

Calendar No. 438

104<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 3448**

[Report No. 104-281]

---

---

**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.

---

---

JUNE 18, 1996

Reported with an amendment

**Calendar No. 438**

104<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 3448**

**[Report No. 104-281]**

---

IN THE SENATE OF THE UNITED STATES

MAY 24, 1996

Received

JUNE 6, 1996

Read twice and referred to the Committee on Finance

JUNE 18, 1996

Reported by Mr. ROTH, with an amendment

[Omit the part struck through and insert the part printed in *italic*]

---

**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 over-time 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.

### 10   **SEC. 1102. UNDERPAYMENTS OF ESTIMATED TAX.**

11           No addition to the tax shall be made under section  
 12 6654 or 6655 of the Internal Revenue Code of 1986 (relat-

ing to failure to pay estimated tax) with respect to any underpayment of an installment required to be paid before the date of the enactment of this Act to the extent such underpayment was created or increased by any provision of this title.

## 6 **Subtitle A—Expensing; Etc.**

### 7 **SEC. 1111. INCREASE IN EXPENSE TREATMENT FOR SMALL** 8 **BUSINESSES.**

9 (a) **GENERAL RULE.**—Paragraph (1) of section  
10 179(b) (relating to dollar limitation) is amended to read  
11 as follows:

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

<b>“If the taxable year begins in:</b>	<b>The applicable amount is:</b>
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.”

16 (b) **EFFECTIVE DATE.**—The amendment made by  
17 subsection (a) shall apply to taxable years beginning after  
18 December 31, 1995.

### 19 **SEC. 1112. TREATMENT OF EMPLOYEE TIPS.**

20 (a) **EMPLOYEE CASH TIPS.**—

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

7           ~~(2) TAXES PAID.—Subsection (d) of section~~  
8           ~~13443 of the Revenue Reconciliation Act of 1993 is~~  
9           ~~amended by inserting “, with respect to services per-~~  
10           ~~formed before, on, or after such date” after “1993”.~~

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

16           ~~(b) TIPS FOR EMPLOYEES DELIVERING FOOD OR~~  
17           ~~BEVERAGES.—~~

18           ~~(1) IN GENERAL.—Paragraph (2) of section~~  
19           ~~45B(b) is amended to read as follows:~~

20           ~~“(2) ONLY TIPS RECEIVED FOR FOOD OR BEV-~~  
21           ~~ERAGES TAKEN INTO ACCOUNT.—In applying para-~~  
22           ~~graph (1), there shall be taken into account only tips~~  
23           ~~received from customers in connection with the deliv-~~  
24           ~~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(e)  
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 (e)(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 (e)(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           ease 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 remun-  
16 eration—

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 “(e) 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(e) (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 individual 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 ~~49h).~~

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 incli-~~  
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(e)  
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           (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           ~~(e) 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(e) 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 regula-  
20                           tions, State or local income taxes or ad-  
21                           ministrative expenses to the extent allocat-  
22                           able 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(e)(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(e)(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                  (e) 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 (e) of section 1361 is amended  
5 by striking paragraph (6).

6 (2) Subsection (b) of section 1504 (defining in-  
7 eludible 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(e)(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(e)(1), and subclause (IV) shall be ap-  
21 plied only with respect to an employee  
22 within the meaning of section 401(e)(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(e)(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(e) (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(e) (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(e) (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(e) (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(e) (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(c)(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(e)(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           (e) 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                   ease 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.—

<b>“If the age of the primary annuitant on the annuity starting date is:</b>	<b>The number of anticipated payments is:</b>
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 (e)(1) without re-  
5                   gard to subsection (e)(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(e).

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.

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

3           **Subchapter A—Simple Savings Plans**

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

7           (a) **IN GENERAL.**—Section 408 (relating to individual  
8 retirement accounts) is amended by redesignating sub-  
9 section (p) as subsection (q) and by inserting after sub-  
10 section (o) the following new subsection:

11           “(p) **SIMPLE RETIREMENT ACCOUNTS.**—

12                   “(1) **IN GENERAL.**—For purposes of this title,  
13 the term ‘simple retirement account’ means an indi-  
14 vidual retirement plan (as defined in section  
15 7701(a)(37))—

16                           “(A) with respect to which the require-  
17 ments of paragraphs (3), (4), and (5) are met;  
18 and

19                           “(B) with respect to which the only con-  
20 tributions allowed are contributions under a  
21 qualified salary reduction arrangement.

22           “(2) **QUALIFIED SALARY REDUCTION ARRANGE-**  
23 **MENT.**—

24                   “(A) **IN GENERAL.**—For purposes of this  
25 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           “(H) 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 (H) 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(e)(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(e)(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 (e) as  
16          subsection (d) and by inserting after subsection  
17          (b) the following new subsection:

18          “(e) 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), (e), (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                   “(H) ~~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

1 year to which this paragraph applies if no con-  
2 tributions were made, or benefits were accrued,  
3 for services during such year under any quali-  
4 fied plan of the employer on behalf of any em-  
5 ployee eligible to participate in the cash or de-  
6 ferred arrangement, other than contributions  
7 described in subparagraph (B).

8 “(D) DEFINITIONS AND SPECIAL RULE.—

9 “(i) DEFINITIONS.—For purposes of  
10 this paragraph, any term used in this  
11 paragraph which is also used in section  
12 408(p) shall have the meaning given such  
13 term by such section.

14 “(ii) COORDINATION WITH TOP-HEAVY  
15 RULES.—A plan meeting the requirements  
16 of this paragraph for any year shall not be  
17 treated as a top-heavy plan under section  
18 416 for such year.”.

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) is amended by  
23 redesignating paragraph (10) as paragraph (11) and by  
24 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       (e) 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 (1) 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 eluded:

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 (1), and, for purposes of subsection  
10 (1), 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           (e) 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.~~—

1           (1) Section 414(q)(4), as redesignated by sec-  
2           tion 1431, is amended to read as follows:

3           “~~(4)~~ COMPENSATION.—For purposes of this  
4           subsection, the term ‘compensation’ has the meaning  
5           given such term by section 415(e)(3).”.

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

8           (e) EFFECTIVE DATE.—The amendments made by  
9           this section shall apply to years beginning after December  
10          31, 1997.

## 11                           **CHAPTER 4—MISCELLANEOUS**

### 12   **PROVISIONS**

#### 13          **SEC. 1441. PLANS COVERING SELF-EMPLOYED INDIVID-** 14   **UALS.**

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

19          “~~(d)~~ CONTRIBUTION LIMIT ON OWNER-EMPLOY-  
20          EES.—A trust forming part of a pension or profit-sharing  
21          plan which provides contributions or benefits for employ-  
22          ees some or all of whom are owner-employees shall con-  
23          stitute a qualified trust under this section only if, in addi-  
24          tion to meeting the requirements of subsection (a), the  
25          plan provides that contributions on behalf of any owner-

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           ~~fin ed 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           ~~rang ement shall constitute income derived from the~~  
22           ~~exereise 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 (e)(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-

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

5           (2) TREATMENT FOR YEARS BEGINNING BE-  
6       FORE JANUARY 1, 1995.—Nothing in the amend-  
7       ments made by this section shall be construed to  
8       infer that a governmental plan (as defined in section  
9       414(d) of the Internal Revenue Code of 1986) fails  
10      to satisfy the requirements of section 415 of such  
11      Code for any taxable year beginning before January  
12      1, 1995.

13 **SEC. 1445. UNIFORM RETIREMENT AGE.**

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

18           “(F) SOCIAL SECURITY RETIREMENT  
19      AGE.—For purposes of testing for discrimina-  
20      tion under paragraph (4)—

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

24           “(ii) subsidized early retirement bene-  
25      fits 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(e)(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(c) (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                    participant 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 (c)(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 quired 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 (e) 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(c) 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 (e) 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), (e), and (e)” and in-  
13 serting “subsections (b) and (e)”.

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 (e), and”.

23 (6) Clause (ii) of section 415(k)(2)(A) is  
24 amended by striking “subsections (e) and (e)” and  
25 inserting “subsection (e)”.

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 (e) QUALIFYING ROLLOVER DISTRIBUTIONS.—See  
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 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 ~~(e)~~ 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 (e)(2), and then to earnings described in subsection  
14 (e)(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           “(A) ECONOMIC ACTIVITY CREDIT.—In the  
2 ease 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           ~~foreign 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           ~~diu-m-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(e) 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(c)(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 related 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-

1           nection with the property before the close of the  
2           10th taxable year following the taxable year in  
3           which the property was placed in service;

4           “(B) the adjusted basis of the property  
5           shall only include amounts with respect to  
6           which the requirements of section 461(h) are  
7           satisfied;

8           “(C) the depreciation deduction under such  
9           method for the 10th taxable year beginning  
10          after the taxable year in which the property was  
11          placed in service shall be equal to the adjusted  
12          basis of such property as of the beginning of  
13          such 10th taxable year; and

14          “(D) such taxpayer shall pay (or be enti-  
15          tled to receive) interest computed under the  
16          look-back method of paragraph (2) for any re-  
17          computation year.

18          “(2) LOOK-BACK METHOD.—The interest com-  
19          puted under the look-back method of this paragraph  
20          for any recomputation year shall be determined by—

21                 “(A) first determining the depreciation de-  
22                 ductions under this section with respect to such  
23                 property which would have been allowable for  
24                 prior taxable years if the determination of the  
25                 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-

1 graph (5)) shall be taken into account by discount-  
2 ing (using the Federal mid-term rate determined  
3 under section 1274(d) as of the time such cost is in-  
4 curred) such cost to its value as of the date the  
5 property is placed in service. The taxpayer may elect  
6 with respect to any property to have the preceding  
7 sentence not apply to such property.

8 “(3) EXCEPTION FROM LOOK-BACK METHOD.—  
9 Paragraph (1)(D) shall not apply with respect to  
10 any property which, when placed in service by the  
11 taxpayer, had a basis of \$100,000 or less.

12 “(4) RECOMPUTATION YEAR.—For purposes of  
13 this subsection, except as provided in regulations,  
14 the term ‘recomputation year’ means, with respect to  
15 any property, the 3d and the 10th taxable years be-  
16 ginning after the taxable year in which the property  
17 was placed in service, unless the actual income  
18 earned in connection with the property for the pe-  
19 riod before the close of such 3d or 10th taxable year  
20 is within 10 percent of the income earned in connec-  
21 tion with the property for such period which was  
22 taken into account under paragraph (1)(A).

23 “(5) SPECIAL RULES.—

24 “(A) CERTAIN COSTS TREATED AS SEPA-  
25 RATE 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 sserting “Subparagraph (B) of section 6724(d)(1)”.

12           (2)(A) Subparagraph (B) of section 4093(e)(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 redesignating paragraphs (5) and (6) as paragraphs  
6 (4) and (5), respectively.

8 (5) Subsection (e) of section 5041 is amended  
9 by striking paragraph (6) and by inserting the following new paragraphs:  
10

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 removed during such calendar year by any other  
17 person (hereafter in this paragraph referred to  
18 as the ‘transferee’) to whom such wine was  
19 transferred in bond and who is liable for the tax  
20 imposed by this section with respect to such  
21 wine; and

22 “(C) such producer holds title to such wine  
23 at the time of its removal and provides to the  
24 transferee such information as is necessary to  
25

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(e))”  
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 subparagraphs (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(e)(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(c)(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(e)(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(e)(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(e) 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)(2) 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(e)(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(e)(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(e)(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(e)(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(e)(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(e)(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(e)(1)” and inserting  
12 “355(e)(1), or 361(e)(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)(H),  
10 and 832(b)(5)(D)(ii)(H) 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(e)(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(e)(9)(G)(ii) of the Revenue Reconciliation Act  
9           of 1990 shall be applied as if it struck “Section  
10          422A(e)(2)” and inserted “Section 422(e)(2)”.

11          (13) Subparagraph (B) of section 424(e)(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(e)(13)(B)” and  
20          inserting “section 613A(e)(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(e) 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       “(c) 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 (e)(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(e)(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 sserting “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 redesignig-  
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(e) 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 Re-  
6 conciliation Act of 1989.

7           ~~(c)~~ TREATMENT OF CERTAIN DISTRIBUTIONS  
8 UNDER SECTION 1445.—

9           ~~(1)~~ IN GENERAL.—Paragraph ~~(3)~~ of section  
10 1445~~(c)~~ 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 (c) 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  
2           interest.”

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 602(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 “(H) 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 redesignig-  
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          (H) 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 (e)(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(e) 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(c)(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 (H) 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(e) 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(e) is  
22          amended by striking “section 85(e)” 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(e) 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(e)”.

19 ~~(27)~~ Paragraph (2) of section 7861(e) 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 (e)(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(e)(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(e)(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(e)(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(e)(9)  
4 of the Revenue Reconciliation Act of 1990 shall be  
5 applied as if “section 1042(e)(1)(B)” appeared in-  
6 stead of “section 1042(e)(2)(B)”.

7 (51) Subparagraph (F) of section 11801(e)(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(e)(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 strik-  
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 dated 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(e)”.

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 “appropriate” and inserting  
22 “appropriate”.

23 (60) The heading of paragraph (3) of section  
24 419A(e) is amended by striking “SEVERANCE” 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(e)(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(e) 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 (e) 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(e)” and inserting  
6 “section 402(e)”.

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(e)(5)” appeared  
17 instead of “Section 691(e)”.

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           (ii) 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          (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 dues paid to agricultural or horticultural organizations.*

*Sec. 1114. Clarification of employment tax status of certain fishermen.*

*Sec. 1115. Modifications of tax-exempt bond rules for first-time farmers.*

*Sec. 1116. Newspaper distributors treated as direct sellers.*

*Sec. 1117. Application of involuntary conversion rules to presidentially declared  
 disasters.*

*Sec. 1118. Class life for gas station convenience stores and similar structures.*

*Sec. 1119. Treatment of abandonment of lessor improvements at termination of  
 lease.*

*Sec. 1120. Deductibility of business meal expenses for certain seafood processing  
 facilities.*

*Sec. 1121. Clarification of tax treatment of hard cider.*

*Sec. 1122. Special rules relating to determination whether individuals are  
 employees for purposes of employment taxes.*

*Subtitle B—Extension of Certain Expiring Provisions*

*Sec. 1201. Work opportunity tax credit.*

*Sec. 1202. Employer-provided educational assistance programs.*

*Sec. 1203. Research credit.*

*Sec. 1204. Orphan drug tax credit.*

*Sec. 1205. Contributions of stock to private foundations.*

*Sec. 1206. Extension of binding contract date for biomass and coal facilities.*

*Sec. 1207. Moratorium for excise tax on diesel fuel sold for use or used in diesel-  
 powered motorboats.*

*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 allowed.*  
*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 subdivided for sale by noncorporate taxpayers.*  
*Sec. 1315. Financial institutions.*  
*Sec. 1316. Certain exempt organizations allowed to be shareholders.*  
*Sec. 1317. 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 RETIREMENT 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).*  
*Sec. 1427. Homemakers eligible for full IRA deduction.*

*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. Model forms for spousal consent and qualified domestic relations forms.*
- Sec. 1458. Treatment of length of service awards to volunteers performing fire fighting or prevention services, emergency medical services, or ambulance services.*
- Sec. 1459. Date for adoption of plan amendments.*

*Subtitle E—Revenue Offsets*

*PART I—GENERAL PROVISIONS*

- Sec. 1601. Modifications of Puerto Rico and possession tax credit.*
- Sec. 1602. Repeal of exclusion for interest on loans used to acquire employer securities.*
- Sec. 1603. Repeal of exclusion for punitive damages.*
- Sec. 1604. Extension and phasedown of luxury passenger automobile tax.*
- Sec. 1605. Termination of future tax-exempt bond financing for local furnishers of electricity and gas.*
- Sec. 1606. Repeal of financial institution transition rule to interest allocation rules.*
- Sec. 1607. Extension of airport and airway trust fund excise taxes.*
- Sec. 1608. Basis adjustment to property held by corporation where stock in corporation is replacement property under involuntary conversion rules.*
- Sec. 1609. Extension of withholding to certain gambling winnings.*
- Sec. 1610. Treatment of certain insurance contracts on retired lives.*
- Sec. 1611. Treatment of contributions in aid of construction.*

*PART II—FINANCIAL ASSET SECURITIZATION INVESTMENTS*

- Sec. 1621. Financial asset securitization investment trusts.*

*PART III—TREATMENT OF INDIVIDUALS WHO EXPATRIATE*

- Sec. 1631. Revision of tax rules on expatriation.*

- Sec. 1632. Information on individuals expatriating.*  
*Sec. 1633. Report on tax compliance by United States citizens and residents living abroad.*

*Subtitle F—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.*

*Subtitle G—Other Provisions*

- Sec. 1801. Exemption from diesel fuel dyeing requirements with respect to certain States.*  
*Sec. 1802. Treatment of certain university accounts.*  
*Sec. 1803. Modifications to excise tax on ozone-depleting chemicals.*  
*Sec. 1804. Tax-exempt bonds for sale of Alaska Power Administration facility.*  
*Sec. 1805. Nonrecognition treatment for certain transfers by common trust funds to regulated investment companies.*  
*Sec. 1806. Qualified State tuition programs.*

**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 of*  
6 *an amendment to, or repeal of, a section or other provision,*  
7 *the reference shall be considered to be made to a section or*  
8 *other provision of the Internal Revenue Code of 1986.*

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

10            *No addition to the tax shall be made under section*  
11 *6654 or 6655 of the Internal Revenue Code of 1986 (relating*  
12 *to failure to pay estimated tax) with respect to any under-*

1 *payment of an installment required to be paid before the*  
 2 *date of the enactment of this Act to the extent such under-*  
 3 *payment was created or increased by any provision of this*  
 4 *title.*

5 ***Subtitle A—Expensing; Etc.***

6 ***SEC. 1111. INCREASE IN EXPENSE TREATMENT FOR SMALL***  
 7 ***BUSINESSES.***

8 *(a) GENERAL RULE.—Paragraph (1) of section 179(b)*  
 9 *(relating to dollar limitation) is amended to read as follows:*

10 *“(1) DOLLAR LIMITATION.—The aggregate cost*  
 11 *which may be taken into account under subsection (a)*  
 12 *for any taxable year shall not exceed the following ap-*  
 13 *plicable amount:*

<b><i>“If the taxable year begins in:</i></b>	<b><i>The applicable amount is:</i></b>
<i>1997 .....</i>	<i>18,000</i>
<i>1998 .....</i>	<i>18,500</i>
<i>1999 .....</i>	<i>19,000</i>
<i>2000 .....</i>	<i>20,000</i>
<i>2001 .....</i>	<i>24,000</i>
<i>2002 .....</i>	<i>24,000</i>
<i>2003 or thereafter .....</i>	<i>25,000.”</i>

14 *(b) EFFECTIVE DATE.—The amendment made by sub-*  
 15 *section (a) shall apply to taxable years beginning after De-*  
 16 *cember 31, 1996.*

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

18 *(a) EMPLOYEE CASH TIPS.—*

19 *(1) REPORTING REQUIREMENT NOT CONSID-*  
 20 *ERED.—Subparagraph (A) of section 45B(b)(1) (re-*  
 21 *lating to excess employer social security tax) is*

1       amended by inserting “(without regard to whether  
2       such tips are reported under section 6053)” after “sec-  
3       tion 3121(q)”.

4               (2) *TAXES PAID.*—Subsection (d) of section  
5       13443 of the Revenue Reconciliation Act of 1993 is  
6       amended by inserting “, with respect to services per-  
7       formed before, on, or after such date” after “1993”.

8               (3) *EFFECTIVE DATE.*—The amendments made  
9       by this subsection shall take effect as if included in  
10       the amendments made by, and the provisions of, sec-  
11       tion 13443 of the Revenue Reconciliation Act of 1993.

12       (b) *TIPS FOR EMPLOYEES DELIVERING FOOD OR BEV-*  
13 *ERAGES.*—

14               (1) *IN GENERAL.*—Paragraph (2) of section  
15       45B(b) is amended to read as follows:

16               “(2) *ONLY TIPS RECEIVED FOR FOOD OR BEV-*  
17 *ERAGES TAKEN INTO ACCOUNT.*—In applying para-  
18 *graph (1), there shall be taken into account only tips*  
19 *received from customers in connection with the deliv-*  
20 *ering or serving of food or beverages for consumption*  
21 *if the tipping of employees delivering or serving food*  
22 *or beverages by customers is customary.”*

23               (2) *EFFECTIVE DATE.*—The amendment made by  
24       paragraph (1) shall apply to tips received for services  
25       performed after December 31, 1996.

