14 of subparagraph (C) and inserting “, or”, and by in-
15 serting after subparagraph (C) the following new
16 subparagraph:

17 “(D) which is foreign trade income of a
18 FSC or export trade income of an export trade
19 corporation (as defined in section 971).”.

20 (2) EFFECTIVE DATE.—The amendment made
21 by paragraph (1) shall take effect as if included in
22 the amendments made by section 1235 of the Tax
23 Reform Act of 1986.

24 (t) MISCELLANEOUS CLERICAL AMENDMENTS.—

1 (1) Subclause (II) of section 56(g)(4)(C)(ii) is
2 amended by striking “of the subclause” and insert-
3 ing “of subclause”.

4 (2) Paragraph (2) of section 72(m) is amended
5 by inserting “and” at the end of subparagraph (A),
6 by striking subparagraph (B), and by redesignating
7 subparagraph (C) as subparagraph (B).

8 (3) Paragraph (2) of section 86(b) is amended
9 by striking “adusted” and inserting “adjusted”.

10 (4)(A) The heading for section 112 is amended
11 by striking “**COMBAT PAY**” and inserting “**COM-**
12 **BAT ZONE COMPENSATION**”.

13 (B) The item relating to section 112 in the
14 table of sections for part III of subchapter B of
15 chapter 1 is amended by striking “combat pay” and
16 inserting “combat zone compensation”.

17 (C) Paragraph (1) of section 3401(a) is amend-
18 ed by striking “combat pay” and inserting “combat
19 zone compensation”.

20 (5) Clause (i) of section 172(h)(3)(B) is amend-
21 ed by striking the comma at the end thereof and in-
22 serting a period.

23 (6) Clause (ii) of section 543(a)(2)(B) is
24 amended by striking “section 563(c)” and inserting
25 “section 563(d)”.

1 (7) Paragraph (1) of section 958(a) is amended
2 by striking “sections 955(b)(1) (A) and (B),
3 955(c)(2)(A)(ii), and 960(a)(1)” and inserting “sec-
4 tion 960(a)(1)”.

5 (8) Subsection (g) of section 642 is amended by
6 striking “under 2621(a)(2)” and inserting “under
7 section 2621(a)(2)”.

8 (9) Section 1463 is amended by striking “this
9 subsection” and inserting “this section”.

10 (10) Subsection (k) of section 3306 is amended
11 by inserting a period at the end thereof.

12 (11) The item relating to section 4472 in the
13 table of sections for subchapter B of chapter 36 is
14 amended by striking “and special rules”.

15 (12) Paragraph (3) of section 5134(c) is
16 amended by striking “section 6662(a)” and inserting
17 “section 6665(a)”.

18 (13) Paragraph (2) of section 5206(f) is
19 amended by striking “section 5(e)” and inserting
20 “section 105(e)”.

21 (14) Paragraph (1) of section 6050B(c) is
22 amended by striking “section 85(c)” and inserting
23 “section 85(b)”.

24 (15) Subsection (k) of section 6166 is amended
25 by striking paragraph (6).

1 (16) Subsection (e) of section 6214 is amended
2 to read as follows:

3 “(e) CROSS REFERENCE.—

**“For provision giving Tax Court jurisdiction to
 order a refund of an overpayment and to award
 sanctions, see section 6512(b)(2).”.**

4 (17) The section heading for section 6043 is
5 amended by striking the semicolon and inserting a
6 comma.

7 (18) The item relating to section 6043 in the
8 table of sections for subpart B of part III of sub-
9 chapter A of chapter 61 is amended by striking the
10 semicolon and inserting a comma.

11 (19) The table of sections for part I of sub-
12 chapter A of chapter 68 is amended by striking the
13 item relating to section 6662.

14 (20)(A) Section 7232 is amended—

15 (i) by striking “**LUBRICATING OIL,**” in
16 the heading, and

17 (ii) by striking “lubricating oil,” in the
18 text.

19 (B) The table of sections for part II of sub-
20 chapter A of chapter 75 is amended by striking “lu-
21 bricating oil,” in the item relating to section 7232.

22 (21) Paragraph (1) of section 6701(a) of the
23 Omnibus Budget Reconciliation Act of 1989 is

1 amended by striking “subclause (IV)” and inserting
2 “subclause (V)”.

3 (22) Clause (ii) of section 7304(a)(2)(D) of
4 such Act is amended by striking “subsection (c)(2)”
5 and inserting “subsection (c)”.

6 (23) Paragraph (1) of section 7646(b) of such
7 Act is amended by striking “section 6050H(b)(1)”
8 and inserting “section 6050H(b)(2)”.

9 (24) Paragraph (10) of section 7721(c) of
10 such Act is amended by striking “section
11 6662(b)(2)(C)(ii)” and inserting “section
12 6661(b)(2)(C)(ii)”.

13 (25) Subparagraph (A) of section 7811(i)(3) of
14 such Act is amended by inserting “the first place it
15 appears” before “in clause (i)”.

16 (26) Paragraph (10) of section 7841(d) of
17 such Act is amended by striking “section 381(a)”
18 and inserting “section 381(c)”.

19 (27) Paragraph (2) of section 7861(c) of such
20 Act is amended by inserting “the second place it ap-
21 pears” before “and inserting”.

22 (28) Paragraph (1) of section 460(b) is amend-
23 ed by striking “the look-back method of paragraph
24 (3)” and inserting “the look-back method of para-
25 graph (2)”.

1 (29) Subparagraph (C) of section 50(a)(2) is
2 amended by striking “subsection (c)(4)” and insert-
3 ing “subsection (d)(5)”.

4 (30) Subparagraph (B) of section 172(h)(4) is
5 amended by striking the material following the head-
6 ing and preceding clause (i) and inserting “For pur-
7 poses of subsection (b)(2)—”.

8 (31) Subparagraph (A) of section 355(d)(7) is
9 amended by inserting “section” before “267(b)”.

10 (32) Subparagraph (C) of section 420(e)(1) is
11 amended by striking “mean” and inserting “means”.

12 (33) Paragraph (4) of section 537(b) is amend-
13 ed by striking “section 172(i)” and inserting “sec-
14 tion 172(f)”.

15 (34) Subparagraph (B) of section 613(e)(1) is
16 amended by striking the comma at the end thereof
17 and inserting a period.

18 (35) Paragraph (4) of section 856(a) is amend-
19 ed by striking “section 582(c)(5)” and inserting
20 “section 582(c)(2)”.

21 (36) Sections 904(f)(2)(B)(i) and
22 907(c)(4)(B)(iii) are each amended by inserting “(as
23 in effect on the day before the date of the enactment
24 of the Revenue Reconciliation Act of 1990)” after
25 “section 172(h)”.

1 (37) Subsection (b) of section 936 is amended
2 by striking “subparagraphs (D)(ii)(I)” and inserting
3 “subparagraphs (D)(ii)”.

4 (38) Subsection (c) of section 2104 is amended
5 by striking “subparagraph (A), (C), or (D) of
6 section 861(a)(1)” and inserting “section
7 861(a)(1)(A)”.

8 (39) Subparagraph (A) of section 280A(c)(1) is
9 amended to read as follows:

10 “(A) as the principal place of business for
11 any trade or business of the taxpayer,”.

12 (40) Section 6038 is amended by redesignating
13 the subsection relating to cross references as sub-
14 section (f).

15 (41) Clause (iv) of section 6103(e)(1)(A) is
16 amended by striking all that follows “provisions of”
17 and inserting “section 1(g) or 59(j);”.

18 (42) The subsection (f) of section 6109 of the
19 Internal Revenue Code of 1986 which was added by
20 section 2201(d) of Public Law 101–624 is redesign-
21 ated as subsection (g).

22 (43) Subsection (b) of section 7454 is amended
23 by striking “section 4955(e)(2)” and inserting “sec-
24 tion 4955(f)(2)”.

1 (44) Subsection (d) of section 11231 of the
2 Revenue Reconciliation Act of 1990 shall be applied
3 as if “comma” appeared instead of “period” and as
4 if the paragraph (9) proposed to be added ended
5 with a comma.