1 **SEC. 1113. TREATMENT OF DUES PAID TO AGRICULTURAL**  
2 **OR HORTICULTURAL ORGANIZATIONS.**

3 (a) *GENERAL RULE.*—Section 512 (defining unrelated  
4 business taxable income) is amended by adding at the end  
5 the following new subsection:

6 “(d) *TREATMENT OF DUES OF AGRICULTURAL OR*  
7 *HORTICULTURAL ORGANIZATIONS.*—

8 “(1) *IN GENERAL.*—If—

9 “(A) *an agricultural or horticultural orga-*  
10 *nization described in section 501(c)(5) requires*  
11 *annual dues to be paid in order to be a member*  
12 *of such organization, and*

13 “(B) *the amount of such required annual*  
14 *dues does not exceed \$100,*  
15 *in no event shall any portion of such dues be treated*  
16 *as derived by such organization from an unrelated*  
17 *trade or business by reason of any benefits or privi-*  
18 *leges to which members of such organization are enti-*  
19 *tled.*

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

24 “(A) *\$100, multiplied by*

25 “(B) *the cost-of-living adjustment deter-*  
26 *mined under section 1(f)(3) for the calendar year*



1           (B) *CERTAIN CASH REMUNERATION PER-*  
2           *MITTED.—Subparagraph (A) of section*  
3           *3121(b)(20) is amended to read as follows:*

4           “(A) *such individual does not receive any*  
5           *cash remuneration other than as provided in*  
6           *subparagraph (B) and other than cash remu-*  
7           *neration—*

8                     “(i) *which does not exceed \$100 per*  
9                     *trip;*

10                    “(ii) *which is contingent on a mini-*  
11                    *imum catch; and*

12                    “(iii) *which is paid solely for addi-*  
13                    *tional duties (such as mate, engineer, or*  
14                    *cook) for which additional cash remunera-*  
15                    *tion is traditional in the industry.”.*

16           (C) *CONFORMING AMENDMENT.—Section*  
17           *6050A(a) is amended by striking “and” at the*  
18           *end of paragraph (3), by striking the period at*  
19           *the end of paragraph (4) and inserting “; and”,*  
20           *and by adding at the end the following new*  
21           *paragraph:*

22                    “(5) *any cash remuneration described in section*  
23           *3121(b)(20)(A).”.*

24           (2) *AMENDMENT OF SOCIAL SECURITY ACT.—*

1                   (A) *DETERMINATION OF SIZE OF CREW.—*  
2                   *Subsection (a) of section 210 of the Social Secu-*  
3                   *rity Act is amended by adding at the end the fol-*  
4                   *lowing new sentence:*

5                   *“For purposes of paragraph (20), the operating crew of a*  
6                   *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                   *210(a)(20) of such Act is amended to read as fol-*  
13                   *lows:*

14                   *“(A) such individual does not receive any*  
15                   *additional compensation other than as provided*  
16                   *in subparagraph (B) and other than cash remu-*  
17                   *neration—*

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

20                   *“(ii) which is contingent on a mini-*  
21                   *imum catch; and*

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

1           (b) *EFFECTIVE DATE.*—*The amendments made by this*  
2 *section shall apply to remuneration paid after December*  
3 *31, 1994.*

4 **SEC. 1115. MODIFICATIONS OF TAX-EXEMPT BOND RULES**  
5 **FOR FIRST-TIME FARMERS.**

6           (a) *ACQUISITION FROM RELATED PERSON AL-*  
7 *LOWED.*—*Section 147(c)(2) (relating to exception for first-*  
8 *time farmers) is amended by adding at the end the follow-*  
9 *ing new subparagraph:*

10                   “(G) *ACQUISITION FROM RELATED PER-*  
11 *SON.*—*For purposes of this paragraph and sec-*  
12 *tion 144(a), the acquisition by a first-time farm-*  
13 *er of land or personal property from a related*  
14 *person (within the meaning of section 144(a)(3))*  
15 *shall not be treated as an acquisition from a re-*  
16 *lated person, if—*

17                           “(i) *the acquisition price is for the fair*  
18 *market value of such land or property, and*

19                           “(ii) *subsequent to such acquisition,*  
20 *the related person does not have a financial*  
21 *interest in the farming operation with re-*  
22 *spect to which the bond proceeds are to be*  
23 *used.”*

24           (b) *SUBSTANTIAL FARMLAND AMOUNT DOUBLED.*—  
25 *Clause (i) of section 147(c)(2)(E) (defining substantial*

1 *farmland) is amended by striking “15 percent” and insert-*  
2 *ing “30 percent”.*

3 *(c) EFFECTIVE DATE.—The amendments made by this*  
4 *section shall apply to bonds issued after the date of the en-*  
5 *actment of this Act.*

6 **SEC. 1116. NEWSPAPER DISTRIBUTORS TREATED AS DIRECT**  
7 **SELLERS.**

8 *(a) IN GENERAL.—Section 3508(b)(2)(A) is amended*  
9 *by striking “or” at the end of clause (i), by inserting “or”*  
10 *at the end of clause (ii), and by inserting after clause (ii)*  
11 *the following new clause:*

12 *“(iii) is engaged in the trade or busi-*  
13 *ness of the delivering or distribution of*  
14 *newspapers or shopping news (including*  
15 *any services directly related to such trade or*  
16 *business),”.*

17 *(b) EFFECTIVE DATE.—The amendments made by this*  
18 *section shall apply to services performed after December 31,*  
19 *1995.*

20 **SEC. 1117. APPLICATION OF INVOLUNTARY CONVERSION**  
21 **RULES TO PRESIDENTIALLY DECLARED DIS-**  
22 **ASTERS.**

23 *(a) IN GENERAL.—Section 1033(h) is amended by re-*  
24 *designating paragraphs (2) and (3) as paragraphs (3) and*

1 (4) and by inserting after paragraph (1) the following new  
2 paragraph:

3           “(2) *TRADE OR BUSINESS AND INVESTMENT*  
4           *PROPERTY.*—If a taxpayer’s property held for produc-  
5           *tive use in a trade or business or for investment is*  
6           *compulsorily or involuntarily converted as a result of*  
7           *a Presidentially declared disaster, tangible property*  
8           *of a type held for productive use in a trade or busi-*  
9           *ness shall be treated for purposes of subsection (a) as*  
10           *property similar or related in service or use to the*  
11           *property so converted.”.*

12           (b) *CONFORMING AMENDMENTS.*—Section 1033(h) is  
13 *amended—*

14           (1) by striking “residence” in paragraph (3) (as  
15           redesignated by subsection (a)) and inserting “prop-  
16           erty”,

17           (2) by striking “*PRINCIPAL RESIDENCES*” in the  
18           heading and inserting “*PROPERTY*”, and

19           (3) by striking “(1) *IN GENERAL.*—” and insert-  
20           ing “(1) *PRINCIPAL RESIDENCES.*—”.

21           (c) *EFFECTIVE DATE.*—The amendments made by this  
22           section shall apply to disasters declared after December 31,  
23           1994, in taxable years ending after such date.

1 **SEC. 1118. CLASS LIFE FOR GAS STATION CONVENIENCE**  
 2 **STORES AND SIMILAR STRUCTURES.**

3 (a) *IN GENERAL.*—Section 168(e)(3)(E) (classifying  
 4 certain property as 15-year property) is amended by strik-  
 5 ing “and” at the end of clause (i), by striking the period  
 6 at the end of clause (ii) and inserting “, and”, and by add-  
 7 ing at the end the following new clause:

8 “(iii) any section 1250 property which  
 9 is a retail motor fuels outlet (whether or not  
 10 food or other convenience items are sold at  
 11 the outlet).”

12 (b) *CONFORMING AMENDMENT.*—Subparagraph (B) of  
 13 section 168(g)(3) is amended by inserting after the item re-  
 14 lating to subparagraph (E)(ii) in the table contained there-  
 15 in the following new item:

“(E)(iii)..... 20”.

16 (c) *EFFECTIVE DATE.*—The amendments made by this  
 17 section shall apply to property which is placed in service  
 18 on or after the date of the enactment of this Act and to  
 19 which section 168 of the Internal Revenue Code of 1986 ap-  
 20 plies after the amendment made by section 201 of the Tax  
 21 Reform Act of 1986. A taxpayer may elect (in such form  
 22 and manner as the Secretary of the Treasury may pre-  
 23 scribe) to have such amendments apply with respect to any

1 *property placed in service before such date and to which*  
2 *such section so applies.*

3 **SEC. 1119. TREATMENT OF ABANDONMENT OF LESSOR IM-**  
4 **PROVEMENTS AT TERMINATION OF LEASE.**

5 *(a) IN GENERAL.—Paragraph (8) of section 168(i) is*  
6 *amended to read as follows:*

7 *“(8) TREATMENT OF LEASEHOLD IMPROVE-*  
8 *MENTS.—*

9 *“(A) IN GENERAL.—In the case of any*  
10 *building erected (or improvements made) on*  
11 *leased property, if such building or improvement*  
12 *is property to which this section applies, the de-*  
13 *preciation deduction shall be determined under*  
14 *the provisions of this section.*

15 *“(B) TREATMENT OF LESSOR IMPROVE-*  
16 *MENTS WHICH ARE ABANDONED AT TERMINATION*  
17 *OF LEASE.—An improvement—*

18 *“(i) which is made by the lessor of*  
19 *leased property for the lessee of such prop-*  
20 *erty, and*

21 *“(ii) which is irrevocably disposed of*  
22 *or abandoned by the lessor at the termi-*  
23 *nation of the lease by such lessee,*

1           *shall be treated for purposes of determining gain*  
2           *or loss under this title as disposed of by the les-*  
3           *sor when so disposed of or abandoned.”*

4           **(b) EFFECTIVE DATE.**—*Subparagraph (B) of section*  
5 *168(i)(8) of the Internal Revenue Code of 1986, as added*  
6 *by the amendment made by subsection (a), shall apply to*  
7 *improvements disposed of or abandoned after June 12,*  
8 *1996.*

9           **SEC. 1120. DEDUCTIBILITY OF BUSINESS MEAL EXPENSES**  
10                           **FOR CERTAIN SEAFOOD PROCESSING FACILI-**  
11                           **TIES.**

12           **(a) IN GENERAL.**—*Subparagraph (E) of section*  
13 *274(n)(2) is amended by striking “or” at the end of clause*  
14 *(iii), by striking the period at the end of clause (iv) and*  
15 *inserting “, or”, and by inserting after clause (iv) the fol-*  
16 *lowing new clause:*

17                           *“(v) provided at a remote seafood proc-*  
18                           *essing facility located in the United States*  
19                           *north of 53 degrees north latitude.”*

20           **(b) EFFECTIVE DATE.**—*The amendments made by this*  
21 *section shall apply to taxable years beginning after Decem-*  
22 *ber 31, 1996.*

1 **SEC. 1121. CLARIFICATION OF TAX TREATMENT OF HARD**  
2 **CIDER.**

3 (a) *HARD CIDER CONTAINING NOT MORE THAN 7*  
4 *PERCENT ALCOHOL TAXED AS WINE.*—Subsection (b) of  
5 *section 5041 (relating to imposition and rate of tax) is*  
6 *amended by striking “and” at the end of paragraph (4),*  
7 *by striking the period at the end of paragraph (5) and in-*  
8 *serting “; and”, and by adding at the end the following*  
9 *new paragraph:*

10 “(6) *On hard cider derived primarily from ap-*  
11 *ples or apple concentrate and water, containing no*  
12 *other fruit product, and containing at least one-half*  
13 *of 1 percent and not more than 7 percent of alcohol*  
14 *by volume, 22.6 cents per wine gallon.”*

15 (b) *EXCLUSION FROM SMALL PRODUCER CREDIT.*—  
16 *Paragraph (1) of section 5041(c) (relating to credit for*  
17 *small domestic producers) is amended by striking “sub-*  
18 *section (b)(4)” and inserting “paragraphs (4) and (6) of*  
19 *subsection (b)”.*

20 (c) *EFFECTIVE DATE.*—*The amendments made by this*  
21 *section shall take effect on January 1, 1997.*

1 **SEC. 1122. SPECIAL RULES RELATING TO DETERMINATION**  
2 **WHETHER INDIVIDUALS ARE EMPLOYEES**  
3 **FOR PURPOSES OF EMPLOYMENT TAXES.**

4 (a) *IN GENERAL.*—Section 530 of the Revenue Act of  
5 1978 is amended by adding at the end the following new  
6 subsection:

7 “(e) *SPECIAL RULES FOR APPLICATION OF SEC-*  
8 *TION.*—

9 “(1) *NOTICE REQUIREMENTS.*—

10 “(A) *WRITTEN AGREEMENT REQUIRED BE-*  
11 *TWEEN TAXPAYER AND INDIVIDUAL.*—*The provi-*  
12 *sions of subsection (a)(1) shall not apply with*  
13 *respect to a taxpayer and any individual unless*  
14 *such taxpayer and individual sign a statement*  
15 *(at such time and in such form as the Secretary*  
16 *may prescribe) which provides that such individ-*  
17 *ual will not be treated as an employee of the tax-*  
18 *payer for purposes of employment taxes.*

19 “(B) *NOTICE OF AVAILABILITY OF SEC-*  
20 *TION.*—*An officer or employee of the Internal*  
21 *Revenue Service shall, before or at the commence-*  
22 *ment of any audit relating to the employment*  
23 *status of one or more individuals who perform*  
24 *services for the taxpayer, provide the taxpayer*  
25 *with a written notice of the provisions of this*  
26 *section.*

1           “(2) *RULES RELATING TO STATUTORY STAND-*  
2           *ARDS.—For purposes of subsection (a)(2)—*

3           “(A) *a taxpayer may not rely on an audit*  
4           *commenced after December 31, 1996, for pur-*  
5           *poses of subparagraph (B) thereof unless such*  
6           *audit included an examination for employment*  
7           *tax purposes of whether the individual involved*  
8           *(or any individual holding a position substan-*  
9           *tially similar to the position held by the individ-*  
10           *ual involved) should be treated as an employee of*  
11           *the taxpayer,*

12           “(B) *in no event shall the significant seg-*  
13           *ment requirement of subparagraph (C) thereof be*  
14           *construed to require a reasonable showing of the*  
15           *practice of more than 25 percent of the industry*  
16           *(determined by not taking into account the tax-*  
17           *payer), and*

18           “(C) *in applying the long-standing recog-*  
19           *nized practice requirement of subparagraph (C)*  
20           *thereof—*

21           “(i) *such requirement shall not be con-*  
22           *strued as requiring the practice to have con-*  
23           *tinued for more than 10 years, and*

1                   “(ii) a practice shall not fail to be  
2                   treated as long-standing merely because  
3                   such practice began after 1978.

4                   “(3) AVAILABILITY OF SAFE HARBORS.—Nothing  
5                   in this section shall be construed to provide that sub-  
6                   section (a) only applies where the individual involved  
7                   is otherwise an employee of the taxpayer.

8                   “(4) BURDEN OF PROOF.—

9                   “(A) IN GENERAL.—If—

10                   “(i) a taxpayer establishes a prima  
11                   facie case that it was reasonable not to treat  
12                   an individual as an employee for purposes  
13                   of this section, and

14                   “(ii) the taxpayer has fully cooperated  
15                   with reasonable requests from the Secretary  
16                   of the Treasury or his delegate,  
17                   then the burden of proof with respect to such  
18                   treatment shall be on the Secretary.

19                   “(B) EXCEPTION FOR OTHER REASONABLE  
20                   BASIS.—In the case of any issue involving  
21                   whether the taxpayer had a reasonable basis not  
22                   to treat an individual as an employee for pur-  
23                   poses of this section, subparagraph (A) shall only  
24                   apply for purposes of determining whether the

1           taxpayer meets the requirements of subparagraph  
2           (A), (B), or (C) of subsection (a)(2).”

3           (b) *EFFECTIVE DATES.*—

4           (1) *IN GENERAL.*—The amendment made by this  
5           section shall apply to periods after December 31,  
6           1996.

7           (2) *NOTICE REQUIREMENTS.*—

8           (A) *WRITTEN AGREEMENT.*—In the case of  
9           individuals who first perform services for a tax-  
10          payer before January 1, 1997, the requirements  
11          of section 530(e)(1)(A) of the Revenue Act of  
12          1978 (as added by subsection (a)) shall not  
13          apply before January 1, 1998, unless the tax-  
14          payer elects to apply such requirements before  
15          such date.

16          (B) *NOTICE BY INTERNAL REVENUE SERV-*  
17          *ICE.*—Section 530(e)(1)(B) of the Revenue Act of  
18          1978 (as added by subsection (a)) shall apply to  
19          audits which commence after December 31, 1996.

20          (3) *BURDEN OF PROOF.*—

21          (A) *IN GENERAL.*—Section 530(e)(4) of the  
22          Revenue Act of 1978 (as added by subsection (a))  
23          shall apply to disputes involving periods after  
24          December 31, 1996.

1           (B) *NO INFERENCE.*—*Nothing in the*  
 2           *amendments made by this section shall be con-*  
 3           *strued to infer the proper treatment of the bur-*  
 4           *den of proof with respect to disputes involving*  
 5           *periods before January 1, 1997.*

6           ***Subtitle B—Extension of Certain***  
 7           ***Expiring Provisions***

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

9           (a) *AMOUNT OF CREDIT.*—*Subsection (a) of section 51*  
 10          *(relating to amount of credit) is amended by striking “40*  
 11          *percent” and inserting “35 percent”.*

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

14          “(d) *MEMBERS OF TARGETED GROUPS.*—*For purposes*  
 15          *of this subpart—*

16                  “(1) *IN GENERAL.*—*An individual is a member*  
 17          *of a targeted group if such individual is—*

18                          “(A) *a qualified IV–A recipient,*

19                          “(B) *a qualified veteran,*

20                          “(C) *a qualified ex-felon,*

21                          “(D) *a high-risk youth,*

22                          “(E) *a vocational rehabilitation referral,*

23                          “(F) *a qualified summer youth employee, or*

24                          “(G) *a qualified food stamp recipient.*

25                  “(2) *QUALIFIED IV–A RECIPIENT.*—

1           “(A) *IN GENERAL.*—The term ‘qualified IV-  
2           *A recipient*’ means any individual who is cer-  
3           *tified by the designated local agency as being a*  
4           *member of a family receiving assistance under a*  
5           *IV-A program for at least a 9-month period end-*  
6           *ing during the 9-month period ending on the*  
7           *hiring date.*

8           “(B) *IV-A PROGRAM.*—For purposes of this  
9           *paragraph, the term ‘IV-A program’ means any*  
10          *program providing assistance under a State*  
11          *plan approved under part A of title IV of the So-*  
12          *cial Security Act (relating to assistance for*  
13          *needy families with minor children) and any*  
14          *successor of such program.*

15          “(3) *QUALIFIED VETERAN.*—

16          “(A) *IN GENERAL.*—The term ‘qualified vet-  
17          *eran*’ means any veteran who is certified by the  
18          *designated local agency as being—*

19                  “(i) *a member of a family receiving as-*  
20                  *istance under a IV-A program (as defined*  
21                  *in paragraph (2)(B)) for at least a 9-month*  
22                  *period ending during the 12-month period*  
23                  *ending on the hiring date, or*

24                  “(ii) *a member of a family receiving*  
25                  *assistance under a food stamp program*

1           *under the Food Stamp Act of 1977 for at*  
2           *least a 3-month period ending during the*  
3           *12-month period ending on the hiring date.*

4           “(B) *VETERAN.*—*For purposes of subpara-*  
5           *graph (A), the term ‘veteran’ means any individ-*  
6           *ual who is certified by the designated local agen-*  
7           *cy as—*

8                   “(i)(I) *having served on active duty*  
9                   *(other than active duty for training) in the*  
10                  *Armed Forces of the United States for a pe-*  
11                  *riod of more than 180 days, or*

12                   “(II) *having been discharged or re-*  
13                   *leased from active duty in the Armed Forces*  
14                   *of the United States for a service-connected*  
15                   *disability, and*

16                   “(ii) *not having any day during the*  
17                   *60-day period ending on the hiring date*  
18                   *which was a day of extended active duty in*  
19                   *the Armed Forces of the United States.*

20           *For purposes of clause (ii), the term ‘extended*  
21           *active duty’ means a period of more than 90*  
22           *days during which the individual was on active*  
23           *duty (other than active duty for training).*

1           “(4) *QUALIFIED EX-FELON.*—The term ‘qualified  
2 *ex-felon*’ means any individual who is certified by the  
3 *designated local agency*—

4           “(A) *as having been convicted of a felony*  
5 *under any statute of the United States or any*  
6 *State,*

7           “(B) *as having a hiring date which is not*  
8 *more than 1 year after the last date on which*  
9 *such individual was so convicted or was released*  
10 *from prison, and*

11           “(C) *as being a member of a family which*  
12 *had an income during the 6 months immediately*  
13 *preceding the earlier of the month in which such*  
14 *income determination occurs or the month in*  
15 *which the hiring date occurs, which, on an an-*  
16 *annual basis, would be 70 percent or less of the Bu-*  
17 *reau of Labor Statistics lower living standard.*

18 *Any determination under subparagraph (C) shall be*  
19 *valid for the 45-day period beginning on the date*  
20 *such determination is made.*

21           “(5) *HIGH-RISK YOUTH.*—

22           “(A) *IN GENERAL.*—The term ‘high-risk  
23 *youth*’ means any individual who is certified by  
24 *the designated local agency*—

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

3                   “(ii) as having his principal place of  
4                   abode within an empowerment zone or en-  
5                   terprise community.

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

12                  “(6) VOCATIONAL REHABILITATION REFERRAL.—  
13                  The term ‘vocational rehabilitation referral’ means  
14                  any individual who is certified by the designated  
15                  local agency as—

16                         “(A) having a physical or mental disability  
17                         which, for such individual, constitutes or results  
18                         in a substantial handicap to employment, and

19                         “(B) having been referred to the employer  
20                         upon completion of (or while receiving) rehabili-  
21                         tative services pursuant to—

22                                 “(i) an individualized written rehabili-  
23                                 tation plan under a State plan for voca-  
24                                 tional rehabilitation services approved  
25                                 under the Rehabilitation Act of 1973, or

1           “(ii) a program of vocational rehabili-  
2           tation carried out under chapter 31 of title  
3           38, United States Code.

4           “(7) QUALIFIED SUMMER YOUTH EMPLOYEE.—

5           “(A) IN GENERAL.—The term ‘qualified  
6           summer youth employee’ means any individ-  
7           ual—

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

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

14           “(iii) who has not been an employee of  
15           the employer during any period prior to the  
16           90-day period described in subparagraph  
17           (B)(i), and

18           “(iv) who is certified by the designated  
19           local agency as having his principal place  
20           of abode within an empowerment zone or  
21           enterprise community.

22           “(B) SPECIAL RULES FOR DETERMINING  
23           AMOUNT OF CREDIT.—For purposes of applying  
24           this subpart to wages paid or incurred to any  
25           qualified summer youth employee—

1           “(i) subsection (b)(2) shall be applied  
2           by substituting ‘any 90-day period between  
3           May 1 and September 15’ for ‘the 1-year  
4           period beginning with the day the individ-  
5           ual begins work for the employer’, and

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

8           *The preceding sentence shall not apply to an in-*  
9           *dividual who, with respect to the same employer,*  
10          *is certified as a member of another targeted*  
11          *group after such individual has been a qualified*  
12          *summer youth employee.*

13          “(C) *YOUTH MUST CONTINUE TO RESIDE IN*  
14          *ZONE.—Paragraph (5)(B) shall apply for pur-*  
15          *poses of subparagraph (A)(iv).*

16          “(8) *QUALIFIED FOOD STAMP RECIPIENT.—*

17          “(A) *IN GENERAL.—The term ‘qualified*  
18          *food stamp recipient’ means any individual who*  
19          *is certified by the designated local agency—*

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

22                 “(ii) *as being a member of a family re-*  
23                 *ceiving assistance under a food stamp pro-*  
24                 *gram under the Food Stamp Act of 1977 for*

1           *the 3-month period ending on the hiring*  
2           *date.*

3           “(B) *PARTICIPATION INFORMATION.*—*Not-*  
4           *withstanding any other provision of law, the*  
5           *Secretary of the Treasury and the Secretary of*  
6           *Agriculture shall enter into an agreement to pro-*  
7           *vide information to designated local agencies*  
8           *with respect to participation in the food stamp*  
9           *program.*

10          “(9) *HIRING DATE.*—*The term ‘hiring date’*  
11          *means the day the individual is hired by the em-*  
12          *ployer.*

13          “(10) *DESIGNATED LOCAL AGENCY.*—*The term*  
14          *‘designated local agency’ means a State employment*  
15          *security agency established in accordance with the Act*  
16          *of June 6, 1933, as amended (29 U.S.C. 49–49n).*

17          “(11) *SPECIAL RULES FOR CERTIFICATIONS.*—

18                 “(A) *IN GENERAL.*—*An individual shall not*  
19                 *be treated as a member of a targeted group un-*  
20                 *less—*

21                         “(i) *on or before the day on which such*  
22                         *individual begins work for the employer, the*  
23                         *employer has received a certification from a*  
24                         *designated local agency that such individual*  
25                         *is a member of a targeted group, or*

1           “(ii)(I) on or before the day the indi-  
2           vidual is offered employment with the em-  
3           ployer, a pre-screening notice is completed  
4           by the employer with respect to such indi-  
5           vidual, and

6           “(II) not later than the 21st day after  
7           the individual begins work for the employer,  
8           the employer submits such notice, signed by  
9           the employer and the individual under pen-  
10          alties of perjury, to the designated local  
11          agency as part of a written request for such  
12          a certification from such agency.