6 (45) Paragraph (1) of section 11303(b) of the
7 Revenue Reconciliation Act of 1990 shall be applied
8 as if “paragraph” appeared instead of “subpara-
9 graph” in the material proposed to be stricken.

10 (46) Subsection (f) of section 11701 of the Rev-
11 enue Reconciliation Act of 1990 is amended by in-
12 serting “(relating to definitions)” after “section
13 6038(e)”.

14 (47) Subsection (i) of section 11701 of the Rev-
15 enue Reconciliation Act of 1990 shall be applied as
16 if “subsection” appeared instead of “section” in the
17 material proposed to be stricken.

18 (48) Subparagraph (B) of section 11801(c)(2)
19 of the Revenue Reconciliation Act of 1990 shall be
20 applied as if “section 56(g)” appeared instead of
21 “section 59(g)”.

22 (49) Subparagraph (C) of section 11801(c)(8)
23 of the Revenue Reconciliation Act of 1990 shall be
24 applied as if “reorganizations” appeared instead of

1 “reorganization” in the material proposed to be
2 stricken.

3 (50) Subparagraph (H) of section 11801(c)(9)
4 of the Revenue Reconciliation Act of 1990 shall be
5 applied as if “section 1042(c)(1)(B)” appeared in-
6 stead of “section 1042(c)(2)(B)”.

7 (51) Subparagraph (F) of section 11801(c)(12)
8 of the Revenue Reconciliation Act of 1990 shall be
9 applied as if “and (3)” appeared instead of “and
10 (E)”.

11 (52) Subparagraph (A) of section 11801(c)(22)
12 of the Revenue Reconciliation Act of 1990 shall be
13 applied as if “chapters 21” appeared instead of
14 “chapter 21” in the material proposed to be strick-
15 en.

16 (53) Paragraph (3) of section 11812(b) of the
17 Revenue Reconciliation Act of 1990 shall be applied
18 by not executing the amendment therein to the
19 heading of section 42(d)(5)(B).

20 (54) Clause (i) of section 11813(b)(9)(A) of the
21 Revenue Reconciliation Act of 1990 shall be applied
22 as if a comma appeared after “(3)(A)(ix)” in the
23 material proposed to be stricken.

24 (55) Subparagraph (F) of section 11813(b)(13)
25 of the Revenue Reconciliation Act of 1990 shall be

1 applied as if “tax” appeared after “investment” in
2 the material proposed to be stricken.

3 (56) Paragraph (19) of section 11813(b) of the
4 Revenue Reconciliation Act of 1990 shall be applied
5 as if “Paragraph (20) of section 1016(a), as redesign-
6 nated by section 11801,” appeared instead of “Para-
7 graph (21) of section 1016(a)”.

8 (57) Paragraph (5) section 8002(a) of the Sur-
9 face Transportation Revenue Act of 1991 shall be
10 applied as if “4481(e)” appeared instead of
11 “4481(c)”.

12 (58) Section 7872 is amended—

13 (A) by striking “foregone” each place it
14 appears in subsections (a) and (e)(2) and in-
15 serting “forgone”, and

16 (B) by striking “FOREGONE” in the head-
17 ing for subsection (e) and the heading for para-
18 graph (2) of subsection (e) and inserting “FOR-
19 GONE”.

20 (59) Paragraph (7) of section 7611(h) is
21 amended by striking “appropariate” and inserting
22 “appropriate”.

23 (60) The heading of paragraph (3) of section
24 419A(c) is amended by striking “SEVERENCE” and
25 inserting “SEVERANCE”.

1 (61) Clause (ii) of section 807(d)(3)(B) is
2 amended by striking “Commissoners’ ” and insert-
3 ing “Commissioners’ ”.

4 (62) Subparagraph (B) of section 1274A(c)(1)
5 is amended by striking “instument” and inserting
6 “instrument”.

7 (63) Subparagraph (B) of section 724(d)(3) by
8 striking “Subparagraph” and inserting “Subpara-
9 graph”.

10 (64) The last sentence of paragraph (2) of sec-
11 tion 42(c) is amended by striking “of 1988”.