13          For purposes of this paragraph, the term ‘pre-  
14          screening notice’ means a document (in such  
15          form as the Secretary shall prescribe) which con-  
16          tains information provided by the individual on  
17          the basis of which the employer believes that the  
18          individual is a member of a targeted group.

19          “(B) *INCORRECT CERTIFICATIONS.*—If—

20                 “(i) an individual has been certified by  
21                 a designated local agency as a member of a  
22                 targeted group, and

23                 “(ii) such certification is incorrect be-  
24                 cause it was based on false information pro-  
25                 vided by such individual,

1           *the certification shall be revoked and wages paid*  
2           *by the employer after the date on which notice*  
3           *of revocation is received by the employer shall*  
4           *not be treated as qualified wages.*

5           “(C) *EXPLANATION OF DENIAL OF RE-*  
6           *QUEST.—If a designated local agency denies a*  
7           *request for certification of membership in a tar-*  
8           *geted group, such agency shall provide to the per-*  
9           *son making such request a written explanation*  
10           *of the reasons for such denial.”*

11           *(c) MINIMUM EMPLOYMENT PERIOD.—Paragraph (3)*  
12           *of section 51(i) (relating to certain individuals ineligible)*  
13           *is amended to read as follows:*

14           “(3) *INDIVIDUALS NOT MEETING MINIMUM EM-*  
15           *PLOYMENT PERIOD.—No wages shall be taken into ac-*  
16           *count under subsection (a) with respect to any indi-*  
17           *vidual unless such individual either—*

18                     “(A) *is employed by the employer at least*  
19                     *180 days (20 days in the case of a qualified*  
20                     *summer youth employee), or*

21                     “(B) *has completed at least 375 hours (120*  
22                     *hours in the case of a qualified summer youth*  
23                     *employee) of services performed for the em-*  
24                     *ployer.”*

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

3           “(4) *TERMINATION*.—The term ‘wages’ shall not  
4 include any amount paid or incurred to an individ-  
5 ual who begins work for the employer—

6                   “(A) after December 31, 1994, and before  
7                   October 1, 1996, or

8                   “(B) after September 30, 1997.”

9       (e) *REDESIGNATION OF CREDIT*.—

10           (1) Sections 38(b)(2) and 51(a) are each amend-  
11 ed by striking “targeted jobs credit” and inserting  
12 “work opportunity credit”.

13           (2) The subpart heading for subpart F of part IV  
14 of subchapter A of chapter 1 is amended by striking  
15 “**Targeted Jobs Credit**” and inserting “**Work**  
16 **Opportunity Credit**”.

17           (3) The table of subparts for such part IV is  
18 amended by striking “targeted jobs credit” and insert-  
19 ing “work opportunity credit”.

20           (4) The heading for paragraph (3) of section  
21 1396(c) is amended by striking “TARGETED JOBS  
22 CREDIT” and inserting “WORK OPPORTUNITY CRED-  
23 IT”.

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

1           (g) *EFFECTIVE DATE.*—*The amendments made by this*  
2 *section shall apply to individuals who begin work for the*  
3 *employer after September 30, 1996.*

4 **SEC. 1202. EMPLOYER-PROVIDED EDUCATIONAL ASSIST-**  
5 **ANCE PROGRAMS.**

6           (a) *EXTENSION.*—*Subsection (d) of section 127 (relat-*  
7 *ing to educational assistance programs) is amended by*  
8 *striking “December 31, 1994” and inserting “December 31,*  
9 *1996”.*

10          (b) *EFFECTIVE DATES.*—

11               (1) *EXTENSION.*—*The amendment made by sub-*  
12 *section (a) shall apply to taxable years beginning*  
13 *after December 31, 1994.*

14               (2) *EXPEDITED PROCEDURES.*—*The Secretary of*  
15 *the Treasury shall establish expedited procedures for*  
16 *the refund of any overpayment of taxes imposed by*  
17 *the Internal Revenue Code of 1986 which is attrib-*  
18 *utable to amounts excluded from gross income during*  
19 *1995 or 1996 under section 127 of such Code, includ-*  
20 *ing procedures waiving the requirement that an em-*  
21 *ployer obtain an employee’s signature where the em-*  
22 *ployer demonstrates to the satisfaction of the Sec-*  
23 *retary that any refund collected by the employer on*  
24 *behalf of the employee will be paid to the employee.*

1 **SEC. 1203. RESEARCH CREDIT.**

2 (a) *IN GENERAL.*—Subsection (h) of section 41 (relat-  
3 ing to credit for research activities) is amended to read as  
4 follows:

5 “(h) *TERMINATION.*—

6 “(1) *IN GENERAL.*—This section shall not apply  
7 to any amount paid or incurred—

8 “(A) after June 30, 1995, and before July  
9 1, 1996, or

10 “(B) after June 30, 1997.”

11 “(2) *COMPUTATION OF BASE AMOUNT.*—In the  
12 case of any taxable year with respect to which this  
13 section applies to a number of days which is less than  
14 the total number of days in such taxable year, the  
15 base amount with respect to such taxable year shall  
16 be the amount which bears the same ratio to the base  
17 amount for such year (determined without regard to  
18 this paragraph) as the number of days in such tax-  
19 able year to which this section applies bears to the  
20 total number of days in such taxable year.”

21 (b) *BASE AMOUNT FOR START-UP COMPANIES.*—  
22 Clause (i) of section 41(c)(3)(B) (relating to start-up com-  
23 panies) is amended to read as follows:

24 “(i) *TAXPAYERS TO WHICH SUBPARA-*  
25 *GRAPH APPLIES.*—The fixed-base percentage

1           *shall be determined under this subpara-*  
2           *graph if—*

3                   “(I) *the first taxable year in*  
4                   *which a taxpayer had both gross re-*  
5                   *ceipts and qualified research expenses*  
6                   *begins after December 31, 1983, or*

7                   “(II) *there are fewer than 3 tax-*  
8                   *able years beginning after December*  
9                   *31, 1983, and before January 1, 1989,*  
10                  *in which the taxpayer had both gross*  
11                  *receipts and qualified research ex-*  
12                  *penses.”*

13           (c) *ELECTION OF ALTERNATIVE INCREMENTAL CRED-*  
14 *IT.—Subsection (c) of section 41 is amended by redesignat-*  
15 *ing paragraphs (4) and (5) as paragraphs (5) and (6), re-*  
16 *spectively, and by inserting after paragraph (3) the follow-*  
17 *ing new paragraph:*

18                   “(4) *ELECTION OF ALTERNATIVE INCREMENTAL*  
19                   *CREDIT.—*

20                   “(A) *IN GENERAL.—At the election of the*  
21                   *taxpayer, the credit determined under subsection*  
22                   *(a)(1) shall be equal to the sum of—*

23                           “(i) *1.65 percent of so much of the*  
24                           *qualified research expenses for the taxable*  
25                           *year as exceeds 1 percent of the average de-*

1           scribed in subsection (c)(1)(B) but does not  
2           exceed 1.5 percent of such average,

3           “(ii) 2.2 percent of so much of such ex-  
4           penses as exceeds 1.5 percent of such average  
5           but does not exceed 2 percent of such aver-  
6           age, and

7           “(iii) 2.75 percent of so much of such  
8           expenses as exceeds 2 percent of such aver-  
9           age.

10          “(B) *ELECTION*.—An election under this  
11          paragraph may be made only for the first tax-  
12          able year of the taxpayer beginning after June  
13          30, 1996. Such an election shall apply to the  
14          taxable year for which made and all succeeding  
15          taxable years unless revoked with the consent of  
16          the Secretary.”

17          (d) *INCREASED CREDIT FOR CONTRACT RESEARCH*  
18          *EXPENSES WITH RESPECT TO CERTAIN RESEARCH CON-*  
19          *SORTIA*.—Paragraph (3) of section 41(b) is amended by  
20          adding at the end the following new subparagraph:

21                  “(C) *AMOUNTS PAID TO CERTAIN RESEARCH*  
22                  *CONSORTIA*.—

23                          “(i) *IN GENERAL*.—Subparagraph (A)  
24                          shall be applied by substituting ‘75 percent’  
25                          for ‘65 percent’ with respect to amounts

1           *paid or incurred by the taxpayer to a quali-*  
2           *fied research consortium for qualified re-*  
3           *search on behalf of the taxpayer and 1 or*  
4           *more unrelated taxpayers. For purposes of*  
5           *the preceding sentence, all persons treated*  
6           *as a single employer under subsection (a)*  
7           *or (b) of section 52 shall be treated as relat-*  
8           *ed taxpayers.*

9                   “(ii) *QUALIFIED RESEARCH CONSOR-*  
10            *TIUM.—The term ‘qualified research consor-*  
11            *tium’ means any organization which—*

12                           “(I) *is described in section*  
13                            *501(c)(3) or 501(c)(6) and is exempt*  
14                            *from tax under section 501(a),*

15                           “(II) *is organized and operated*  
16                            *primarily to conduct scientific re-*  
17                            *search, and*

18                           “(III) *is not a private founda-*  
19                            *tion.”*

20            *(e) CONFORMING AMENDMENT.—Subparagraph (D) of*  
21            *section 28(b)(1) is amended by inserting “, and before July*  
22            *1, 1996, and periods after June 30, 1997” after “June 30,*  
23            *1995”.*

24            *(f) EFFECTIVE DATES.—*

1           (1) *IN GENERAL.*—*Except as provided in para-*  
2 *graph (2), the amendments made by this section shall*  
3 *apply to taxable years ending after June 30, 1996.*

4           (2) *SUBSECTIONS (c) AND (d).*—*The amendments*  
5 *made by subsections (c) and (d) shall apply to taxable*  
6 *years beginning after June 30, 1996.*

7 **SEC. 1204. ORPHAN DRUG TAX CREDIT.**

8           (a) *RECATEGORIZED AS A BUSINESS CREDIT.*—

9           (1) *IN GENERAL.*—*Section 28 (relating to clini-*  
10 *cal testing expenses for certain drugs for rare diseases*  
11 *or conditions) is transferred to subpart D of part IV*  
12 *of subchapter A of chapter 1, inserted after section*  
13 *45B, and redesignated as section 45C.*

14           (2) *CONFORMING AMENDMENT.*—*Subsection (b)*  
15 *of section 38 (relating to general business credit) is*  
16 *amended by striking “plus” at the end of paragraph*  
17 *(10), by striking the period at the end of paragraph*  
18 *(11) and inserting “, plus”, and by adding at the end*  
19 *the following new paragraph:*

20           “*(12) the orphan drug credit determined under*  
21 *section 45C(a).*”

22           (3) *CLERICAL AMENDMENTS.*—

23           (A) *The table of sections for subpart B of*  
24 *such part IV is amended by striking the item re-*  
25 *lating to section 28.*

1                   (B) *The table of sections for subpart D of*  
2                   *such part IV is amended by adding at the end*  
3                   *the following new item:*

                  “*Sec. 45C. Clinical testing expenses for certain drugs for rare diseases or*  
                  *conditions.*”

4           (b) *CREDIT TERMINATION.*—*Subsection (e) of section*  
5 *45C, as redesignated by subsection (a)(1), is amended to*  
6 *read as follows:*

7           “(e) *TERMINATION.*—*This section shall not apply to*  
8 *any amount paid or incurred—*

9                   “(A) *after December 31, 1994, and before*  
10                   *July 1, 1996, or*

11                   “(B) *after June 30, 1997.*”

12           (c) *NO PRE-JULY 1, 1996 CARRYBACKS.*—*Subsection*  
13 *(d) of section 39 (relating to carryback and carryforward*  
14 *of unused credits) is amended by adding at the end the fol-*  
15 *lowing new paragraph:*

16                   “(7) *NO CARRYBACK OF SECTION 45C CREDIT BE-*  
17 *FORE JULY 1, 1996.*—*No portion of the unused busi-*  
18 *ness credit for any taxable year which is attributable*  
19 *to the orphan drug credit determined under section*  
20 *45C may be carried back to a taxable year ending be-*  
21 *fore July 1, 1996.*”

22           (d) *ADDITIONAL CONFORMING AMENDMENTS.*—

23                   (1) *Section 45C(a), as redesignated by subsection*  
24 *(a)(1), is amended by striking “There shall be allowed*

1       *as a credit against the tax imposed by this chapter*  
2       *for the taxable year” and inserting “For purposes of*  
3       *section 38, the credit determined under this section*  
4       *for the taxable year is”.*

5               (2) *Section 45C(d), as so redesignated, is amend-*  
6       *ed by striking paragraph (2) and by redesignating*  
7       *paragraphs (3), (4), and (5) as paragraphs (2), (3),*  
8       *and (4).*

9               (3) *Section 29(b)(6)(A) is amended by striking*  
10       *“sections 27 and 28” and inserting “section 27”.*

11              (4) *Section 30(b)(3)(A) is amended by striking*  
12       *“sections 27, 28, and 29” and inserting “sections 27*  
13       *and 29”.*

14              (5) *Section 53(d)(1)(B) is amended—*

15                   (A) *by striking “or not allowed under sec-*  
16       *tion 28 solely by reason of the application of sec-*  
17       *tion 28(d)(2)(B),” in clause (iii), and*

18                   (B) *by striking “or not allowed under sec-*  
19       *tion 28 solely by reason of the application of sec-*  
20       *tion 28(d)(2)(B)” in clause (iv)(II).*

21              (6) *Section 55(c)(2) is amended by striking*  
22       *“28(d)(2),”.*

23              (7) *Section 280C(b) is amended—*

24                   (A) *by striking “section 28(b)” in para-*  
25       *graph (1) and inserting “section 45C(b),”*

1           (B) by striking “section 28” in paragraphs  
2           (1) and (2)(A) and inserting “section 45C(b)”,  
3           and

4           (C) by striking “subsection (d)(2) thereof”  
5           in paragraphs (1) and (2)(A) and inserting “sec-  
6           tion 38(c)”.

7           (e) *EFFECTIVE DATE.*—The amendments made by this  
8           section shall apply to amounts paid or incurred in taxable  
9           years ending after June 30, 1996.

10 **SEC. 1205. CONTRIBUTIONS OF STOCK TO PRIVATE FOUN-**  
11 **DATIONS.**

12           (a) *IN GENERAL.*—Subparagraph (D) of section  
13           170(e)(5) (relating to special rule for contributions of stock  
14           for which market quotations are readily available) is  
15           amended to read as follows:

16                   “(D) *TERMINATION.*—This paragraph shall  
17                   not apply to contributions made—

18                           “(A) after December 31, 1994, and before  
19                           July 1, 1996, or

20                           “(B) after June 30, 1997.”

21           (b) *EFFECTIVE DATE.*—The amendment made by this  
22           section shall apply to contributions made after June 30,  
23           1996.

1 **SEC. 1206. EXTENSION OF BINDING CONTRACT DATE FOR**  
2 **BIOMASS AND COAL FACILITIES.**

3 (a) *IN GENERAL.*—Subparagraph (A) of section  
4 29(g)(1) (relating to extension of certain facilities) is  
5 amended by striking “January 1, 1997” and inserting  
6 “January 1, 1998” and by striking “January 1, 1996” and  
7 inserting “the date which is 6 months after the date of the  
8 enactment of the Small Business Job Protection Act of  
9 1996”.

10 (b) *EFFECTIVE DATE.*—The amendment made by this  
11 section shall take effect on the date of the enactment of this  
12 Act.

13 **SEC. 1207. MORATORIUM FOR EXCISE TAX ON DIESEL FUEL**  
14 **SOLD FOR USE OR USED IN DIESEL-POWERED**  
15 **MOTORBOATS.**

16 (a) *IN GENERAL.*—Subparagraph (D) of section  
17 4041(a)(1) (relating to the imposition of tax on diesel fuel  
18 and special motor fuels) is amended by redesignating  
19 clauses (i) and (ii) as clauses (ii) and (iii), respectively,  
20 and by inserting before clause (ii) (as redesignated) the fol-  
21 lowing new clause:

22 “(i) no tax shall be imposed by sub-  
23 section (a) or (d)(1) during the period after  
24 June 30, 1996, and before July 1, 1997.”.

25 (b) *EFFECTIVE DATE.*—The amendments made by this  
26 section shall take effect on July 1, 1996.

1     **Subtitle C—Provisions Relating to**  
2                     **S Corporations**

3     **SEC. 1301. S CORPORATIONS PERMITTED TO HAVE 75**  
4                     **SHAREHOLDERS.**

5             *Subparagraph (A) of section 1361(b)(1) (defining*  
6 *small business corporation) is amended by striking “35*  
7 *shareholders” and inserting “75 shareholders”.*

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

9             *(a) GENERAL RULE.—Subparagraph (A) of section*  
10 *1361(c)(2) (relating to certain trusts permitted as share-*  
11 *holders) is amended by inserting after clause (iv) the follow-*  
12 *ing new clause:*

13                     *“(v) An electing small business trust.”.*

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

17                     *“(v) In the case of a trust described in*  
18 *clause (v) of subparagraph (A), each poten-*  
19 *tial current beneficiary of such trust shall*  
20 *be treated as a shareholder; except that, if*  
21 *for any period there is no potential current*  
22 *beneficiary of such trust, such trust shall be*  
23 *treated as the shareholder during such pe-*  
24 *riod.”.*

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

4           “(e) *ELECTING SMALL BUSINESS TRUST DEFINED.*—  
5           “(1) *ELECTING SMALL BUSINESS TRUST.*—*For*  
6 *purposes of this section—*

7           “(A) *IN GENERAL.*—*Except as provided in*  
8 *subparagraph (B), the term ‘electing small busi-*  
9 *ness trust’ means any trust if—*

10           “(i) *such trust does not have as a bene-*  
11 *ficiary any person other than (I) an indi-*  
12 *vidual, (II) an estate, or (III) an organiza-*  
13 *tion described in paragraph (2), (3), (4), or*  
14 *(5) of section 170(c) which holds a contin-*  
15 *gent interest and is not a potential current*  
16 *beneficiary,*

17           “(ii) *no interest in such trust was ac-*  
18 *quired by purchase, and*

19           “(iii) *an election under this subsection*  
20 *applies to such trust.*

21           “(B) *CERTAIN TRUSTS NOT ELIGIBLE.*—*The*  
22 *term ‘electing small business trust’ shall not in-*  
23 *clude—*

24           “(i) *any qualified subchapter S trust*  
25 *(as defined in subsection (d)(3)) if an elec-*

1            *tion under subsection (d)(2) applies to any*  
2            *corporation the stock of which is held by*  
3            *such trust, and*

4            *“(ii) any trust exempt from tax under*  
5            *this subtitle.*

6            *“(C) PURCHASE.—For purposes of subpara-*  
7            *graph (A), the term ‘purchase’ means any acqui-*  
8            *sition if the basis of the property acquired is de-*  
9            *termined under section 1012.*

10           *“(2) POTENTIAL CURRENT BENEFICIARY.—For*  
11           *purposes of this section, the term ‘potential current*  
12           *beneficiary’ means, with respect to any period, any*  
13           *person who at any time during such period is entitled*  
14           *to, or at the discretion of any person may receive, a*  
15           *distribution from the principal or income of the trust.*  
16           *If a trust disposes of all of the stock which it holds*  
17           *in an S corporation, then, with respect to such cor-*  
18           *poration, the term ‘potential current beneficiary’ does*  
19           *not include any person who first met the requirements*  
20           *of the preceding sentence during the 60-day period*  
21           *ending on the date of such disposition.*

22           *“(3) ELECTION.—An election under this sub-*  
23           *section shall be made by the trustee. Any such election*  
24           *shall apply to the taxable year of the trust for which*

1       *made and all subsequent taxable years of such trust*  
2       *unless revoked with the consent of the Secretary.*

3               “(4) *CROSS REFERENCE.*—

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

4       (d) *TAXATION OF ELECTING SMALL BUSINESS*  
5 *TRUSTS.*—Section 641 (relating to imposition of tax on  
6 trusts) is amended by adding at the end the following new  
7 subsection:

8               “(d) *SPECIAL RULES FOR TAXATION OF ELECTING*  
9 *SMALL BUSINESS TRUSTS.*—

10              “(1) *IN GENERAL.*—For purposes of this chap-  
11 *ter*—

12                      “(A) *the portion of any electing small busi-*  
13 *ness trust which consists of stock in 1 or more*  
14 *S corporations shall be treated as a separate*  
15 *trust, and*

16                      “(B) *the amount of the tax imposed by this*  
17 *chapter on such separate trust shall be deter-*  
18 *mined with the modifications of paragraph (2).*

19              “(2) *MODIFICATIONS.*—For purposes of para-  
20 *graph (1), the modifications of this paragraph are the*  
21 *following:*

22                      “(A) *Except as provided in section 1(h), the*  
23 *amount of the tax imposed by section 1(e) shall*

1           *be determined by using the highest rate of tax set*  
2           *forth in section 1(e).*

3           “(B) *The exemption amount under section*  
4           *55(d) shall be zero.*

5           “(C) *The only items of income, loss, deduc-*  
6           *tion, or credit to be taken into account are the*  
7           *following:*

8                   “(i) *The items required to be taken*  
9                   *into account under section 1366.*

10                   “(ii) *Any gain or loss from the disposi-*  
11                   *tion of stock in an S corporation.*

12                   “(iii) *To the extent provided in regula-*  
13                   *tions, State or local income taxes or admin-*  
14                   *istrative expenses to the extent allocable to*  
15                   *items described in clauses (i) and (ii).*

16           *No deduction or credit shall be allowed for any*  
17           *amount not described in this paragraph, and no*  
18           *item described in this paragraph shall be appor-*  
19           *tioned to any beneficiary.*

20           “(D) *No amount shall be allowed under*  
21           *paragraph (1) or (2) of section 1211(b).*

22           “(3) *TREATMENT OF REMAINDER OF TRUST AND*  
23           *DISTRIBUTIONS.—For purposes of determining—*

24                   “(A) *the amount of the tax imposed by this*  
25                   *chapter on the portion of any electing small*

1           *business trust not treated as a separate trust*  
2           *under paragraph (1), and*

3                   “(B) *the distributable net income of the en-*  
4           *tire trust,*

5           *the items referred to in paragraph (2)(C) shall be ex-*  
6           *cluded. Except as provided in the preceding sentence,*  
7           *this subsection shall not affect the taxation of any dis-*  
8           *tribution from the trust.*

9                   “(4) *TREATMENT OF UNUSED DEDUCTIONS*  
10           *WHERE TERMINATION OF SEPARATE TRUST.—If a*  
11           *portion of an electing small business trust ceases to*  
12           *be treated as a separate trust under paragraph (1),*  
13           *any carryover or excess deduction of the separate*  
14           *trust which is referred to in section 642(h) shall be*  
15           *taken into account by the entire trust.*