12 (65) Paragraph (1) of section 9707(d) is
13 amended by striking “diligence,” and inserting “dili-
14 gence”.

15 (66) Subsection (c) of section 4977 is amended
16 by striking “section 132(i)(2)” and inserting “sec-
17 tion 132(h)”.

18 (67) The last sentence of section 401(a)(20) is
19 amended by striking “section 211” and inserting
20 “section 521”.

21 (68) Subparagraph (A) of section 402(g)(3) is
22 amended by striking “subsection (a)(8)” and insert-
23 ing “subsection (e)(3)”.

1 (69) The last sentence of section 403(b)(10) is
2 amended by striking “an direct” and inserting “a
3 direct”.

4 (70) Subparagraph (A) of section 4973(b)(1) is
5 amended by striking “sections 402(c)” and inserting
6 “section 402(c)”.

7 (71) Paragraph (12) of section 3405(e) is
8 amended by striking “(b)(3)” and inserting
9 “(b)(2)”.

10 (72) Paragraph (41) of section 521(b) of the
11 Unemployment Compensation Amendments of 1992
12 shall be applied as if “section” appeared instead of
13 “sections” in the material proposed to be stricken.

14 (73) Paragraph (27) of section 521(b) of the
15 Unemployment Compensation Amendments of 1992
16 shall be applied as if “Section 691(c)(5)” appeared
17 instead of “Section 691(c)”.

18 (74) Paragraph (5) of section 860F(a) is
19 amended by striking “paragraph (1)” and inserting
20 “paragraph (2)”.

21 (75) Paragraph (1) of section 415(k) is amend-
22 ed by adding “or” at the end of subparagraph (C),
23 by striking subparagraphs (D) and (E), and by re-
24 designating subparagraph (F) as subparagraph (D).

1 (76) Paragraph (2) of section 404(a) is amend-
2 ed by striking “(18),”.

3 (77) Clause (ii) of section 72(p)(4)(A) is
4 amended to read as follows:

5 “(ii) SPECIAL RULE.—The term
6 ‘qualified employer plan’ shall not include
7 any plan which was (or was determined to
8 be) a qualified employer plan or a govern-
9 ment plan.”.

10 (78) Sections 461(i)(3)(C) and
11 1274(b)(3)(B)(i) are each amended by striking “sec-
12 tion 6662(d)(2)(C)(ii)” and inserting “section
13 6662(d)(2)(C)(iii)”.

14 (79) Subsection (a) of section 164 is amended
15 by striking the paragraphs relating to the genera-
16 tion-skipping tax and the environmental tax imposed
17 by section 59A and by inserting after paragraph (3)
18 the following new paragraphs:

19 “(4) The GST tax imposed on income distribu-
20 tions.

21 “(5) The environmental tax imposed by section
22 59A.”.

23 (u) CERTAIN PROPERTY NOT TREATED AS SECTION
24 179 PROPERTY.—

1 (1) IN GENERAL.—Paragraph (1) of section
2 179(d) is amended by adding at the end thereof the
3 following new sentence: “Such term shall not include
4 any property described in section 50(b) and shall not
5 include air conditioning or heating units and
6 horses.”.

7 (2) EFFECTIVE DATE.—The amendment made
8 by paragraph (1) shall apply to property placed in
9 service after May 14, 1996.

10 **TITLE II—PAYMENT OF WAGES**

11 **SECTION 1. SHORT TITLE.**

12 This Act may be cited as the “Employee Commuting
13 Flexibility Act of 1996”.

14 **SEC. 2. PROPER COMPENSATION FOR USE OF EMPLOYER** 15 **VEHICLES.**

16 Section 4(a) of the Portal-to-Portal Act of 1947 (29
17 U.S.C. 254(a)) is amended by adding at the end the fol-
18 lowing: “For purposes of this subsection, the use of an
19 employer’s vehicle for travel by an employee and activities
20 performed by an employee which are incidental to the use
21 of such vehicle for commuting shall not be considered part
22 of the employee’s principal activities if the use of such ve-
23 hicle for travel is within the normal commuting area for
24 the employer’s business or establishment and the use of
25 the employer’s vehicle is subject to an agreement on the

1 part of the employer and the employee or representative
2 of such employee.”.

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

4 The amendment made by section 1 shall take effect
5 on the date of the enactment of this Act and shall apply
6 in determining the application of section 4 of the Portal-
7 to-Portal Act of 1947 to an employee in any civil action
8 brought before such date of enactment but pending on
9 such date.

10 **SEC. 4. MINIMUM WAGE INCREASE.**

11 (a) SHORT TITLE.—This section may be cited as the
12 “Minimum Wage Increase Act of 1996”.

13 (b) AMENDMENT.—Paragraph (1) of section 6(a) of
14 the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a))
15 is amended to read as follows:

16 “(1) except as otherwise provided in this sec-
17 tion, not less than \$4.25 an hour during the period
18 ending on June 30, 1996, not less than \$4.75 an
19 hour during the year beginning on July 1, 1996, and
20 not less than \$5.15 an hour after the expiration of
21 such year;”.

22 **SEC. 5. FAIR LABOR STANDARDS ACT AMENDMENTS.**

23 (a) COMPUTER PROFESSIONALS.—Section 13(a) of
24 the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a))
25 is amended by striking the period at the end of paragraph

1 (16) and inserting “; or” and by adding after that para-
2 graph the following:

3 “(17) any employee who is a computer systems
4 analyst, computer programmer, software engineer,
5 or other similarly skilled worker, whose primary duty
6 is—

7 “(A) the application of systems analysis
8 techniques and procedures, including consulting
9 with users, to determine hardware, software, or
10 system functional specifications;

11 “(B) the design, development, documenta-
12 tion, analysis, creation, testing, or modification
13 of computer systems or programs, including
14 prototypes, based on and related to user or sys-
15 tem design specifications;

16 “(C) the design, documentation, testing,
17 creation, or modification of computer programs
18 related to machine operating systems; or

19 “(D) a combination of duties described in
20 subparagraphs (A), (B), and (C) the perform-
21 ance of which requires the same level of skills,
22 and

23 who, in the case of an employee who is compensated
24 on an hourly basis, is compensated at a rate of not
25 less than \$27.63 an hour.”.

1 (b) TIP CREDIT.—The next to last sentence of sec-
2 tion 3(m) of the Fair Labor Standards Act of 1938 (29
3 U.S.C. 203(m)) is amended to read as follows: “In deter-
4 mining the wage an employer is required to pay a tipped
5 employee, the amount paid such employee by the employ-
6 ee’s employer shall be an amount equal to—

7 “(1) the cash wage paid such employee which
8 for purposes of such determination shall be not less
9 than the cash wage required to be paid such an em-
10 ployee on the date of the enactment of this para-
11 graph; and

12 “(2) an additional amount on account of the
13 tips received by such employee which amount is
14 equal to the difference between the wage specified in
15 paragraph (1) and the cash wage in effect under sec-
16 tion 6(a)(1).

17 The additional amount on account of tips may not exceed
18 the value of the tips actually received by an employee.”.

19 (c) OPPORTUNITY WAGE.—Section 6 of the Fair
20 Labor Standards Act of 1938 (29 U.S.C. 206) is amended
21 by adding at the end the following:

22 “(g)(1) In lieu of the rate prescribed by subsection
23 (a)(1), any employer may pay any employee of such em-
24 ployer, during the first 90 consecutive calendar days after

1 such employee is initially employed by such employer, a
2 wage which is not less than \$4.25 an hour.

3 “(2) No employer may take any action to displace
4 employees (including partial displacements such as reduc-
5 tion in hours, wages, or employment benefits) for purposes
6 of hiring individuals at the wage authorized in paragraph
7 (1).

8 “(3) Any employer who violates this subsection shall
9 be considered to have violated section 15(a)(3).

10 “(4) This subsection shall only apply to an employee
11 who has not attained the age of 20 years.”.

Passed the House of Representatives May 22, 1996.

Attest:

ROBIN H. CARLE,

Clerk.

By LINDA NAVE,

Deputy Clerk.