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

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

1 **SEC. 1303. EXPANSION OF POST-DEATH QUALIFICATION**  
 2 **FOR CERTAIN TRUSTS.**

3 *Subparagraph (A) of section 1361(c)(2) (relating to*  
 4 *certain trusts permitted as shareholders) is amended—*

5 *(1) by striking “60-day period” each place it ap-*  
 6 *pears in clauses (ii) and (iii) and inserting “2-year*  
 7 *period”, and*

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

9 **SEC. 1304. FINANCIAL INSTITUTIONS PERMITTED TO HOLD**  
 10 **SAFE HARBOR DEBT.**

11 *Clause (iii) of section 1361(c)(5)(B) (defining straight*  
 12 *debt) is amended by striking “or a trust described in para-*  
 13 *graph (2)” and inserting “a trust described in paragraph*  
 14 *(2), or a person which is actively and regularly engaged*  
 15 *in the business of lending money”.*

16 **SEC. 1305. RULES RELATING TO INADVERTENT TERMI-**  
 17 **NATIONS AND INVALID ELECTIONS.**

18 *(a) GENERAL RULE.—Subsection (f) of section 1362*  
 19 *(relating to inadvertent terminations) is amended to read*  
 20 *as follows:*

21 *“(f) INADVERTENT INVALID ELECTIONS OR TERMI-*  
 22 *NATIONS.—If—*

23 *“(1) an election under subsection (a) by any cor-*  
 24 *poration—*

25 *“(A) was not effective for the taxable year*  
 26 *for which made (determined without regard to*

1            *subsection (b)(2)) by reason of a failure to meet*  
2            *the requirements of section 1361(b) or to obtain*  
3            *shareholder consents, or*

4            *“(B) was terminated under paragraph (2)*  
5            *or (3) of subsection (d),*

6            *“(2) the Secretary determines that the cir-*  
7            *cumstances resulting in such ineffectiveness or termi-*  
8            *nation were inadvertent,*

9            *“(3) no later than a reasonable period of time*  
10           *after discovery of the circumstances resulting in such*  
11           *ineffectiveness or termination, steps were taken—*

12           *“(A) so that the corporation is a small busi-*  
13           *ness corporation, or*

14           *“(B) to acquire the required shareholder*  
15           *consents, and*

16           *“(4) the corporation, and each person who was*  
17           *a shareholder in the corporation at any time during*  
18           *the period specified pursuant to this subsection, agrees*  
19           *to make such adjustments (consistent with the treat-*  
20           *ment of the corporation as an S corporation) as may*  
21           *be required by the Secretary with respect to such pe-*  
22           *riod,*

23           *then, notwithstanding the circumstances resulting in such*  
24           *ineffectiveness or termination, such corporation shall be*

1 *treated as an S corporation during the period specified by*  
2 *the Secretary.”.*

3 (b) *LATE ELECTIONS, ETC.*—*Subsection (b) of section*  
4 *1362 is amended by adding at the end the following new*  
5 *paragraph:*

6 “(5) *AUTHORITY TO TREAT LATE ELECTIONS,*  
7 *ETC., AS TIMELY.*—*If—*

8 “(A) *an election under subsection (a) is*  
9 *made for any taxable year (determined without*  
10 *regard to paragraph (3)) after the date pre-*  
11 *scribed by this subsection for making such elec-*  
12 *tion for such taxable year or no such election is*  
13 *made for any taxable year, and*

14 “(B) *the Secretary determines that there*  
15 *was reasonable cause for the failure to timely*  
16 *make such election,*  
17 *the Secretary may treat such an election as timely*  
18 *made for such taxable year (and paragraph (3) shall*  
19 *not apply).”.*

20 (c) *EFFECTIVE DATE.*—*The amendments made by sub-*  
21 *section (a) and (b) shall apply with respect to elections for*  
22 *taxable years beginning after December 31, 1982.*

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

24 *Paragraph (2) of section 1377(a) (relating to pro rata*  
25 *share) is amended to read as follows:*

1           “(2) *ELECTION TO TERMINATE YEAR.*—

2                   “(A) *IN GENERAL.*—Under regulations pre-  
3           scribed by the Secretary, if any shareholder ter-  
4           minates the shareholder’s interest in the corpora-  
5           tion during the taxable year and all affected  
6           shareholders and the corporation agree to the ap-  
7           plication of this paragraph, paragraph (1) shall  
8           be applied to the affected shareholders as if the  
9           taxable year consisted of 2 taxable years the first  
10          of which ends on the date of the termination.

11                   “(B) *AFFECTED SHAREHOLDERS.*—For  
12          purposes of subparagraph (A), the term ‘affected  
13          shareholders’ means the shareholder whose inter-  
14          est is terminated and all shareholders to whom  
15          such shareholder has transferred shares during  
16          the taxable year. If such shareholder has trans-  
17          ferred shares to the corporation, the term ‘af-  
18          fected shareholders’ shall include all persons who  
19          are shareholders during the taxable year.”.

20   **SEC. 1307. EXPANSION OF POST-TERMINATION TRANSITION**  
21                   **PERIOD.**

22           (a) *IN GENERAL.*—Paragraph (1) of section 1377(b)  
23   (relating to post-termination transition period) is amended  
24   by striking “and” at the end of subparagraph (A), by redес-  
25   ignating subparagraph (B) as subparagraph (C), and by

1 *inserting after subparagraph (A) the following new sub-*  
2 *paragraph:*

3                   “(B) the 120-day period beginning on the  
4                   date of any determination pursuant to an audit  
5                   of the taxpayer which follows the termination of  
6                   the corporation’s election and which adjusts a  
7                   subchapter S item of income, loss, or deduction  
8                   of the corporation arising during the S period  
9                   (as defined in section 1368(e)(2)), and”.

10           (b) *DETERMINATION DEFINED.*—Paragraph (2) of sec-  
11 *tion 1377(b) is amended by striking subparagraphs (A) and*  
12 *(B), by redesignating subparagraph (C) as subparagraph*  
13 *(B), and by inserting before subparagraph (B) (as so red-*  
14 *ignated) the following new subparagraph:*

15                   “(A) a determination as defined in section  
16                   1313(a), or”.

17           (c) *REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUB-*  
18 *CHAPTER S ITEMS.*—

19                   (1) *GENERAL RULE.*—Subchapter D of chapter  
20                   63 (relating to tax treatment of subchapter S items)  
21                   is hereby repealed.

22                   (2) *CONSISTENT TREATMENT REQUIRED.*—Sec-  
23                   tion 6037 (relating to return of S corporation) is  
24                   amended by adding at the end the following new sub-  
25                   section:

1       “(c) *SHAREHOLDER’S RETURN MUST BE CONSISTENT*  
2 *WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF*  
3 *INCONSISTENCY.*—

4               “(1) *IN GENERAL.*—*A shareholder of an S cor-*  
5 *poration shall, on such shareholder’s return, treat a*  
6 *subchapter S item in a manner which is consistent*  
7 *with the treatment of such item on the corporate re-*  
8 *turn.*

9               “(2) *NOTIFICATION OF INCONSISTENT TREAT-*  
10 *MENT.*—

11               “(A) *IN GENERAL.*—*In the case of any sub-*  
12 *chapter S item, if—*

13                       “(i) *(I) the corporation has filed a re-*  
14 *turn but the shareholder’s treatment on his*  
15 *return is (or may be) inconsistent with the*  
16 *treatment of the item on the corporate re-*  
17 *turn, or*

18                       “(ii) *(II) the corporation has not filed a re-*  
19 *turn, and*

20                       “(iii) *the shareholder files with the Sec-*  
21 *retary a statement identifying the inconsis-*  
22 *tency,*

23               *paragraph (1) shall not apply to such item.*

24               “(B) *SHAREHOLDER RECEIVING INCORRECT*  
25 *INFORMATION.*—*A shareholder shall be treated as*

1           *having complied with clause (ii) of subpara-*  
2           *graph (A) with respect to a subchapter S item if*  
3           *the shareholder—*

4                     *“(i) demonstrates to the satisfaction of*  
5                     *the Secretary that the treatment of the sub-*  
6                     *chapter S item on the shareholder’s return*  
7                     *is consistent with the treatment of the item*  
8                     *on the schedule furnished to the shareholder*  
9                     *by the corporation, and*

10                    *“(ii) elects to have this paragraph*  
11                    *apply with respect to that item.*

12                    *“(3) EFFECT OF FAILURE TO NOTIFY.—In any*  
13            *case—*

14                    *“(A) described in subparagraph (A)(i)(I) of*  
15                    *paragraph (2), and*

16                    *“(B) in which the shareholder does not com-*  
17                    *ply with subparagraph (A)(ii) of paragraph (2),*  
18            *any adjustment required to make the treatment of the*  
19            *items by such shareholder consistent with the treat-*  
20            *ment of the items on the corporate return shall be*  
21            *treated as arising out of mathematical or clerical er-*  
22            *rors and assessed according to section 6213(b)(1).*  
23            *Paragraph (2) of section 6213(b) shall not apply to*  
24            *any assessment referred to in the preceding sentence.*

1           “(4) *SUBCHAPTER S ITEM.*—For purposes of this  
2           subsection, the term ‘subchapter S item’ means any  
3           item of an S corporation to the extent that regula-  
4           tions prescribed by the Secretary provide that, for  
5           purposes of this subtitle, such item is more appro-  
6           priately determined at the corporation level than at  
7           the shareholder level.

8           “(5) *ADDITION TO TAX FOR FAILURE TO COMPLY*  
9           *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.”.**

10          (3) *CONFORMING AMENDMENTS.*—

11                 (A) *Section 1366 is amended by striking*  
12                 *subsection (g).*

13                 (B) *Subsection (b) of section 6233 is*  
14                 *amended to read as follows:*

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

20                 (C) *The table of subchapters for chapter 63*  
21                 *is amended by striking the item relating to sub-*  
22                 *chapter D.*

1 **SEC. 1308. S CORPORATIONS PERMITTED TO HOLD SUBSIDI-**  
2 **ARIES.**

3 (a) *IN GENERAL.*—Paragraph (2) of section 1361(b)  
4 (defining ineligible corporation) is amended by striking  
5 subparagraph (A) and by redesignating subparagraphs (B),  
6 (C), (D), and (E) as subparagraphs (A), (B), (C), and (D),  
7 respectively.

8 (b) *TREATMENT OF CERTAIN WHOLLY OWNED S COR-*  
9 *PORATION SUBSIDIARIES.*—Section 1361(b) (defining small  
10 business corporation) is amended by adding at the end the  
11 following new paragraph:

12 “(3) *TREATMENT OF CERTAIN WHOLLY OWNED*  
13 *SUBSIDIARIES.*—

14 “(A) *IN GENERAL.*—For purposes of this  
15 title—

16 “(i) a corporation which is a qualified  
17 subchapter S subsidiary shall not be treated  
18 as a separate corporation, and

19 “(ii) all assets, liabilities, and items of  
20 income, deduction, and credit of a qualified  
21 subchapter S subsidiary shall be treated as  
22 assets, liabilities, and such items (as the  
23 case may be) of the S corporation.

24 “(B) *QUALIFIED SUBCHAPTER S SUBSIDI-*  
25 *ARY.*—For purposes of this paragraph, the term  
26 ‘qualified subchapter S subsidiary’ means any

1           *domestic corporation which is not an ineligible*  
2           *corporation (as defined in paragraph (2)), if—*

3                   “(i) 100 percent of the stock of such  
4                   corporation is held by the S corporation,  
5                   and

6                   “(ii) the S corporation elects to treat  
7                   such corporation as a qualified subchapter  
8                   S subsidiary.

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

19                   “(D) *ELECTION AFTER TERMINATION.—If a*  
20                   *corporation’s status as a qualified subchapter S*  
21                   *subsidiary terminates, such corporation (and*  
22                   *any successor corporation) shall not be eligible to*  
23                   *make—*

1           “(i) an election under subparagraph  
2           (B)(ii) to be treated as a qualified sub-  
3           chapter S subsidiary, or

4           “(ii) an election under section 1362(a)  
5           to be treated as an S corporation,  
6           before its 5th taxable year which begins after the  
7           1st taxable year for which such termination was  
8           effective, unless the Secretary consents to such  
9           election.”

10       (c) *CERTAIN DIVIDENDS NOT TREATED AS PASSIVE*  
11 *INVESTMENT INCOME.*—Paragraph (3) of section 1362(d) is  
12 amended by adding at the end the following new subpara-  
13 graph:

14           “(F) *TREATMENT OF CERTAIN DIVI-*  
15 *DENDS.*—If an S corporation holds stock in a C  
16 corporation meeting the requirements of section  
17 1504(a)(2), the term ‘passive investment income’  
18 shall not include dividends from such C corpora-  
19 tion to the extent such dividends are attributable  
20 to the earnings and profits of such C corporation  
21 derived from the active conduct of a trade or  
22 business.”

23       (d) *CONFORMING AMENDMENTS.*—

24           (1) Subsection (c) of section 1361 is amended by  
25 striking paragraph (6).

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

4           “(8) *An S corporation.*”.

5   **SEC. 1309. TREATMENT OF DISTRIBUTIONS DURING LOSS**  
6           **YEARS.**

7           (a) *ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO*  
8           *ACCOUNT BEFORE LOSSES.—*

9           (1) *Subparagraph (A) of section 1366(d)(1) (re-*  
10           *lating to losses and deductions cannot exceed share-*  
11           *holder’s basis in stock and debt) is amended by strik-*  
12           *ing “paragraph (1)” and inserting “paragraphs (1)*  
13           *and (2)(A)”.*

14           (2) *Subsection (d) of section 1368 (relating to*  
15           *certain adjustments taken into account) is amended*  
16           *by adding at the end the following new sentence:*

17           *“In the case of any distribution made during any taxable*  
18           *year, the adjusted basis of the stock shall be determined with*  
19           *regard to the adjustments provided in paragraph (1) of sec-*  
20           *tion 1367(a) for the taxable year.”.*

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

25           “(C) *NET LOSS FOR YEAR DISREGARDED.—*

1           “(i) *IN GENERAL.*—*In applying this section*  
2           *to distributions made during any taxable year,*  
3           *the amount in the accumulated adjustments ac-*  
4           *count as of the close of such taxable year shall*  
5           *be determined without regard to any net negative*  
6           *adjustment for such taxable year.*

7           “(ii) *NET NEGATIVE ADJUSTMENT.*—*For*  
8           *purposes of clause (i), the term ‘net negative ad-*  
9           *justment’ means, with respect to any taxable*  
10           *year, the excess (if any) of—*

11                   “(I) *the reductions in the account for*  
12                   *the taxable year (other than for distribu-*  
13                   *tions), over*

14                   “(II) *the increases in such account for*  
15                   *such taxable year.”.*

16           (c) *CONFORMING AMENDMENTS.*—*Subparagraph (A)*  
17           *of section 1368(e)(1) is amended—*

18                   (1) *by striking “as provided in subparagraph*  
19                   *(B)” and inserting “as otherwise provided in this*  
20                   *paragraph”, and*

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

1 **SEC. 1310. TREATMENT OF S CORPORATIONS UNDER SUB-**  
2 **CHAPTER C.**

3 *Subsection (a) of section 1371 (relating to application*  
4 *of subchapter C rules) is amended to read as follows:*

5 “(a) *APPLICATION OF SUBCHAPTER C RULES.—Ex-*  
6 *cept as otherwise provided in this title, and except to the*  
7 *extent inconsistent with this subchapter, subchapter C shall*  
8 *apply to an S corporation and its shareholders.”.*

9 **SEC. 1311. ELIMINATION OF CERTAIN EARNINGS AND PROF-**  
10 **ITS.**

11 (a) *IN GENERAL.—If—*

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

16 (2) *such corporation is an S corporation under*  
17 *subchapter S of chapter 1 of such Code for its first*  
18 *taxable year beginning after December 31, 1996,*

19 *the amount of such corporation’s accumulated earnings and*  
20 *profits (as of the beginning of such first taxable year) shall*  
21 *be reduced by an amount equal to the portion (if any) of*  
22 *such accumulated earnings and profits which were accumu-*  
23 *lated in any taxable year beginning before January 1, 1983,*  
24 *for which such corporation was an electing small business*  
25 *corporation under such subchapter S.*

26 (b) *CONFORMING AMENDMENTS.—*

1           (1) Paragraph (3) of section 1362(d), as amend-  
2 ed by section 1308, is amended—

3           (A) by striking “SUBCHAPTER C” in the  
4 paragraph heading and inserting “ACCUMU-  
5 LATED”,

6           (B) by striking “subchapter C” in subpara-  
7 graph (A)(i)(I) and inserting “accumulated”,  
8 and

9           (C) by striking subparagraph (B) and re-  
10 designating the following subparagraphs accord-  
11 ingly.

12           (2)(A) Subsection (a) of section 1375 is amended  
13 by striking “subchapter C” in paragraph (1) and in-  
14 serting “accumulated”.

15           (B) Paragraph (3) of section 1375(b) is amended  
16 to read as follows:

17           “(3) *PASSIVE INVESTMENT INCOME, ETC.*—The  
18 terms ‘passive investment income’ and ‘gross receipts’  
19 have the same respective meanings as when used in  
20 paragraph (3) of section 1362(d).”.

21           (C) The section heading for section 1375 is  
22 amended by striking “**SUBCHAPTER C**” and insert-  
23 ing “**ACCUMULATED**”.

24           (D) The table of sections for part III of sub-  
25 chapter S of chapter 1 is amended by striking “sub-

1 *chapter C” in the item relating to section 1375 and*  
2 *inserting “accumulated”.*

3 *(3) Clause (i) of section 1042(c)(4)(A) is amend-*  
4 *ed by striking “section 1362(d)(3)(D)” and inserting*  
5 *“section 1362(d)(3)(C)”.*

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

8 *Paragraph (3) of section 1366(d) (relating to carryover*  
9 *of disallowed losses and deductions to post-termination*  
10 *transition period) is amended by adding at the end the fol-*  
11 *lowing new subparagraph:*

12 *“(D) AT-RISK LIMITATIONS.—To the extent*  
13 *that any increase in adjusted basis described in*  
14 *subparagraph (B) would have increased the*  
15 *shareholder’s amount at risk under section 465 if*  
16 *such increase had occurred on the day preceding*  
17 *the commencement of the post-termination tran-*  
18 *sition period, rules similar to the rules described*  
19 *in subparagraphs (A) through (C) shall apply to*  
20 *any losses disallowed by reason of section*  
21 *465(a).”.*

22 **SEC. 1313. ADJUSTMENTS TO BASIS OF INHERITED S STOCK**  
23 **TO REFLECT CERTAIN ITEMS OF INCOME.**

24 *(a) IN GENERAL.—Subsection (b) of section 1367 (re-*  
25 *lating to adjustments to basis of stock of shareholders, etc.)*

1 *is amended by adding at the end the following new para-*  
2 *graph:*

3           “(4) *ADJUSTMENTS IN CASE OF INHERITED*  
4 *STOCK.—*

5           “(A) *IN GENERAL.—If any person acquires*  
6 *stock in an S corporation by reason of the death*  
7 *of a decedent or by bequest, devise, or inherit-*  
8 *ance, section 691 shall be applied with respect to*  
9 *any item of income of the S corporation in the*  
10 *same manner as if the decedent had held directly*  
11 *his pro rata share of such item.*

12           “(B) *ADJUSTMENTS TO BASIS.—The basis*  
13 *determined under section 1014 of any stock in*  
14 *an S corporation shall be reduced by the portion*  
15 *of the value of the stock which is attributable to*  
16 *items constituting income in respect of the dece-*  
17 *dent.”.*

18           “(b) *EFFECTIVE DATE.—The amendment made by sub-*  
19 *section (a) shall apply in the case of decedents dying after*  
20 *the date of the enactment of this Act.*

21 **SEC. 1314. S CORPORATIONS ELIGIBLE FOR RULES APPLI-**  
22 **CABLE TO REAL PROPERTY SUBDIVIDED FOR**  
23 **SALE BY NONCORPORATE TAXPAYERS.**

24           “(a) *IN GENERAL.—Subsection (a) of section 1237 (re-*  
25 *lating to real property subdivided for sale) is amended by*

1 *striking “other than a corporation” in the material preced-*  
2 *ing paragraph (1) and inserting “other than a C corpora-*  
3 *tion”.*

4 (b) *CONFORMING AMENDMENT.*—Subparagraph (A) of  
5 *section 1237(a)(2) is amended by inserting “an S corpora-*  
6 *tion which included the taxpayer as a shareholder,” after*  
7 *“controlled by the taxpayer,”.*

8 **SEC. 1315. FINANCIAL INSTITUTIONS.**

9 *Subparagraph (A) of section 1361(b)(2) (defining in-*  
10 *eligible corporation), as redesignated by section 1308(a), is*  
11 *amended to read as follows:*

12 “(A) *a financial institution which uses the*  
13 *reserve method of accounting for bad debts de-*  
14 *scribed in section 585 or 593,”.*

15 **SEC. 1316. CERTAIN EXEMPT ORGANIZATIONS ALLOWED TO**  
16 **BE SHAREHOLDERS.**

17 (a) *ELIGIBILITY TO BE SHAREHOLDERS.*—

18 (1) *IN GENERAL.*—Subparagraph (B) of section  
19 *1361(b)(1) (defining small business corporation) is*  
20 *amended to read as follows:*

21 “(B) *have as a shareholder a person (other*  
22 *than an estate, a trust described in subsection*  
23 *(c)(2), or an organization described in subsection*  
24 *(c)(7)) who is not an individual,”.*

1           (2) *ELIGIBLE EXEMPT ORGANIZATIONS.*—Section  
2           1361(c) (relating to special rules for applying sub-  
3           section (b)) is amended by adding at the end the fol-  
4           lowing new paragraph:

5           “(7) *CERTAIN EXEMPT ORGANIZATIONS PER-*  
6           *MITTED AS SHAREHOLDERS.*—For purposes of sub-  
7           section (b)(1)(B), an organization which is—

8                   “(A) described in section 401(a) or  
9                   501(c)(3), and

10                   “(B) exempt from taxation under section  
11                   501(a),

12           *may be a shareholder in an S corporation.”*

13           (b) *CONTRIBUTIONS OF S CORPORATION STOCK.*—Sec-  
14           tion 170(e)(1) (relating to certain contributions of ordinary  
15           income and capital gain property) is amended by adding  
16           at the end the following new sentence: “For purposes of ap-  
17           plying this paragraph in the case of a charitable contribu-  
18           tion of stock in an S corporation, rules similar to the rules  
19           of section 751 shall apply in determining whether gain on  
20           such stock would have been long-term capital gain if such  
21           stock were sold by the taxpayer.”

22           (c) *TREATMENT OF INCOME.*—Section 512 (relating to  
23           unrelated business taxable income), as amended by section  
24           1113, is amended by adding at the end the following new  
25           subsection:

1       “(e) *SPECIAL RULES APPLICABLE TO S CORPORATIONS.*—  
2

3               “(1) *IN GENERAL.*—*If an organization described*  
4 *in section 1361(c)(7) holds stock in an S corpora-*  
5 *tion—*

6                       “(A) *such interest shall be treated as an in-*  
7 *terest in an unrelated trade or business; and*

8                       “(B) *notwithstanding any other provision*  
9 *of this part, all items of income, loss, deduction*  
10 *or credit taken into account under section*  
11 *1366(a) and any gain or loss on the disposition*  
12 *of the stock in the S corporation shall be taken*  
13 *into account in computing the unrelated business*  
14 *taxable income of such organization.*

15               “(2) *DISPOSITION GAIN.*—*For purposes of para-*  
16 *graph (1), gain on the sale or other disposition of C*  
17 *corporation stock which was an S corporation at any*  
18 *time the organization held such stock shall be treated*  
19 *as gain from the disposition of stock in an S corpora-*  
20 *tion to the extent of any gain which the organization*  
21 *would have realized if it had sold the stock for fair*  
22 *market value as of the last day of the corporation’s*  
23 *last taxable year as an S corporation.”*

24       “(d) *CERTAIN BENEFITS NOT APPLICABLE TO S COR-*  
25 *PORATIONS.*—

1           (1) *CONTRIBUTION TO ESOPS.*—Paragraph (9) of  
2           section 404(a) (relating to certain contributions to  
3           employee ownership plans) is amended by inserting  
4           at the end the following new subparagraph:

5                   “(C) *S CORPORATIONS.*—This paragraph  
6                   shall not apply to an S corporation.”

7           (2) *DIVIDENDS ON EMPLOYER SECURITIES.*—  
8           Paragraph (1) of section 404(k) (relating to deduction  
9           for dividends on certain employer securities) is  
10          amended by striking “a corporation” and inserting  
11          “a C corporation”.

12          (3) *EXCHANGE TREATMENT.*—Subparagraph (A)  
13          of section 1042(c)(1) (defining qualified securities) is  
14          amended by striking “domestic corporation” and in-  
15          serting “domestic C corporation”.

16          (e) *CONFORMING AMENDMENT.*—Clause (i) of section  
17          1361(e)(1)(A), as added by section 1302, is amended by  
18          striking “which holds a contingent interest and is not a  
19          potential current beneficiary”.

20          (f) *EFFECTIVE DATE.*—The amendments made by this  
21          section shall apply to taxable years beginning after Decem-  
22          ber 31, 1997.

1 **SEC. 1317. EFFECTIVE DATE.**

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

5 (b) *TREATMENT OF CERTAIN ELECTIONS UNDER*  
 6 *PRIOR LAW.*—*For purposes of section 1362(g) of the Inter-*  
 7 *nal Revenue Code of 1986 (relating to election after termi-*  
 8 *nation), any termination under section 1362(d) of such*  
 9 *Code in a taxable year beginning before January 1, 1997,*  
 10 *shall not be taken into account.*

11 ***Subtitle D—Pension Simplification***

12 ***CHAPTER 1—SIMPLIFIED DISTRIBUTION***

13 ***RULES***

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

16 (a) *IN GENERAL.*—*Subsection (d) of section 402 (relat-*  
 17 *ing to taxability of beneficiary of employees' trust) is*  
 18 *amended to read as follows:*

19 “(d) *TAXABILITY OF BENEFICIARY OF CERTAIN FOR-*  
 20 *EIGN SITUS TRUSTS.*—*For purposes of subsections (a), (b),*  
 21 *and (c), a stock bonus, pension, or profit-sharing trust*  
 22 *which would qualify for exemption from tax under section*  
 23 *501(a) except for the fact that it is a trust created or orga-*  
 24 *nized outside the United States shall be treated as if it were*  
 25 *a trust exempt from tax under section 501(a).”*

26 (b) *CONFORMING AMENDMENTS.*—

1           (1) *Subparagraph (D) of section 402(e)(4) (relat-*  
2 *ing to other rules applicable to exempt trusts) is*  
3 *amended to read as follows:*

4                   “(D) *LUMP-SUM DISTRIBUTION.—For pur-*  
5 *poses of this paragraph—*

6                           “(i) *IN GENERAL.—The term ‘lump*  
7 *sum distribution’ means the distribution or*  
8 *payment within one taxable year of the re-*  
9 *recipient of the balance to the credit of an em-*  
10 *ployee which becomes payable to the recipi-*  
11 *ent—*

12                                   “(I) *on account of the employee’s*  
13 *death,*

14                                   “(II) *after the employee attains*  
15 *age 59½,*

16                                   “(III) *on account of the employ-*  
17 *ee’s separation from service, or*

18                                   “(IV) *after the employee has be-*  
19 *come disabled (within the meaning of*  
20 *section 72(m)(7)),*

21 *from a trust which forms a part of a plan*  
22 *described in section 401(a) and which is ex-*  
23 *empt from tax under section 501 or from a*  
24 *plan described in section 403(a). Subclause*  
25 *(III) of this clause shall be applied only*

1           *with respect to an individual who is an em-*  
2           *ployee without regard to section 401(c)(1),*  
3           *and subclause (IV) shall be applied only*  
4           *with respect to an employee within the*  
5           *meaning of section 401(c)(1). For purposes*  
6           *of this clause, a distribution to two or more*  
7           *trusts shall be treated as a distribution to*  
8           *one recipient. For purposes of this para-*  
9           *graph, the balance to the credit of the em-*  
10          *ployee does not include the accumulated de-*  
11          *ductible employee contributions under the*  
12          *plan (within the meaning of section*  
13          *72(o)(5)).*

14           “(ii) *AGGREGATION OF CERTAIN*  
15          *TRUSTS AND PLANS.—For purposes of deter-*  
16          *mining the balance to the credit of an em-*  
17          *ployee under clause (i)—*

18                   “(I) *all trusts which are part of a*  
19                   *plan shall be treated as a single trust,*  
20                   *all pension plans maintained by the*  
21                   *employer shall be treated as a single*  
22                   *plan, all profit-sharing plans main-*  
23                   *tained by the employer shall be treated*  
24                   *as a single plan, and all stock bonus*

1            *plans maintained by the employer*  
2            *shall be treated as a single plan, and*

3            *“(II) trusts which are not quali-*  
4            *fied trusts under section 401(a) and*  
5            *annuity contracts which do not satisfy*  
6            *the requirements of section 404(a)(2)*  
7            *shall not be taken into account.*

8            *“(iii) COMMUNITY PROPERTY LAWS.—*  
9            *The provisions of this paragraph shall be*  
10           *applied without regard to community prop-*  
11           *erty laws.*

12           *“(iv) AMOUNTS SUBJECT TO PEN-*  
13           *ALTY.—This paragraph shall not apply to*  
14           *amounts described in subparagraph (A) of*  
15           *section 72(m)(5) to the extent that section*  
16           *72(m)(5) applies to such amounts.*

17           *“(v) BALANCE TO CREDIT OF EM-*  
18           *PLOYEE NOT TO INCLUDE AMOUNTS PAY-*  
19           *ABLE UNDER QUALIFIED DOMESTIC RELA-*  
20           *TIONS ORDER.—For purposes of this para-*  
21           *graph, the balance to the credit of an em-*  
22           *ployee shall not include any amount pay-*  
23           *able to an alternate payee under a qualified*  
24           *domestic relations order (within the mean-*  
25           *ing of section 414(p)).*

1           “(vi) *TRANSFERS TO COST-OF-LIVING*  
2           *ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this paragraph, the*  
3           *balance to the credit of an employee under*  
4           *a defined contribution plan shall not include any amount transferred from such de-*  
5           *defined contribution plan to a qualified cost-*  
6           *of-living arrangement (within the meaning*  
7           *of section 415(k)(2)) under a defined benefit*  
8           *plan.*

11           “(vii) *LUMP-SUM DISTRIBUTIONS OF*  
12           *ALTERNATE PAYEES.—If any distribution*  
13           *or payment of the balance to the credit of*  
14           *an employee would be treated as a lump-*  
15           *sum distribution, then, for purposes of this*  
16           *paragraph, the payment under a qualified*  
17           *domestic relations order (within the mean-*  
18           *ing of section 414(p)) of the balance to the*  
19           *credit of an alternate payee who is the*  
20           *spouse or former spouse of the employee*  
21           *shall be treated as a lump-sum distribution.*  
22           *For purposes of this clause, the balance to*  
23           *the credit of the alternate payee shall not*  
24           *include any amount payable to the em-*  
25           *ployee.”.*

1           (2) *Section 402(c) (relating to rules applicable to*  
2 *rollovers from exempt trusts) is amended by striking*  
3 *paragraph (10).*

4           (3) *Paragraph (1) of section 55(c) (defining reg-*  
5 *ular tax) is amended by striking “shall not include*  
6 *any tax imposed by section 402(d) and”.*

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

11           (5) *Section 401(a)(28)(B) (relating to coordina-*  
12 *tion with distribution rules) is amended by striking*  
13 *clause (v).*

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

17                   “(ii) *LUMP-SUM DISTRIBUTION.—For*  
18 *purposes of this subparagraph, the term*  
19 *‘lump-sum distribution’ has the meaning*  
20 *given such term by section 402(e)(4)(D)*  
21 *(without regard to subclauses (I), (II), (III),*  
22 *and (IV) of clause (i) thereof).”.*

23           (7) *Section 406(c) (relating to termination of*  
24 *status as deemed employee not to be treated as sepa-*

1        *ration from service for purposes of limitation of tax)*  
2        *is hereby repealed.*

3            (8) *Section 407(c) (relating to termination of*  
4        *status as deemed employee not to be treated as sepa-*  
5        *ration from service for purposes of limitation of tax)*  
6        *is hereby repealed.*

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

9            (10) *Paragraph (1) of section 871(b) (relating to*  
10        *imposition of tax) is amended by striking “section 1,*  
11        *55, or 402(d)(1)” and inserting “section 1 or 55”.*

12            (11) *Subsection (b) of section 877 (relating to al-*  
13        *ternative tax) is amended by striking “section 1, 55,*  
14        *or 402(d)(1)” and inserting “section 1 or 55”.*

15            (12) *Section 4980A(c)(4) is amended—*

16            (A) *by striking “to which an election under*  
17        *section 402(d)(4)(B) applies” and inserting “(as*  
18        *defined in section 402(e)(4)(D)) with respect to*  
19        *which the individual elects to have this para-*  
20        *graph apply”,*

21            (B) *by adding at the end the following new*  
22        *flush sentence:*

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

25            (C) *by striking the heading and inserting:*

1           “(4) *SPECIAL ONE-TIME ELECTION.*—”.

2           (13) *Section 402(e) is amended by striking para-*  
3 *graph (5).*

4           (c) *EFFECTIVE DATES.*—

5           (1) *IN GENERAL.*—*The amendments made by*  
6 *this section shall apply to taxable years beginning*  
7 *after December 31, 1999.*

8           (2) *RETENTION OF CERTAIN TRANSITION*  
9 *RULES.*—*The amendments made by this section shall*  
10 *not apply to any distribution for which the taxpayer*  
11 *is eligible to elect the benefits of section 1122 (h)(3)*  
12 *or (h)(5) of the Tax Reform Act of 1986. Notwith-*  
13 *standing the preceding sentence, individuals who elect*  
14 *such benefits after December 31, 1999, shall not be eli-*  
15 *gible for 5-year averaging under section 402(d) of the*  
16 *Internal Revenue Code of 1986 (as in effect imme-*  
17 *diately before such amendments).*

18 **SEC. 1402. REPEAL OF \$5,000 EXCLUSION OF EMPLOYEES’**

19                           **DEATH BENEFITS.**

20           (a) *IN GENERAL.*—*Subsection (b) of section 101 is*  
21 *hereby repealed.*

22           (b) *CONFORMING AMENDMENTS.*—

23           (1) *Subsection (c) of section 101 is amended by*  
24 *striking “subsection (a) or (b)” and inserting “sub-*  
25 *section (a)”.*

1           (2) Sections 406(e) and 407(e) are each amended  
2           by striking paragraph (2) and by redesignating para-  
3           graph (3) as paragraph (2).

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

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

10 **SEC. 1403. SIMPLIFIED METHOD FOR TAXING ANNUITY DIS-**

11 **TRIBUTIONS UNDER CERTAIN EMPLOYER**

12 **PLANS.**

13           (a) *GENERAL RULE.*—Subsection (d) of section 72 (re-  
14           lating to annuities; certain proceeds of endowment and life  
15           insurance contracts) is amended to read as follows:

16           “(d) *SPECIAL RULES FOR QUALIFIED EMPLOYER RE-*  
17 *TIREMENT PLANS.*—

18           “(1) *SIMPLIFIED METHOD OF TAXING ANNUITY*  
19 *PAYMENTS.*—

20           “(A) *IN GENERAL.*—In the case of any  
21           amount received as an annuity under a qualified  
22           employer retirement plan—

23           “(i) subsection (b) shall not apply, and

1           “(ii) *the investment in the contract*  
2           *shall be recovered as provided in this para-*  
3           *graph.*

4           “(B) *METHOD OF RECOVERING INVESTMENT*  
5           *IN CONTRACT.—*

6           “(i) *IN GENERAL.—Gross income shall*  
7           *not include so much of any monthly annu-*  
8           *ity payment under a qualified employer re-*  
9           *tirement plan as does not exceed the amount*  
10          *obtained by dividing—*

11                  “(I) *the investment in the con-*  
12                  *tract (as of the annuity starting date),*  
13                  *by*

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

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

1                   “(iii) NUMBER OF ANTICIPATED PAY-  
 2                   MENTS.—

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

3                   “(C) ADJUSTMENT FOR REFUND FEATURE  
 4                   NOT APPLICABLE.—*For purposes of this para-*  
 5                   *graph, investment in the contract shall be deter-*  
 6                   *mined under subsection (c)(1) without regard to*  
 7                   *subsection (c)(2).*

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

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

17                   “(ii) *the investment in the contract for*  
 18                   *purposes of this paragraph shall be deter-*  
 19                   *mined as if such payment had been so re-*  
 20                   *ceived.*

1           “(E) *EXCEPTION.*—*This paragraph shall*  
2           *not apply in any case where the primary annu-*  
3           *itant has attained age 75 on the annuity start-*  
4           *ing date unless there are fewer than 5 years of*  
5           *guaranteed payments under the annuity.*

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

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

18          “(2) *TREATMENT OF EMPLOYEE CONTRIBUTIONS*  
19          *UNDER DEFINED CONTRIBUTION PLANS.*—*For pur-*  
20          *poses of this section, employee contributions (and any*  
21          *income allocable thereto) under a defined contribution*  
22          *plan may be treated as a separate contract.”.*

23          “(b) *EFFECTIVE DATE.*—*The amendment made by this*  
24          *section shall apply in cases where the annuity starting date*

1 *is after the 90th day after the date of the enactment of this*  
2 *Act.*

3 **SEC. 1404. REQUIRED DISTRIBUTIONS.**

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

6 *“(C) REQUIRED BEGINNING DATE.—For*  
7 *purposes of this paragraph—*

8 *“(i) IN GENERAL.—The term ‘required*  
9 *beginning date’ means April 1 of the cal-*  
10 *endar year following the later of—*

11 *“(I) the calendar year in which*  
12 *the employee attains age 70½, or*

13 *“(II) the calendar year in which*  
14 *the employee retires.*

15 *“(ii) EXCEPTION.—Subclause (II) of*  
16 *clause (i) shall not apply—*

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

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

1           “(iii) *ACTUARIAL ADJUSTMENT.*—*In*  
2           *the case of an employee to whom clause*  
3           *(i)(II) applies who retires in a calendar*  
4           *year after the calendar year in which the*  
5           *employee attains age 70½, the employee’s*  
6           *accrued benefit shall be actuarially in-*  
7           *creased to take into account the period after*  
8           *age 70½ in which the employee was not re-*  
9           *ceiving any benefits under the plan.*

10           “(iv) *EXCEPTION FOR GOVERNMENTAL*  
11           *AND CHURCH PLANS.*—*Clauses (ii) and (iii)*  
12           *shall not apply in the case of a govern-*  
13           *mental plan or church plan. For purposes*  
14           *of this clause, the term ‘church plan’ means*  
15           *a plan maintained by a church for church*  
16           *employees, and the term ‘church’ means any*  
17           *church (as defined in section*  
18           *3121(w)(3)(A)) or qualified church-con-*  
19           *trolled organization (as defined in section*  
20           *3121(w)(3)(B)).”.*

21           (b) *EFFECTIVE DATE.*—*The amendment made by sub-*  
22           *section (a) shall apply to years beginning after December*  
23           *31, 1996.*

1           **CHAPTER 2—INCREASED ACCESS TO**  
2                           **RETIREMENT PLANS**

3           **Subchapter A—Simple Savings Plans**

4   **SEC. 1421. ESTABLISHMENT OF SAVINGS INCENTIVE MATCH**  
5                           **PLANS FOR EMPLOYEES OF SMALL EMPLOY-**  
6                           **ERS.**

7           (a) *IN GENERAL.*—Section 408 (relating to individual  
8 retirement accounts) is amended by redesignating sub-  
9 section (p) as subsection (q) and by inserting after sub-  
10 section (o) the following new subsection:

11           “(p) *SIMPLE RETIREMENT ACCOUNTS.*—

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

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

17   “(B) with respect to which the only con-  
18 tributions allowed are contributions under a  
19 qualified salary reduction arrangement.

20                           “(2) *QUALIFIED SALARY REDUCTION ARRANGE-*  
21 *MENT.*—

22   “(A) *IN GENERAL.*—For purposes of this  
23 subsection, the term ‘qualified salary reduction  
24 arrangement’ means a written arrangement of  
25 an eligible employer under which—

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

4                   “(I) as elective employer contribu-  
5                   tions to a simple retirement account on  
6                   behalf of the employee, or

7                   “(II) to the employee directly in  
8                   cash,

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

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

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

24           “(B) EMPLOYER MAY ELECT 2-PERCENT  
25           NONELECTIVE CONTRIBUTION.—

1           “(i) *IN GENERAL.*—An employer shall  
2           be treated as meeting the requirements of  
3           subparagraph (A)(iii) for any year if, in  
4           lieu of the contributions described in such  
5           clause, the employer elects to make nonelec-  
6           tive contributions of 2 percent of compensa-  
7           tion for each employee who is eligible to  
8           participate in the arrangement and who  
9           has at least \$5,000 of compensation from  
10          the employer for the year. If an employer  
11          makes an election under this subparagraph  
12          for any year, the employer shall notify em-  
13          ployees of such election within a reasonable  
14          period of time before the 60-day period for  
15          such year under paragraph (5)(C).

16          “(ii) *COMPENSATION LIMITATION.*—  
17          The compensation taken into account under  
18          clause (i) for any year shall not exceed the  
19          limitation in effect for such year under sec-  
20          tion 401(a)(17).

21          “(C) *DEFINITIONS.*—For purposes of this  
22          subsection—

23                  “(i) *ELIGIBLE EMPLOYER.*—

24                          “(I) *IN GENERAL.*—The term ‘eli-  
25                          gible employer’ means, with respect to

1           any year, an employer which had no  
2           more than 100 employees who received  
3           at least \$5,000 of compensation from  
4           the employer for the preceding year.

5           “(II) 2-YEAR GRACE PERIOD.—An  
6           eligible employer who establishes and  
7           maintains a plan under this subsection  
8           for 1 or more years and who fails to be  
9           an eligible employer for any subsequent  
10          year shall be treated as an eligible em-  
11          ployer for the 2 years following the last  
12          year the employer was an eligible em-  
13          ployer. If such failure is due to any ac-  
14          quisition, disposition, or similar trans-  
15          action involving an eligible employer,  
16          the preceding sentence shall apply only  
17          in accordance with rules similar to the  
18          rules of section 410(b)(6)(C)(i).

19          “(i) APPLICABLE PERCENTAGE.—

20                 “(I) IN GENERAL.—The term ‘ap-  
21                 plicable percentage’ means 3 percent.

22                 “(II) ELECTION OF LOWER PER-  
23                 CENTAGE.—An employer may elect to  
24                 apply a lower percentage (not less than  
25                 1 percent) for any year for all employ-

1           ees eligible to participate in the plan  
2           for such year if the employer notifies  
3           the employees of such lower percentage  
4           within a reasonable period of time be-  
5           fore the 60-day election period for such  
6           year under paragraph (5)(C). An em-  
7           ployer may not elect a lower percent-  
8           age under this subclause for any year  
9           if that election would result in the ap-  
10          plicable percentage being lower than 3  
11          percent in more than 2 of the years in  
12          the 5-year period ending with such  
13          year.

14                   “(III) SPECIAL RULE FOR YEARS  
15                   ARRANGEMENT NOT IN EFFECT.—If  
16                   any year in the 5-year period de-  
17                   scribed in subclause (II) is a year  
18                   prior to the first year for which any  
19                   qualified salary reduction arrangement  
20                   is in effect with respect to the employer  
21                   (or any predecessor), the employer  
22                   shall be treated as if the level of the  
23                   employer matching contribution was at  
24                   3 percent of compensation for such  
25                   prior year.

1           “(D) *ARRANGEMENT MAY BE ONLY PLAN OF*  
2           *EMPLOYER.—*

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

14          “(ii) *QUALIFIED PLAN.—For purposes*  
15          *of this subparagraph, the term ‘qualified*  
16          *plan’ means a plan, contract, pension, or*  
17          *trust described in subparagraph (A) or (B)*  
18          *of section 219(g)(5).*

19          “(E) *COST-OF-LIVING ADJUSTMENT.—The*  
20          *Secretary shall adjust the \$6,000 amount under*  
21          *subparagraph (A)(ii) at the same time and in*  
22          *the same manner as under section 415(d), except*  
23          *that the base period taken into account shall be*  
24          *the calendar quarter ending September 30, 1996,*  
25          *and any increase under this subparagraph which*

1           is not a multiple of \$500 shall be rounded to the  
2           next lower multiple of \$500.

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

9           “(4) *PARTICIPATION REQUIREMENTS.*—

10           “(A) *IN GENERAL.*—The requirements of  
11           this paragraph are met with respect to any sim-  
12           ple retirement account for a year only if, under  
13           the qualified salary reduction arrangement, all  
14           employees of the employer who—

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

18                   “(ii) are reasonably expected to receive  
19                   at least \$5,000 in compensation during the  
20                   year,

21           are eligible to make the election under paragraph  
22           (2)(A)(i) or receive the nonelective contribution  
23           described in paragraph (2)(B).

24           “(B) *EXCLUDABLE EMPLOYEES.*—An em-  
25           ployer may elect to exclude from the requirement

1           under subparagraph (A) employees described in  
2           section 410(b)(3).

3           “(5) ADMINISTRATIVE REQUIREMENTS.—The re-  
4           quirements of this paragraph are met with respect to  
5           any simplified retirement account if, under the quali-  
6           fied salary reduction arrangement—

7                   “(A) an employer must—

8                           “(i) make the elective employer con-  
9                           tributions under paragraph (2)(A)(i) not  
10                          later than the close of the 30-day period fol-  
11                          lowing the last day of the month with re-  
12                          spect to which the contributions are to be  
13                          made, and

14                           “(ii) make the matching contributions  
15                           under paragraph (2)(A)(iii) or the nonelec-  
16                           tive contributions under paragraph (2)(B)  
17                           not later than the date described in section  
18                           404(m)(2)(B),

19                          “(B) an employee may elect to terminate  
20                          participation in such arrangement at any time  
21                          during the year, except that if an employee so  
22                          terminates, the arrangement may provide that  
23                          the employee may not elect to resume participa-  
24                          tion until the beginning of the next year, and

1           “(C) each employee eligible to participate  
2           may elect, during the 60-day period before the  
3           beginning of any year (and the 60-day period  
4           before the first day such employee is eligible to  
5           participate), to participate in the arrangement,  
6           or to modify the amounts subject to such ar-  
7           rangement, for such year.

8           “(6) DEFINITIONS.—For purposes of this sub-  
9           section—

10           “(A) COMPENSATION.—

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

14           “(ii) SELF-EMPLOYED.—In the case of  
15           an employee described in subparagraph (B),  
16           the term ‘compensation’ means net earnings  
17           from self-employment determined under sec-  
18           tion 1402(a) without regard to any con-  
19           tribution under this subsection.

20           “(B) EMPLOYEE.—The term ‘employee’ in-  
21           cludes an employee as defined in section  
22           401(c)(1).

23           “(C) YEAR.—The term ‘year’ means the cal-  
24           endar year.

1           “(7) *USE OF DESIGNATED FINANCIAL INSTITU-*  
2           *TION.—A plan shall not be treated as failing to sat-*  
3           *isfy the requirements of this subsection or any other*  
4           *provision of this title merely because the employer*  
5           *makes all contributions to the individual retirement*  
6           *accounts or annuities of a designated trustee or is-*  
7           *sumer. The preceding sentence shall not apply unless*  
8           *each plan participant is notified in writing (either*  
9           *separately or as part of the notice under subsection*  
10           *(l)(2)(C)) that the participant’s balance may be*  
11           *transferred without cost or penalty to another indi-*  
12           *vidual account or annuity in accordance with section*  
13           *408(d)(3)(G).”*

14           **(b) TAX TREATMENT OF SIMPLE RETIREMENT AC-**  
15           **COUNTS.—**

16           **(1) DEDUCTIBILITY OF CONTRIBUTIONS BY EM-**  
17           **PLOYEES.—**

18           **(A) Section 219(b) (relating to maximum**  
19           **amount of deduction) is amended by adding at**  
20           **the end the following new paragraph:**

21           **“(4) SPECIAL RULE FOR SIMPLE RETIREMENT**  
22           **ACCOUNTS.—This section shall not apply with respect**  
23           **to any amount contributed to a simple retirement ac-**  
24           **count established under section 408(p).”.**

1           (B) Section 219(g)(5)(A) (defining active  
2           participant) is amended by striking “or” at the  
3           end of clause (iv) and by adding at the end the  
4           following new clause:

5                   “(vi) any simple retirement account  
6                   (within the meaning of section 408(p)), or”.

7           (2) DEDUCTIBILITY OF EMPLOYER CONTRIBU-  
8           TIONS.—Section 404 (relating to deductions for con-  
9           tributions of an employer to pension, etc. plans) is  
10          amended by adding at the end the following new sub-  
11          section:

12          “(m) SPECIAL RULES FOR SIMPLE RETIREMENT AC-  
13          COUNTS.—

14                  “(1) IN GENERAL.—Employer contributions to a  
15                  simple retirement account shall be treated as if they  
16                  are made to a plan subject to the requirements of this  
17                  section.

18                  “(2) TIMING.—

19                          “(A) DEDUCTION.—Contributions described  
20                          in paragraph (1) shall be deductible in the tax-  
21                          able year of the employer with or within which  
22                          the calendar year for which the contributions  
23                          were made ends.

24                          “(B) CONTRIBUTIONS AFTER END OF  
25                          YEAR.—For purposes of this subsection, contribu-

1           *tions shall be treated as made for a taxable year*  
2           *if they are made on account of the taxable year*  
3           *and are made not later than the time prescribed*  
4           *by law for filing the return for the taxable year*  
5           *(including extensions thereof).”.*

6           (3) *CONTRIBUTIONS AND DISTRIBUTIONS.—*

7                   (A) *Section 402 (relating to taxability of*  
8                   *beneficiary of employees’ trust) is amended by*  
9                   *adding at the end the following new subsection:*

10           “(k) *TREATMENT OF SIMPLE RETIREMENT AC-*  
11 *COUNTS.—Rules similar to the rules of paragraphs (1) and*  
12 *(3) of subsection (h) shall apply to contributions and dis-*  
13 *tributions with respect to a simple retirement account*  
14 *under section 408(p).”.*

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

17                   “(G) *SIMPLE RETIREMENT ACCOUNTS.—*  
18 *This paragraph shall not apply to any amount*  
19 *paid or distributed out of a simple retirement*  
20 *account (as defined in section 408(p)) unless—*

21                           “(i) *it is paid into another simple re-*  
22 *tirement account, or*

23                           “(ii) *in the case of any payment or*  
24 *distribution to which section 72(t)(6) does*

1           not apply, it is paid into an individual re-  
2           tirement plan.”.

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

6           (4) *PENALTIES.*—

7           (A) *EARLY WITHDRAWALS.*—Section 72(t)  
8           (relating to additional tax in early distribu-  
9           tions) is amended by adding at the end the fol-  
10          lowing new paragraph:

11          “(6) *SPECIAL RULES FOR SIMPLE RETIREMENT*  
12          *ACCOUNTS.*—In the case of any amount received from  
13          a simple retirement account (within the meaning of  
14          section 408(p)) during the 2-year period beginning on  
15          the date such individual first participated in any  
16          qualified salary reduction arrangement maintained  
17          by the individual’s employer under section 408(p)(2),  
18          paragraph (1) shall be applied by substituting ‘25  
19          percent’ for ‘10 percent’.”.

20          (B) *FAILURE TO REPORT.*—Section 6693 is  
21          amended by redesignating subsection (c) as sub-  
22          section (d) and by inserting after subsection (b)  
23          the following new subsection:

24          “(c) *PENALTIES RELATING TO SIMPLE RETIREMENT*  
25          *ACCOUNTS.*—

1           “(1) *EMPLOYER PENALTIES.*—An employer who  
2 fails to provide 1 or more notices required by section  
3 408(l)(2)(C) shall pay a penalty of \$50 for each day  
4 on which such failures continue.

5           “(2) *TRUSTEE PENALTIES.*—A trustee who  
6 fails—

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

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

15           “(3) *REASONABLE CAUSE EXCEPTION.*—No pen-  
16 alty shall be imposed under this subsection with re-  
17 spect to any failure which the taxpayer shows was  
18 due to reasonable cause.”.

19           (5) *REPORTING REQUIREMENTS.*—

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

22           “(2) *SIMPLE RETIREMENT ACCOUNTS.*—

23           “(A) *NO EMPLOYER REPORTS.*—Except as  
24 provided in this paragraph, no report shall be  
25 required under this section by an employer

1           *maintaining a qualified salary reduction ar-*  
2           *range ment under subsection (p).*

3           “(B) *SUMMARY DESCRIPTION.—The trustee*  
4           *of any simple retirement account established*  
5           *pursuant to a qualified salary reduction ar-*  
6           *range ment under subsection (p) shall provide to*  
7           *the employer maintaining the arrangement, each*  
8           *year a description containing the following in-*  
9           *formation:*

10                   “(i) *The name and address of the em-*  
11                   *ployer and the trustee.*

12                   “(ii) *The requirements for eligibility*  
13                   *for participation.*

14                   “(iii) *The benefits provided with re-*  
15                   *spect to the arrangement.*

16                   “(iv) *The time and method of making*  
17                   *elections with respect to the arrangement.*

18                   “(v) *The procedures for, and effects of,*  
19                   *withdrawals (including rollovers) from the*  
20                   *arrangement.*

21           “(C) *EMPLOYEE NOTIFICATION.—The em-*  
22           *ployer shall notify each employee immediately*  
23           *before the period for which an election described*  
24           *in subsection (p)(5)(C) may be made of the em-*  
25           *ployee’s opportunity to make such election. Such*

1           *notice shall include a copy of the description de-*  
2           *scribed in subparagraph (B).”.*

3           *(B) Section 408(l) is amended by striking*  
4           *“An employer” and inserting the following:*

5           *“(1) IN GENERAL.—An employer”.*

6           *(6) REPORTING REQUIREMENTS.—Section 408(i)*  
7           *is amended by adding at the end the following new*  
8           *flush sentence:*

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

18          *(7) EXEMPTION FROM TOP-HEAVY PLAN*  
19          *RULES.—Section 416(g)(4) (relating to special rules*  
20          *for top-heavy plans) is amended by adding at the end*  
21          *the following new subparagraph:*

22                  *“(G) SIMPLE RETIREMENT ACCOUNTS.—The*  
23                  *term ‘top-heavy plan’ shall not include a simple*  
24                  *retirement account under section 408(p).”.*

25          *(8) EMPLOYMENT TAXES.—*

1           (A) Paragraph (5) of section 3121(a) is  
2 amended by striking “or” at the end of subpara-  
3 graph (F), by inserting “or” at the end of sub-  
4 paragraph (G), and by adding at the end the fol-  
5 lowing new subparagraph:

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

9           (B) Section 209(a)(4) of the Social Security  
10 Act is amended by inserting “; or (J) under an  
11 arrangement to which section 408(p) of such  
12 Code applies, other than any elective contribu-  
13 tions under paragraph (2)(A)(i) thereof” before  
14 the semicolon at the end thereof.

15           (C) Paragraph (5) of section 3306(b) is  
16 amended by striking “or” at the end of subpara-  
17 graph (F), by inserting “or” at the end of sub-  
18 paragraph (G), and by adding at the end the fol-  
19 lowing new subparagraph:

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

23           (D) Paragraph (12) of section 3401(a) is  
24 amended by adding the following new subpara-  
25 graph:

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

3           (9) CONFORMING AMENDMENTS.—

4           (A) Section 280G(b)(6) is amended by strik-  
5           ing “or” at the end of subparagraph (B), by  
6           striking the period at the end of subparagraph  
7           (C) and inserting “, or” and by adding after  
8           subparagraph (C) the following new subpara-  
9           graph:

10           “(D) a simple retirement account described  
11           in section 408(p).”.

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

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

20           (C) Subsections (b), (c), (m)(4)(B), and  
21           (n)(3)(B) of section 414 are each amended by in-  
22           serting “408(p),” after “408(k).”.

23           (D) Section 4972(d)(1)(A) is amended by  
24           striking “and” at the end of clause (ii), by strik-  
25           ing the period at the end of clause (iii) and in-

1           serting “, and”, and by adding after clause (iii)  
2           the following new clause:

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

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

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

15          (d) *MODIFICATIONS OF ERISA.*—

16                      (1) *REPORTING REQUIREMENTS.*—Section 101 of  
17                      the *Employee Retirement Income Security Act of*  
18                      1974 (29 U.S.C. 1021) is amended by redesignating  
19                      subsection (g) as subsection (h) and by inserting after  
20                      subsection (f) the following new subsection:

21                      “(g) *SIMPLE RETIREMENT ACCOUNTS.*—

22                      “(1) *NO EMPLOYER REPORTS.*—Except as pro-  
23                      vided in this subsection, no report shall be required  
24                      under this section by an employer maintaining a

1 *qualified salary reduction arrangement under section*  
2 *408(p) of the Internal Revenue Code of 1986.*

3 “(2) *SUMMARY DESCRIPTION.—The trustee of*  
4 *any simple retirement account established pursuant*  
5 *to a qualified salary reduction arrangement under*  
6 *section 408(p) of such Code shall provide to the em-*  
7 *ployer maintaining the arrangement each year a de-*  
8 *scription containing the following information:*

9 “(A) *The name and address of the employer*  
10 *and the trustee.*

11 “(B) *The requirements for eligibility for*  
12 *participation.*

13 “(C) *The benefits provided with respect to*  
14 *the arrangement.*

15 “(D) *The time and method of making elec-*  
16 *tions with respect to the arrangement.*

17 “(E) *The procedures for, and effects of,*  
18 *withdrawals (including rollovers) from the ar-*  
19 *rangement.*

20 “(3) *EMPLOYEE NOTIFICATION.—The employer*  
21 *shall notify each employee immediately before the pe-*  
22 *riod for which an election described in section*  
23 *408(p)(5)(C) of such Code may be made of the em-*  
24 *ployee’s opportunity to make such election. Such no-*

1        *tice shall include a copy of the description described*  
2        *in paragraph (2).”*

3                (2) *FIDUCIARY DUTIES.*—Section 404(c) of such  
4        *Act (29 U.S.C. 1104(c)) is amended by inserting*  
5        *“(1)” after “(c)”, by redesignating paragraphs (1)*  
6        *and (2) as subparagraphs (A) and (B), respectively,*  
7        *and by adding at the end the following new para-*  
8        *graph:*

9                *“(2) In the case of a simple retirement account*  
10        *established pursuant to a qualified salary reduction*  
11        *arrangement under section 408(p) of the Internal*  
12        *Revenue Code of 1986, a participant or beneficiary*  
13        *shall, for purposes of paragraph (1), be treated as ex-*  
14        *ercising control over the assets in the account upon*  
15        *the earliest of—*

16                *“(A) an affirmative election with respect to*  
17        *the initial investment of any contribution,*

18                *“(B) a rollover to any other simple retire-*  
19        *ment account or individual retirement plan, or*

20                *“(C) one year after the simple retirement*  
21        *account is established.*

22        *No reports, other than those required under section*  
23        *101(g), shall be required with respect to a simple re-*  
24        *irement account established pursuant to such a*  
25        *qualified salary reduction arrangement.”*

1           (e) *EFFECTIVE DATE.*—*The amendments made by this*  
2 *section shall apply to taxable years beginning after Decem-*  
3 *ber 31, 1996.*

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

6           (a) *ALTERNATIVE METHOD OF SATISFYING SECTION*  
7 *401(k) NONDISCRIMINATION TESTS.*—*Section 401(k) (relat-*  
8 *ing to cash or deferred arrangements) is amended by adding*  
9 *at the end the following new paragraph:*

10                   “(11) *ADOPTION OF SIMPLE PLAN TO MEET NON-*  
11 *DISCRIMINATION TESTS.*—

12                           “(A) *IN GENERAL.*—*A cash or deferred ar-*  
13 *rangement maintained by an eligible employer*  
14 *shall be treated as meeting the requirements of*  
15 *paragraph (3)(A)(ii) if such arrangement*  
16 *meets—*

17                                   “(i) *the contribution requirements of*  
18 *subparagraph (B),*

19                                   “(ii) *the exclusive plan requirements of*  
20 *subparagraph (C), and*

21                                   “(iii) *the vesting requirements of sec-*  
22 *tion 408(p)(3).*

23                           “(B) *CONTRIBUTION REQUIREMENTS.*—

1           “(i) *IN GENERAL.*—*The requirements*  
2 *of this subparagraph are met if, under the*  
3 *arrangement—*

4                   “(I) *an employee may elect to*  
5 *have the employer make elective con-*  
6 *tributions for the year on behalf of the*  
7 *employee to a trust under the plan in*  
8 *an amount which is expressed as a*  
9 *percentage of compensation of the em-*  
10 *ployee but which in no event exceeds*  
11 *\$6,000,*

12                   “(II) *the employer is required to*  
13 *make a matching contribution to the*  
14 *trust for the year in an amount equal*  
15 *to so much of the amount the employee*  
16 *elects under subclause (I) as does not*  
17 *exceed 3 percent of compensation for*  
18 *the year, and*

19                   “(III) *no other contributions may*  
20 *be made other than contributions de-*  
21 *scribed in subclause (I) or (II).*

22           “(i) *EMPLOYER MAY ELECT 2-PER-*  
23 *CENT NONELECTIVE CONTRIBUTION.*—*An*  
24 *employer shall be treated as meeting the re-*  
25 *quirements of clause (i)(II) for any year if,*

1           *in lieu of the contributions described in*  
2           *such clause, the employer elects (pursuant to*  
3           *the terms of the arrangement) to make non-*  
4           *elective contributions of 2 percent of com-*  
5           *pen-sation for each employee who is eligible*  
6           *to participate in the arrangement and who*  
7           *has at least \$5,000 of compensation from*  
8           *the employer for the year. If an employer*  
9           *makes an election under this subparagraph*  
10           *for any year, the employer shall notify em-*  
11           *ployees of such election within a reasonable*  
12           *period of time before the 60th day before the*  
13           *beginning of such year.*

14           “(C) *EXCLUSIVE PLAN REQUIREMENT.*—*The*  
15           *requirements of this subparagraph are met for*  
16           *any year to which this paragraph applies if no*  
17           *contributions were made, or benefits were ac-*  
18           *crued, for services during such year under any*  
19           *qualified plan of the employer on behalf of any*  
20           *employee eligible to participate in the cash or de-*  
21           *ferred arrangement, other than contributions de-*  
22           *scribed in subparagraph (B).*

23           “(D) *DEFINITIONS AND SPECIAL RULE.*—

24           “(i) *DEFINITIONS.*—*For purposes of*  
25           *this paragraph, any term used in this para-*

1           *graph which is also used in section 408(p)*  
2           *shall have the meaning given such term by*  
3           *such section.*

4                   “(i) *COORDINATION WITH TOP-HEAVY*  
5           *RULES.—A plan meeting the requirements*  
6           *of this paragraph for any year shall not be*  
7           *treated as a top-heavy plan under section*  
8           *416 for such year.”.*

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

15                   “(10) *ALTERNATIVE METHOD OF SATISFYING*  
16    *TESTS.—A defined contribution plan shall be treated*  
17    *as meeting the requirements of paragraph (2) with re-*  
18    *spect to matching contributions if the plan—*

19                           “(A) *meets the contribution requirements of*  
20                           *subparagraph (B) of subsection (k)(11),*

21                           “(B) *meets the exclusive plan requirements*  
22                           *of subsection (k)(11)(C), and*

23                           “(C) *meets the vesting requirements of sec-*  
24                           *tion 408(p)(3).”.*

1           (c) *EFFECTIVE DATE.*—*The amendments made by this*  
2 *section shall apply to plan years beginning after December*  
3 *31, 1996.*

4                           ***Subchapter B—Other Provisions***

5   ***SEC. 1426. TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER***  
6                           ***SECTION 401(k).***

7           (a) *IN GENERAL.*—*Subparagraph (B) of section*  
8 *401(k)(4) is amended to read as follows:*

9                           “(B) *ELIGIBILITY OF STATE AND LOCAL*  
10                           *GOVERNMENTS AND TAX-EXEMPT ORGANIZA-*  
11                           *TIONS.*—

12                                   “(i) *TAX-EXEMPTS ELIGIBLE.*—*Except*  
13                                   *as provided in clause (ii), any organization*  
14                                   *exempt from tax under this subtitle may in-*  
15                                   *clude a qualified cash or deferred arrange-*  
16                                   *ment as part of a plan maintained by it.*

17                                   “(ii) *GOVERNMENTS INELIGIBLE.*—*A*  
18                                   *cash or deferred arrangement shall not be*  
19                                   *treated as a qualified cash or deferred ar-*  
20                                   *rangement if it is part of a plan main-*  
21                                   *tained by a State or local government or*  
22                                   *political subdivision thereof, or any agency*  
23                                   *or instrumentality thereof. This clause shall*  
24                                   *not apply to a rural cooperative plan or to*

1           a plan of an employer described in clause  
2           (iii).

3           “(iii) *TREATMENT OF INDIAN TRIBAL*  
4           *GOVERNMENTS.*—An employer which is an  
5           Indian tribal government (as defined in sec-  
6           tion 7701(a)(40)), a subdivision of an In-  
7           dian tribal government (determined in ac-  
8           cordance with section 7871(d)), an agency  
9           or instrumentality of an Indian tribal gov-  
10          ernment or subdivision thereof, or a cor-  
11          poration chartered under Federal, State, or  
12          tribal law which is owned in whole or in  
13          part by any of the foregoing may include a  
14          qualified cash or deferred arrangement as  
15          part of a plan maintained by the em-  
16          ployer.”.

17          (b) *EFFECTIVE DATE.*—The amendment made by this  
18          section shall apply to plan years beginning after December  
19          31, 1996, but shall not apply to any cash or deferred ar-  
20          rangement to which clause (i) of section 1116(f)(2)(B) of  
21          the Tax Reform Act of 1986 applies.

22          **SEC. 1427. HOMEMAKERS ELIGIBLE FOR FULL IRA DEDUC-**  
23          **TION.**

24          (a) *SPOUSAL IRA COMPUTED ON BASIS OF COM-*  
25          *PENSATION OF BOTH SPOUSES.*—Subsection (c) of section

1 219 (relating to special rules for certain married individ-  
2 uals) is amended to read as follows:

3 “(c) *SPECIAL RULES FOR CERTAIN MARRIED INDIVID-*  
4 *UALS.*—

5 “(1) *IN GENERAL.*—*In the case of an individual*  
6 *to whom this paragraph applies for the taxable year,*  
7 *the limitation of paragraph (1) of subsection (b) shall*  
8 *be equal to the lesser of—*

9 “(A) *the dollar amount in effect under sub-*  
10 *section (b)(1)(A) for the taxable year, or*

11 “(B) *the sum of—*

12 “(i) *the compensation includible in*  
13 *such individual’s gross income for the tax-*  
14 *able year, plus*

15 “(ii) *the compensation includible in*  
16 *the gross income of such individual’s spouse*  
17 *for the taxable year reduced by the amount*  
18 *allowed as a deduction under subsection (a)*  
19 *to such spouse for such taxable year.*

20 “(2) *INDIVIDUALS TO WHOM PARAGRAPH (1) AP-*  
21 *PLIES.*—*Paragraph (1) shall apply to any individual*  
22 *if—*

23 “(A) *such individual files a joint return for*  
24 *the taxable year, and*

1           “(B) the amount of compensation (if any)  
2           includible in such individual’s gross income for  
3           the taxable year is less than the compensation  
4           includible in the gross income of such individ-  
5           ual’s spouse for the taxable year.”.

6           (b) *CONFORMING AMENDMENTS.*—

7           (1) Paragraph (2) of section 219(f) (relating to  
8           other definitions and special rules) is amended by  
9           striking “subsections (b) and (c)” and inserting “sub-  
10          section (b)”.

11          (2) Section 219(g)(1) is amended by striking  
12          “(c)(2)” and inserting “(c)(1)(A)”.

13          (3) Section 408(d)(5) is amended by striking  
14          “\$2,250” and inserting “the dollar amount in effect  
15          under section 219(b)(1)(A)”.

16          (c) *EFFECTIVE DATE.*—The amendments made by this  
17          section shall apply to taxable years beginning after Decem-  
18          ber 31, 1996.

19                   **CHAPTER 3—NONDISCRIMINATION**  
20                                   **PROVISIONS**

21           **SEC. 1431. DEFINITION OF HIGHLY COMPENSATED EMPLOY-**  
22                                   **EES; REPEAL OF FAMILY AGGREGATION.**

23          (a) *IN GENERAL.*—Paragraph (1) of section 414(q)  
24          (defining highly compensated employee) is amended to read  
25          as follows:

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

3                   “(A) *was a 5-percent owner at any time*  
4                   *during the year or the preceding year, or*

5                   “(B) *for the preceding year had compensa-*  
6                   *tion from the employer in excess of \$80,000.*

7           *The Secretary shall adjust the \$80,000 amount under*  
8           *subparagraph (B) at the same time and in the same*  
9           *manner as under section 415(d), except that the base*  
10           *period shall be the calendar quarter ending September*  
11           *30, 1996.”.*

12           **(b) *REPEAL OF FAMILY AGGREGATION RULES.*—**

13                   (1) *IN GENERAL.*—Paragraph (6) of section  
14                   414(q) is hereby repealed.

15                   (2) *COMPENSATION LIMIT.*—Paragraph (17)(A)  
16                   of section 401(a) is amended by striking the last sen-  
17                   tence.

18                   (3) *DEDUCTION.*—Subsection (l) of section 404 is  
19                   amended by striking the last sentence.

20           **(c) *CONFORMING AMENDMENTS.*—**

21                   (1)(A) Subsection (q) of section 414 is amended  
22                   by striking paragraphs (2), (4), (5), (8), and (12)  
23                   and by redesignating paragraphs (3), (7), (9), (10),  
24                   and (11) as paragraphs (2) through (6), respectively.

1           (B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii),  
2           408(k)(2)(C), and 416(i)(1)(D) are each amended by  
3           striking “section 414(q)(7)” and inserting “section  
4           414(q)(3)”.

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

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

9           “(9) *EXCLUDED EMPLOYEES.*—For purposes of  
10           paragraph (2)(A), the following employees shall be ex-  
11           cluded:

12           “(A) *Employees who have not completed 6*  
13           *months of service.*

14           “(B) *Employees who normally work less*  
15           *than 17½ hours per week.*

16           “(C) *Employees who normally work not*  
17           *more than 6 months during any year.*

18           “(D) *Employees who have not attained the*  
19           *age of 21.*

20           “(E) *Except to the extent provided in regu-*  
21           *lations, employees who are included in a unit of*  
22           *employees covered by an agreement which the*  
23           *Secretary of Labor finds to be a collective bar-*  
24           *gaining agreement between employee representa-*  
25           *tives and the employer.*

1     *Except as provided by the Secretary, the employer*  
2     *may elect to apply subparagraph (A), (B), (C), or (D)*  
3     *by substituting a shorter period of service, smaller*  
4     *number of hours or months, or lower age for the pe-*  
5     *riod of service, number of hours or months, or age (as*  
6     *the case may be) specified in such subparagraph.”.*

7             *(B) Subparagraph (A) of section 414(r)(2) is*  
8     *amended by striking “subsection (q)(8)” and inserting*  
9     *“paragraph (9)”.*

10            *(3) Section 1114(c)(4) of the Tax Reform Act of*  
11     *1986 is amended by adding at the end the following*  
12     *new sentence: “Any reference in this paragraph to*  
13     *section 414(q) shall be treated as a reference to such*  
14     *section as in effect on the day before the date of the*  
15     *enactment of the Small Business Job Protection Act*  
16     *of 1996.”.*

17     *(d) EFFECTIVE DATE.—*

18            *(1) IN GENERAL.—The amendments made by*  
19     *this section shall apply to years beginning after De-*  
20     *cember 31, 1996, except that in determining whether*  
21     *an employee is a highly compensated employee for*  
22     *years beginning in 1997, such amendments shall be*  
23     *treated as having been in effect for years beginning in*  
24     *1996.*

1           (2) *FAMILY AGGREGATION.*—*The amendments*  
2           *made by subsection (b) shall apply to years beginning*  
3           *after December 31, 1996.*

4 **SEC. 1432. MODIFICATION OF ADDITIONAL PARTICIPATION**  
5           **REQUIREMENTS.**

6           (a) *GENERAL RULE.*—*Section 401(a)(26)(A) (relating*  
7           *to additional participation requirements) is amended to*  
8           *read as follows:*

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

14                           “(i) *50 employees of the employer, or*

15                           “(ii) *the greater of—*

16                                   “(I) *40 percent of all employees of*  
17                                   *the employer, or*

18                                   “(II) *2 employees (or if there is*  
19                                   *only 1 employee, such employee).”.*

20           (b) *SEPARATE LINE OF BUSINESS TEST.*—*Section*  
21           *401(a)(26)(G) (relating to separate line of business) is*  
22           *amended by striking “paragraph (7)” and inserting “para-*  
23           *graph (2)(A) or (7)”.*

1           (c) *EFFECTIVE DATE.*—*The amendments made by this*  
2 *section shall apply to years beginning after December 31,*  
3 *1996.*

4 **SEC. 1433. NONDISCRIMINATION RULES FOR QUALIFIED**  
5 **CASH OR DEFERRED ARRANGEMENTS AND**  
6 **MATCHING CONTRIBUTIONS.**

7           (a) *ALTERNATIVE METHODS OF SATISFYING SECTION*  
8 *401(k) NONDISCRIMINATION TESTS.*—*Section 401(k) (relat-*  
9 *ing to cash or deferred arrangements), as amended by sec-*  
10 *tion 1422, is amended by adding at the end the following*  
11 *new paragraph:*

12                   “(12) *ALTERNATIVE METHODS OF MEETING NON-*  
13 *DISCRIMINATION REQUIREMENTS.*—

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

18                                   “(i) *meets the contribution require-*  
19 *ments of subparagraph (B) or (C), and*

20   “(ii) *meets the notice requirements of*  
21 *subparagraph (D).*

22                           “(B) *MATCHING CONTRIBUTIONS.*—

23                                   “(i) *IN GENERAL.*—*The requirements*  
24 *of this subparagraph are met if, under the*  
25 *arrangement, the employer makes matching*

1           *contributions on behalf of each employee*  
2           *who is not a highly compensated employee*  
3           *in an amount equal to—*

4                   “(I) 100 percent of the elective  
5                   *contributions of the employee to the ex-*  
6                   *tent such elective contributions do not*  
7                   *exceed 3 percent of the employee’s com-*  
8                   *penetration, and*

9                   “(II) 50 percent of the elective  
10                   *contributions of the employee to the ex-*  
11                   *tent that such elective contributions ex-*  
12                   *ceed 3 percent but do not exceed 5 per-*  
13                   *cent of the employee’s compensation.*

14                   “(ii) *RATE FOR HIGHLY COMPENSATED*  
15                   *EMPLOYEES.—The requirements of this sub-*  
16                   *paragraph are not met if, under the ar-*  
17                   *rangement, the rate of matching contribu-*  
18                   *tion with respect to any elective contribu-*  
19                   *tion of a highly compensated employee at*  
20                   *any rate of elective contribution is greater*  
21                   *than that with respect to an employee who*  
22                   *is not a highly compensated employee.*

23                   “(iii) *ALTERNATIVE PLAN DESIGNS.—*  
24                   *If the rate of any matching contribution*  
25                   *with respect to any rate of elective contribu-*

1            *tion is not equal to the percentage required*  
2            *under clause (i), an arrangement shall not*  
3            *be treated as failing to meet the require-*  
4            *ments of clause (i) if—*

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

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

17           *“(C) NONELECTIVE CONTRIBUTIONS.—The*  
18           *requirements of this subparagraph are met if,*  
19           *under the arrangement, the employer is required,*  
20           *without regard to whether the employee makes an*  
21           *elective contribution or employee contribution, to*  
22           *make a contribution to a defined contribution*  
23           *plan on behalf of each employee who is not a*  
24           *highly compensated employee and who is eligible*  
25           *to participate in the arrangement in an amount*

1           *equal to at least 3 percent of the employee’s com-*  
2           *ensation.*

3           “(D) *NOTICE REQUIREMENT.*—*An arrange-*  
4           *ment meets the requirements of this paragraph*  
5           *if, under the arrangement, each employee eligible*  
6           *to participate is, within a reasonable period be-*  
7           *fore any year, given written notice of the em-*  
8           *ployee’s rights and obligations under the ar-*  
9           *rangement which—*

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

13            “(ii) *is written in a manner calculated*  
14            *to be understood by the average employee el-*  
15            *igible 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 sub-*  
20            *paragraph (B) or (C) of this paragraph un-*  
21            *less the requirements of subparagraphs (B)*  
22            *and (C) of paragraph (2) are met with re-*  
23            *spect to all employer contributions (includ-*  
24            *ing matching contributions) taken into ac-*  
25            *count in determining whether the require-*

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

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

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

18                  (b) *ALTERNATIVE METHODS OF SATISFYING SECTION*  
19                  *401(m) NONDISCRIMINATION TESTS.—Section 401(m) (re-*  
20                  *lating to nondiscrimination test for matching contributions*  
21                  *and employee contributions), as amended by this section*  
22                  *1422(b), is amended by redesignating paragraph (11) as*  
23                  *paragraph (12) and by adding after paragraph (10) the*  
24                  *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 requirements*  
5           *of paragraph (2) with respect to matching con-*  
6           *tributions 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 CONTRIBU-*  
15           *TIONS.—The requirements of this subparagraph*  
16           *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 elec-*  
20                   *tive deferrals in excess of 6 percent of the*  
21                   *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 employee  
3           at any rate of an employee contribution or  
4           rate of elective deferral is not greater than  
5           that with respect to an employee who is not  
6           a highly compensated employee.”.

7           (c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED  
8     EMPLOYEE PERCENTAGE.—

9           (1) CASH OR DEFERRED ARRANGEMENTS.—Sec-  
10          tion 401(k)(3)(A) is amended—

11                  (A) by striking “such year” in clause (ii)  
12                  and inserting “the plan year”,

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

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

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

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

1           (B) by inserting “for the preceding plan  
2           year” after “eligible employees” each place it ap-  
3           pears in clause (i) and clause (ii), and

4           (C) by adding at the end the following flush  
5           sentence:

6           “*This subparagraph may be applied by using the*  
7           *plan year rather than the preceding plan year if*  
8           *the employer so elects, except that if such an elec-*  
9           *tion is made, it may not be changed except as*  
10          *provided the Secretary.*”

11          (d) *SPECIAL RULE FOR DETERMINING AVERAGE DE-*  
12          *FERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—*

13           (1) *Paragraph (3) of section 401(k) is amended*  
14          *by adding at the end the following new subparagraph:*

15           “*(E) For purposes of this paragraph, in the*  
16           *case of the first plan year of any plan (other*  
17           *than a successor plan), the amount taken into*  
18           *account as the actual deferral percentage of non-*  
19           *highly compensated employees for the preceding*  
20           *plan year shall be—*

21                   “*(i) 3 percent, or*

22                   “*(ii) if the employer makes an election*  
23                   *under this subclause, the actual deferral*  
24                   *percentage of nonhighly compensated em-*

1            *ployees determined for such first plan*  
2            *year.”.*

3            *(2) Paragraph (3) of section 401(m) is amended*  
4            *by adding at the end the following: “Rules similar to*  
5            *the rules of subsection (k)(3)(E) shall apply for pur-*  
6            *poses of this subsection.”.*

7            *(e) DISTRIBUTION OF EXCESS CONTRIBUTIONS AND*  
8            *EXCESS AGGREGATE CONTRIBUTIONS.—*

9            *(1) Subparagraph (C) of section 401(k)(8) (relat-*  
10           *ing to arrangement not disqualified if excess contribu-*  
11           *tions distributed) is amended by striking “on the*  
12           *basis of the respective portions of the excess contribu-*  
13           *tions attributable to each of such employees” and in-*  
14           *serting “on the basis of the amount of contributions*  
15           *by, or on behalf of, each of such employees”.*

16           *(2) Subparagraph (C) of section 401(m)(6) (re-*  
17           *lating to method of distributing excess aggregate con-*  
18           *tributions) is amended by striking “on the basis of the*  
19           *respective portions of such amounts attributable to*  
20           *each of such employees” and inserting “on the basis*  
21           *of the amount of contributions on behalf of, or by,*  
22           *each such employee”.*

23           *(f) EFFECTIVE DATES.—*

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

4           (2) *EXCEPTIONS.*—*The amendments made by*  
5           *subsections (c), (d), and (e) shall apply to years be-*  
6           *ginning after December 31, 1996.*

7   **SEC. 1434. DEFINITION OF COMPENSATION FOR SECTION**  
8           **415 PURPOSES.**

9           (a) *GENERAL RULE.*—*Section 415(c)(3) (defining par-*  
10          *ticipant’s compensation) is amended by adding at the end*  
11          *the following new subparagraph:*

12                   “(D) *CERTAIN DEFERRALS INCLUDED.*—*The*  
13                   *term ‘participant’s compensation’ shall in-*  
14                   *clude—*

15                           “(i) *any elective deferral (as defined in*  
16                           *section 402(g)(3)), and*

17                                   “(ii) *any amount which is contributed*  
18                                   *or deferred by the employer at the election*  
19                                   *of the employee and which is not includible*  
20                                   *in the gross income of the employee by rea-*  
21                                   *son of section 125 or 457.”.*

22          (b) *CONFORMING AMENDMENTS.*—

23                   (1) *Section 414(q)(3), as redesignated by section*  
24                   *1431, is amended to read as follows:*

1           “(4) *COMPENSATION*.—For purposes of this sub-  
2           section, the term ‘compensation’ has the meaning  
3           given such term by section 415(c)(3).”.

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

6           (c) *EFFECTIVE DATE*.—The amendments made by this  
7           section shall apply to years beginning after December 31,  
8           1997.

## 9           **CHAPTER 4—MISCELLANEOUS**

### 10           **PROVISIONS**

#### 11           **SEC. 1441. PLANS COVERING SELF-EMPLOYED INDIVID-** 12           **UALS.**

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

17           “(d) *CONTRIBUTION LIMIT ON OWNER-EMPLOYEES*.—  
18           A trust forming part of a pension or profit-sharing plan  
19           which provides contributions or benefits for employees some  
20           or all of whom are owner-employees shall constitute a quali-  
21           fied trust under this section only if, in addition to meeting  
22           the requirements of subsection (a), the plan provides that  
23           contributions on behalf of any owner-employee may be  
24           made only with respect to the earned income of such owner-

1 *employee which is derived from the trade or business with*  
2 *respect to which such plan is established.”.*

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

6 **SEC. 1442. ELIMINATION OF SPECIAL VESTING RULE FOR**  
7 **MULTIEMPLOYER PLANS.**

8 (a) *AMENDMENTS TO 1986 CODE.*—*Paragraph (2) of*  
9 *section 411(a) (relating to minimum vesting standards) is*  
10 *amended—*

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

13 (2) *by striking subparagraph (C).*

14 (b) *AMENDMENTS TO ERISA.*—*Paragraph (2) of sec-*  
15 *tion 203(a) of the Employee Retirement Income Security*  
16 *Act of 1974 (29 U.S.C. 1053(a)) is amended—*

17 (1) *by striking “subparagraph (A), (B), or (C)”*  
18 *and inserting “subparagraph (A) or (B)”;* and

19 (2) *by striking subparagraph (C).*

20 (c) *EFFECTIVE DATE.*—*The amendments made by this*  
21 *section shall apply to plan years beginning on or after the*  
22 *earlier of—*

23 (1) *the later of—*

24 (A) *January 1, 1997, or*

1           (B) the date on which the last of the collec-  
2           tive bargaining agreements pursuant to which  
3           the plan is maintained terminates (determined  
4           without regard to any extension thereof after the  
5           date of the enactment of this Act), or

6           (2) January 1, 1999.

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

11 **SEC. 1443. DISTRIBUTIONS UNDER RURAL COOPERATIVE**  
12                                   **PLANS.**

13           (a) *DISTRIBUTIONS FOR HARDSHIP OR AFTER A CER-*  
14 *TAIN AGE.*—Section 401(k)(7) is amended by adding at the  
15 *end the following new subparagraph:*

16                           “(C) *SPECIAL RULE FOR CERTAIN DIS-*  
17 *TRIBUTIONS.*—A rural cooperative plan which  
18 *includes a qualified cash or deferred arrange-*  
19 *ment shall not be treated as violating the re-*  
20 *quirements of section 401(a) or of paragraph (2)*  
21 *merely by reason of a hardship distribution or a*  
22 *distribution to a participant after attainment of*  
23 *age 59½. For purposes of this section, the term*  
24 *‘hardship distribution’ means a distribution de-*  
25 *scribed in paragraph (2)(B)(i)(IV) (without re-*

1           *gard to the limitation of its application to prof-*  
2           *it-sharing or stock bonus plans).”.*

3           **(b) PUBLIC UTILITY DISTRICTS.**—*Clause (i) of section*  
4 *401(k)(7)(B) (defining rural cooperative) is amended to*  
5 *read as follows:*

6                           *“(i) any organization which—*  
7                                   *“(I) is engaged primarily in pro-*  
8                                   *viding electric service on a mutual or*  
9                                   *cooperative basis, or*

10                                   *“(II) is engaged primarily in pro-*  
11                                   *viding electric service to the public in*  
12                                   *its area of service and which is exempt*  
13                                   *from tax under this subtitle or which is*  
14                                   *a State or local government (or an*  
15                                   *agency or instrumentality thereof),*  
16                                   *other than a municipality (or an agen-*  
17                                   *cy or instrumentality thereof),”.*

18           **(c) EFFECTIVE DATES.**—

19                           **(1) DISTRIBUTIONS.**—*The amendments made by*  
20 *subsection (a) shall apply to distributions after the*  
21 *date of the enactment of this Act.*

22                           **(2) PUBLIC UTILITY DISTRICTS.**—*The amend-*  
23 *ments made by subsection (b) shall apply to plan*  
24 *years beginning after December 31, 1996.*

1 **SEC. 1444. TREATMENT OF GOVERNMENTAL PLANS UNDER**  
2 **SECTION 415.**

3 (a) *COMPENSATION LIMIT.*—Subsection (b) of section  
4 415 is amended by adding immediately after paragraph  
5 (10) the following new paragraph:

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

10 (b) *TREATMENT OF CERTAIN EXCESS BENEFIT*  
11 *PLANS.*—

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

14 “(m) *TREATMENT OF QUALIFIED GOVERNMENTAL EX-*  
15 *CESS BENEFIT ARRANGEMENTS.*—

16 “(1) *GOVERNMENTAL PLAN NOT AFFECTED.*—In  
17 determining whether a governmental plan (as defined  
18 in section 414(d)) meets the requirements of this sec-  
19 tion, benefits provided under a qualified governmental  
20 excess benefit arrangement shall not be taken into ac-  
21 count. Income accruing to a governmental plan (or to  
22 a trust that is maintained solely for the purpose of  
23 providing benefits under a qualified governmental ex-  
24 cess benefit arrangement) in respect of a qualified  
25 governmental excess benefit arrangement shall con-  
26 stitute income derived from the exercise of an essen-

1 *tial governmental function upon which such govern-*  
2 *mental plan (or trust) shall be exempt from tax under*  
3 *section 115.*

4 “(2) *TAXATION OF PARTICIPANT.—For purposes*  
5 *of this chapter—*

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

10 “(B) *the treatment of such amounts when so*  
11 *includible by the participant,*  
12 *shall be determined as if such qualified governmental*  
13 *excess benefit arrangement were treated as a plan for*  
14 *the deferral of compensation which is maintained by*  
15 *a corporation not exempt from tax under this chapter*  
16 *and which does not meet the requirements for quali-*  
17 *fication under section 401.*

18 “(3) *QUALIFIED GOVERNMENTAL EXCESS BENE-*  
19 *FIT ARRANGEMENT.—For purposes of this subsection,*  
20 *the term ‘qualified governmental excess benefit ar-*  
21 *rangement’ means a portion of a governmental plan*  
22 *if—*

23 “(A) *such portion is maintained solely for*  
24 *the purpose of providing to participants in the*  
25 *plan that part of the participant’s annual bene-*

1       *fit otherwise payable under the terms of the plan*  
2       *that exceeds the limitations on benefits imposed*  
3       *by this section,*

4               “(B) *under such portion no election is pro-*  
5       *vided at any time to the participant (directly or*  
6       *indirectly) to defer compensation, and*

7               “(C) *benefits described in subparagraph (A)*  
8       *are not paid from a trust forming a part of such*  
9       *governmental plan unless such trust is main-*  
10       *tained solely for the purpose of providing such*  
11       *benefits.”.*

12               (2) *COORDINATION WITH SECTION 457.—Sub-*  
13       *section (e) of section 457 is amended by adding at the*  
14       *end the following new paragraph:*

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

23               (3) *CONFORMING AMENDMENT.—Paragraph (2)*  
24       *of section 457(f) is amended by striking “and” at the*  
25       *end of subparagraph (C), by striking the period at the*

1        *end of subparagraph (D) and inserting “, and”, and*  
2        *by inserting immediately thereafter the following new*  
3        *subparagraph:*

4                    *“(E) a qualified governmental excess benefit*  
5                    *arrangement described in section 415(m).”.*

6        *(c) EXEMPTION FOR SURVIVOR AND DISABILITY BENE-*  
7        *FITS.—Paragraph (2) of section 415(b) is amended by add-*  
8        *ing at the end the following new subparagraph:*

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

14                    *“(i) income received from a govern-*  
15                    *mental plan (as defined in section 414(d))*  
16                    *as a pension, annuity, or similar allowance*  
17                    *as the result of the recipient becoming dis-*  
18                    *abled by reason of personal injuries or sick-*  
19                    *ness, or*

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

24        *(d) REVOCATION OF GRANDFATHER ELECTION.—*

1           (1) *IN GENERAL.*—Subparagraph (C) of section  
2           415(b)(10) is amended by adding at the end the fol-  
3           lowing new clause:

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

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

24                   “(i) *IN GENERAL.*—*This*”.

25           (e) *EFFECTIVE DATE.*—

1           (1) *IN GENERAL.*—*The amendments made by*  
2           *subsections (a), (b), and (c) shall apply to years be-*  
3           *ginning after December 31, 1994. The amendments*  
4           *made by subsection (d) shall apply with respect to*  
5           *revocations adopted after the date of the enactment of*  
6           *this Act.*

7           (2) *TREATMENT FOR YEARS BEGINNING BEFORE*  
8           *JANUARY 1, 1995.*—*Nothing in the amendments made*  
9           *by this section shall be construed to imply that a gov-*  
10           *ernmental plan (as defined in section 414(d) of the*  
11           *Internal Revenue Code of 1986) fails to satisfy the re-*  
12           *quirements of section 415 of such Code for any tax-*  
13           *able year beginning before January 1, 1995.*

14 **SEC. 1445. UNIFORM RETIREMENT AGE.**

15           (a) *DISCRIMINATION TESTING.*—*Paragraph (5) of sec-*  
16           *tion 401(a) (relating to special rules relating to non-*  
17           *discrimination requirements) is amended by adding at the*  
18           *end the following new subparagraph:*

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

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



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 OR*  
10 *LESS.—The total amount payable to a partici-*  
11 *part under the plan shall not be treated as made*  
12 *available merely because the participant may*  
13 *elect to receive such amount (or the plan may*  
14 *distribute such amount without the participant’s*  
15 *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                    *participant to which this subparagraph*  
2                    *applied.*

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

7                    “(B) *ELECTION TO DEFER COMMENCEMENT*  
8                    *OF DISTRIBUTIONS.—The total amount payable*  
9                    *to a participant under the plan shall not be*  
10                   *treated as made available merely because the*  
11                   *participant may elect to defer commencement of*  
12                   *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) and*  
16                    *before commencement of such distributions,*  
17                    *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 amend-*  
22                    *ed by section 1444(b)(2) (relating to governmental plans),*  
23                    *is amended by adding at the end the following new para-*  
24                    *graph:*



1 *exclusive benefit of participants and their bene-*  
2 *ficiaries.*

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 includ-*  
10 *ible 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 sec-*  
19 *tion 457(b) is amended by inserting “except as provided*  
20 *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 shall*  
24 *apply to assets and income described in section*  
25 *457(b)(6) of the Internal Revenue Code of 1986 held*

1       by a plan on and after the date of the enactment of  
2       this Act.

3               (2) *TRANSITION RULE.*—In the case of a plan in  
4       existence on the date of the enactment of this Act, a  
5       trust need not be established by reason of the amend-  
6       ments made by this section before January 1, 1999.

7       **SEC. 1449. TRANSITION RULE FOR COMPUTING MAXIMUM**  
8               **BENEFITS UNDER SECTION 415 LIMITATIONS.**

9               (a) *IN GENERAL.*—Subparagraph (A) of section  
10      767(d)(3) of the Uruguay Round Agreements Act is amend-  
11      ed to read as follows:

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

17                               “(i) the later of the date a plan amend-  
18                              ment applying the amendments made by  
19                              subsection (b) is adopted or made effective,  
20                              or

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

24                      *Determinations under section 415(b)(2)(E) of the*  
25                      *Internal Revenue Code of 1986 before such ear-*

1            *lier date shall be made with respect to such bene-*  
2            *fits on the basis of such section as in effect on*  
3            *December 7, 1994 (except that the modification*  
4            *made by section 1449(b) of the Small Business*  
5            *Job Protection Act of 1996 shall be taken into*  
6            *account), and the provisions of the plan as in ef-*  
7            *fect on December 7, 1994, but only if such provi-*  
8            *sions of the plan meet the requirements of such*  
9            *section (as so in effect).”.*

10            *(b) MODIFICATION OF CERTAIN ASSUMPTIONS FOR AD-*  
11            *JUSTING BENEFITS OF DEFINED BENEFIT PLANS FOR*  
12            *EARLY RETIREES.—Subparagraph (E) of section 415(b)(2)*  
13            *(relating to limitation on certain assumptions) is amend-*  
14            *ed—*

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

22            *(2) by striking “For purposes of adjusting the*  
23            *benefit or limitation of any form of benefit subject to*  
24            *section 417(e)(3),” in clause (ii) and inserting “For*  
25            *purposes of adjusting any benefit under subparagraph*

1       (B) for any form of benefit subject to section  
2       417(e)(3),”.

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

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

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

12           (2) within 1 year after the date of the enactment  
13 of this Act, a plan amendment is adopted which re-  
14 peals the amendment referred to in paragraph (1),  
15 the amendment referred to in paragraph (1) shall not be  
16 taken into account in applying section 767(d)(3)(A) of the  
17 Uruguay Round Agreements Act, as amended by subsection  
18 (a).

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

20       (a) *MULTIPLE SALARY REDUCTION AGREEMENTS*  
21 *PERMITTED.*—

22           (1) *GENERAL RULE.*—For purposes of section  
23 403(b) of the Internal Revenue Code of 1986, the fre-  
24 quency that an employee is permitted to enter into a  
25 salary reduction agreement, the salary to which such

1     *an agreement may apply, and the ability to revoke*  
2     *such an agreement shall be determined under the rules*  
3     *applicable to cash or deferred elections under section*  
4     *401(k) of such Code.*

5             (2) *CONSTRUCTIVE RECEIPT.*—Section 402(e)(3)  
6     *is amended by inserting “or which is part of a salary*  
7     *reduction agreement under section 403(b)” after “sec-*  
8     *tion 401(k)(2))”.*

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

12    (b) *TREATMENT OF INDIAN TRIBAL GOVERNMENTS.*—

13             (1) *IN GENERAL.*—Subparagraph (A) of section  
14    *403(b)(1) (relating to taxability of beneficiary under*  
15    *annuity purchased by section 501(c)(3) organization*  
16    *or public school) is amended by striking “or” at the*  
17    *end of clause (i), by inserting “or” at the end of*  
18    *clause (ii), and by adding at the end the following*  
19    *new clause:*

20                     *“(iii) for an employee by an employer*  
21                     *which is an Indian tribal government (as*  
22                     *defined in section 7701(a)(40)), a subdivi-*  
23                     *sion of an Indian tribal government (deter-*  
24                     *mined in accordance with section 7871(d)),*  
25                     *an agency or instrumentality of an Indian*

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

5           (2) *CONFORMING AMENDMENT.*—*The heading for*  
6           *section 403(b) is amended by striking “OR PUBLIC*  
7           *SCHOOL” and inserting “, PUBLIC SCHOOL, OR IN-*  
8           *DIAN TRIBE”.*

9           (3) *EFFECTIVE DATES.*—

10           (A) *IN GENERAL.*—*The amendments made*  
11           *by this section shall apply to plan years begin-*  
12           *ning after December 31, 1996.*

13           (B) *TRANSITION RULES.*—

14           (i) *IN GENERAL.*—*In the case of any*  
15           *contract purchased in a plan year begin-*  
16           *ning before January 1, 1997, section 403(b)*  
17           *of the Internal Revenue Code of 1986 shall*  
18           *be applied as if any reference to an em-*  
19           *ployer described in section 501(c)(3) of the*  
20           *Internal Revenue Code of 1986 which is ex-*  
21           *empt from tax under section 501 of such*  
22           *Code included a reference to an employer*  
23           *which is an Indian tribal government (as*  
24           *defined by section 7701(a)(40) of such*  
25           *Code), a subdivision of an Indian tribal*

1           government (determined in accordance with  
2           section 7871(d) of such Code), an agency or  
3           instrumentality of an Indian tribal govern-  
4           ment or subdivision thereof, or a corpora-  
5           tion chartered under Federal, State, or trib-  
6           al law which is owned in whole or in part  
7           by any of the foregoing.

8           (ii) *ROLLOVERS*.—Solely for purposes  
9           of applying section 403(b)(8) of such Code  
10          to a contract to which clause (i) applies, a  
11          qualified cash or deferred arrangement  
12          under section 401(k) of such Code shall be  
13          treated as if it were a plan or contract de-  
14          scribed in clause (ii) of section 403(b)(8)(A)  
15          of such Code.

16       (c) *ELECTIVE DEFERRALS*.—

17           (1) *IN GENERAL*.—Subparagraph (E) of section  
18          403(b)(1) is amended to read as follows:

19                   “(E) in the case of a contract purchased  
20                   under a salary reduction agreement, the contract  
21                   meets the requirements of section 401(a)(30),”.

22           (2) *EFFECTIVE DATE*.—The amendment made by  
23          this subsection shall apply to years beginning after  
24          December 31, 1995, except a contract shall not be re-  
25          quired to meet any change in any requirement by



1 *tributions shall be treated as made first from amounts not*  
2 *described in subsection (f).”.*

3 *(c) CONFORMING AMENDMENTS.—*

4 *(1) Paragraph (1) of section 415(a) is amend-*  
5 *ed—*

6 *(A) by adding “or” at the end of subpara-*  
7 *graph (A),*

8 *(B) by striking “, or” at the end of sub-*  
9 *paragraph (B) and inserting a period, and*

10 *(C) by striking subparagraph (C).*

11 *(2) Subparagraph (B) of section 415(b)(5) is*  
12 *amended by striking “and subsection (e)”.*

13 *(3) Paragraph (1) of section 415(f) is amended*  
14 *by striking “subsections (b), (c), and (e)” and insert-*  
15 *ing “subsections (b) and (c)”.*

16 *(4) Subsection (g) of section 415 is amended by*  
17 *striking “subsections (e) and (f)” in the last sentence*  
18 *and inserting “subsection (f)”.*

19 *(5) Clause (i) of section 415(k)(2)(A) is amended*  
20 *to read as follows:*

21 *“(i) any contribution made directly by*  
22 *an employee under such an arrangement*  
23 *shall not be treated as an annual addition*  
24 *for purposes of subsection (c), and”.*

1           (6) *Clause (ii) of section 415(k)(2)(A) is amend-*  
2           *ed by striking “subsections (c) and (e)” and inserting*  
3           *“subsection (c)”.*

4           (7) *Section 416 is amended by striking sub-*  
5           *section (h).*

6           (d) *EFFECTIVE DATE.—*

7           (1) *IN GENERAL.—Except as provided in para-*  
8           *graph (2), the amendments made by this section shall*  
9           *apply to limitation years beginning after December*  
10          *31, 1999.*

11          (2) *EXCESS DISTRIBUTIONS.—The amendment*  
12          *made by subsection (b) shall apply to years beginning*  
13          *after December 31, 1996.*

14   **SEC. 1453. TAX ON PROHIBITED TRANSACTIONS.**

15          (a) *IN GENERAL.—Section 4975(a) is amended by*  
16          *striking “5 percent” and inserting “10 percent”.*

17          (b) *EFFECTIVE DATE.—The amendment made by this*  
18          *section shall apply to prohibited transactions occurring*  
19          *after the date of the enactment of this Act.*

20   **SEC. 1454. TREATMENT OF LEASED EMPLOYEES.**

21          (a) *GENERAL RULE.—Subparagraph (C) of section*  
22          *414(n)(2) (defining leased employee) is amended to read as*  
23          *follows:*

24                         *“(C) such services are performed under pri-*  
25                         *mary direction or control by the recipient.”.*

1           (b) *EFFECTIVE DATE.*—*The amendment made by sub-*  
2 *section (a) shall apply to years beginning after December*  
3 *31, 1996, but shall not apply to any relationship deter-*  
4 *mined under an Internal Revenue Service ruling issued be-*  
5 *fore the date of the enactment of this Act pursuant to section*  
6 *414(n)(2)(C) of the Internal Revenue Code of 1986 (as in*  
7 *effect on the day before such date) not to involve a leased*  
8 *employee.*

9 **SEC. 1455. UNIFORM PENALTY PROVISIONS TO APPLY TO**  
10 **CERTAIN PENSION REPORTING REQUIRE-**  
11 **MENTS.**

12           (a) *PENALTIES.*—

13               (1) *STATEMENTS.*—*Paragraph (1) of section*  
14 *6724(d) is amended by striking “and” at the end of*  
15 *subparagraph (A), by striking the period at the end*  
16 *of subparagraph (B) and inserting “, and”, and by*  
17 *inserting after subparagraph (B) the following new*  
18 *subparagraph:*

19                       “(C) *any statement of the amount of pay-*  
20 *ments to another person required to be made to*  
21 *the Secretary under—*

22                               “(i) *section 408(i) (relating to reports*  
23 *with respect to individual retirement ac-*  
24 *counts or annuities), or*

1                   “(ii) section 6047(d) (relating to re-  
2                   ports by employers, plan administrators,  
3                   etc.).”.

4                   (2) *REPORTS*.—Paragraph (2) of section 6724(d)  
5                   is amended by striking “or” at the end of subpara-  
6                   graph (S), by striking the period at the end of sub-  
7                   paragraph (T) and inserting a comma, and by insert-  
8                   ing after subparagraph (T) the following new sub-  
9                   paragraphs:

10                   “(U) section 408(i) (relating to reports with  
11                   respect to individual retirement plans) to any  
12                   person other than the Secretary with respect to  
13                   the amount of payments made to such person, or

14                   “(V) section 6047(d) (relating to reports by  
15                   plan administrators) to any person other than  
16                   the Secretary with respect to the amount of pay-  
17                   ments made to such person.”.

18                   (b) *MODIFICATION OF REPORTABLE DESIGNATED DIS-*  
19                   *TRIBUTIONS*.—

20                   (1) *SECTION 408*.—Subsection (i) of section 408  
21                   (relating to individual retirement account reports) is  
22                   amended by inserting “aggregating \$10 or more in  
23                   any calendar year” after “distributions”.

24                   (2) *SECTION 6047*.—Paragraph (1) of section  
25                   6047(d) (relating to reports by employers, plan ad-

1 *ministrators, etc.) is amended by adding at the end*  
2 *the following new sentence: “No return or report may*  
3 *be required under the preceding sentence with respect*  
4 *to distributions to any person during any year unless*  
5 *such distributions aggregate \$10 or more.”.*

6 *(c) QUALIFYING ROLLOVER DISTRIBUTIONS.—Section*  
7 *6652(i) is amended—*

8 *(1) by striking “the \$10” and inserting “\$100”,*  
9 *and*

10 *(2) by striking “\$5,000” and inserting*  
11 *“\$50,000”.*

12 *(d) CONFORMING AMENDMENTS.—*

13 *(1) Paragraph (1) of section 6047(f) is amended*  
14 *to read as follows:*

***“(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722.”.***

15 *(2) Subsection (e) of section 6652 is amended by*  
16 *adding at the end the following new sentence: “This*  
17 *subsection shall not apply to any return or statement*  
18 *which is an information return described in section*  
19 *6724(d)(1)(C)(ii) or a payee statement described in*  
20 *section 6724(d)(2)(V).”.*

21 *(3) Subsection (a) of section 6693 is amended by*  
22 *adding at the end the following new sentence: “This*  
23 *subsection shall not apply to any report which is an*  
24 *information return described in section*

1       6724(d)(1)(C)(i) or a payee statement described in  
2       section 6724(d)(2)(U).”.

3       (e) *EFFECTIVE DATE.*—The amendments made by this  
4       section shall apply to returns, reports, and other statements  
5       the due date for which (determined without regard to exten-  
6       sions) 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-employ-  
13       ment the rental value of any parsonage or any parsonage  
14       allowance (whether or not excludable under section 107)  
15       provided after the individual retires, or any other retire-  
16       ment benefit received by such individual from a church plan  
17       (as defined in section 414(e)) after the individual retires”  
18       before the semicolon at the end.

19       (b) *EFFECTIVE DATE.*—The amendments made by this  
20       section shall apply to years beginning before, on, or after  
21       December 31, 1994.

22       **SEC. 1457. MODEL FORMS FOR SPOUSAL CONSENT AND**  
23                                   **QUALIFIED DOMESTIC RELATIONS FORMS.**

24       (a) *DEVELOPMENT OF FORMS.*—Not later than Janu-  
25       ary 1, 1997, the Secretary of the Treasury shall develop—

1           (1) a model form for the spousal consent required  
2           under section 417(a)(2) of the Internal Revenue Code  
3           of 1986 and section 205(c)(2) of the Employee Retirement  
4           Income Security Act of 1974 which—

5                   (A) is written in a manner calculated to be  
6                   understood by the average person, and

7                   (B) discloses in plain form—

8                           (i) whether the waiver to which the  
9                           spouse consents is irrevocable, and

10                           (ii) whether such waiver may be re-  
11                           voked by a qualified domestic relations  
12                           order, and

13           (2) a model form for a qualified domestic rela-  
14           tions order described in section 414(p)(1)(A) of such  
15           Code and section 206(d)(3)(B)(i) of such Act which—

16                   (A) meets the requirements contained in  
17                   such sections, and

18                   (B) the provisions of which focus attention  
19                   on the need to consider the treatment of any  
20                   lump sum payment, qualified joint and survivor  
21                   annuity, or qualified preretirement survivor an-  
22                   nuity.

23           (b) *PUBLICITY.*—The Secretary of the Treasury shall  
24           include publicity for the model forms developed under sub-

1 *section (a) in the pension outreach efforts undertaken by*  
2 *the Secretary.*

3 **SEC. 1458. TREATMENT OF LENGTH OF SERVICE AWARDS**  
4 **TO VOLUNTEERS PERFORMING FIRE FIGHT-**  
5 **ING OR PREVENTION SERVICES, EMERGENCY**  
6 **MEDICAL SERVICES, OR AMBULANCE SERV-**  
7 **ICES.**

8 *(a) IN GENERAL.—Paragraph (11) of section 457(e)*  
9 *(relating to deferred compensation plans of State and local*  
10 *governments and tax-exempt organizations) is amended to*  
11 *read as follows:*

12 *“(11) CERTAIN PLANS EXCLUDED.—*

13 *“(A) IN GENERAL.—The following plans*  
14 *shall be treated as not providing for the deferral*  
15 *of compensation:*

16 *“(i) Any bona fide vacation leave, sick*  
17 *leave, compensatory time, severance pay,*  
18 *disability pay, or death benefit plan.*

19 *“(ii) Any plan paying solely length of*  
20 *service awards to bona fide volunteers (or*  
21 *their beneficiaries) on account of qualified*  
22 *services performed by such volunteers.*

23 *“(B) SPECIAL RULES APPLICABLE TO*  
24 *LENGTH OF SERVICE AWARD PLANS.—*

1           “(i) *BONA FIDE VOLUNTEER.*—An in-  
2           dividual shall be treated as a bona fide vol-  
3           unteer for purposes of subparagraph (A)(ii)  
4           if the only compensation received by such  
5           individual for performing qualified services  
6           is in the form of—

7                     “(I) reimbursement for (or a rea-  
8                     sonable allowance for) reasonable ex-  
9                     penses incurred in the performance of  
10                    such services, or

11                   “(II) reasonable benefits (includ-  
12                   ing length of service awards), and  
13                   nominal fees for such services, cus-  
14                   tomarily paid by eligible employers in  
15                   connection with the performance of  
16                   such services by volunteers.

17           “(ii) *LIMITATION ON ACCRUALS.*—A  
18           plan shall not be treated as described in  
19           subparagraph (A)(ii) if the aggregate  
20           amount of length of service awards accruing  
21           with respect to any year of service for any  
22           bona fide volunteer exceeds \$3,000.

23           “(C) *QUALIFIED SERVICES.*—For purposes  
24           of this paragraph, the term ‘qualified services’  
25           means fire fighting and prevention services,

1           *emergency medical services, and ambulance serv-*  
2           *ices.”*

3           **(b) EXEMPTION FROM SOCIAL SECURITY TAXES.—**

4           (1) *Subsection (a)(5) of section 3121, as amend-*  
5           *ed by section 1421, is amended by striking “(or)” at*  
6           *the end of subparagraph (G), by inserting “or” at the*  
7           *end of subparagraph (H), and by adding at the end*  
8           *the following new subparagraph:*

9                   *“(I) under a plan described in section*  
10                   *457(e)(11)(A)(ii) and maintained by an eligible*  
11                   *employer (as defined in section 457(e)(1)).”*

12           (2) *Section 209(a)(4) of the Social Security Act*  
13           *is amended by inserting “; or (K) under a plan de-*  
14           *scribed in section 457(e)(11)(A)(ii) of the Internal*  
15           *Revenue Code of 1986 and maintained by an eligible*  
16           *employer (as defined in section 457(e)(1) of such*  
17           *Code)” before the semicolon at the end thereof.*

18           **(c) EFFECTIVE DATE.—**

19           (1) *SUBSECTION (a).—The amendment made by*  
20           *subsection (a) shall apply to accruals of length of*  
21           *service awards after December 31, 1996.*

22           (2) *SUBSECTION (b).—The amendments made by*  
23           *subsection (b) shall apply to remuneration paid after*  
24           *December 31, 1996.*

1 **SEC. 1459. DATE FOR ADOPTION OF PLAN AMENDMENTS.**

2 *If any amendment made by this subtitle requires an*  
 3 *amendment to any plan or annuity contract, such amend-*  
 4 *ment shall not be required to be made before the first day*  
 5 *of the first plan year beginning on or after January 1,*  
 6 *1997, if—*

7 (1) *during the period after such amendment*  
 8 *takes effect and before such first plan year, the plan*  
 9 *or contract is operated in accordance with the re-*  
 10 *quirements of such amendment, and*

11 (2) *such amendment applies retroactively to such*  
 12 *period.*

13 *In the case of a governmental plan (as defined in section*  
 14 *414(d) of the Internal Revenue Code of 1986), this section*  
 15 *shall be applied by substituting “1999” for “1997”.*

16 ***Subtitle E—Revenue Offsets***

17 ***PART I—GENERAL PROVISIONS***

18 ***SEC. 1601. MODIFICATIONS OF PUERTO RICO AND POSSES-***  
 19 ***SION TAX CREDIT.***

20 (a) *IN GENERAL.—Section 936 is amended by adding*  
 21 *at the end the following new subsection:*

22 *“(j) TERMINATION OF QPSII AND REDUCED CREDIT;*  
 23 *REDUCTION IN ECONOMIC ACTIVITY CREDIT.—*

24 *“(1) IN GENERAL.—Except as otherwise provided*  
 25 *in this subsection, this section shall not apply to any*  
 26 *taxable year beginning after December 31, 1995.*

1           “(2) *SPECIAL RULES FOR ACTIVE BUSINESS IN-*  
2           *COME CREDIT.—Except as provided in paragraph*  
3           *(3)—*

4                   “(A) *ECONOMIC ACTIVITY CREDIT.—In the*  
5                   *case of an existing credit claimant—*

6                           “(i) *with respect to a possession other*  
7                           *than Puerto Rico, and*

8                           “(ii) *to which subsection (a)(4)(B) does*  
9                           *not apply,*

10                   *the credit determined under subsection (a)(1)(A)*  
11                   *shall be allowed for taxable years beginning after*  
12                   *December 31, 1995, except that in the case of*  
13                   *taxable years beginning after December 31, 2005,*  
14                   *subsection (a)(4)(A)(i) shall be applied by sub-*  
15                   *stituting ‘40 percent’ for ‘60 percent’.*

16                   “(B) *REDUCED CREDIT.—*

17                           “(i) *IN GENERAL.—In the case of an*  
18                           *existing credit claimant to which subsection*  
19                           *(a)(4)(B) applies, the credit determined*  
20                           *under subsection (a)(1)(A) shall be allowed*  
21                           *for taxable years beginning after December*  
22                           *31, 1995, and before January 1, 2006.*

23                           “(ii) *ELECTION IRREVOCABLE AFTER*  
24                           *1997.—An election under subsection*  
25                           *(a)(4)(B)(iii) which is in effect for the tax-*

1            *payer's last taxable year beginning before*  
2            *1997 may not be revoked unless it is re-*  
3            *voked for the taxpayer's first taxable year*  
4            *beginning in 1997 and all subsequent tax-*  
5            *able years.*

6            *“(C) ECONOMIC ACTIVITY CREDIT FOR*  
7            *PUERTO RICO.—*

*“For economic activity credit for Puerto Rico, see*  
          *section 30A.*

8            *“(3) ADDITIONAL RESTRICTION ON CREDIT.—*

9            *“(A) IN GENERAL.—In the case of an exist-*  
10            *ing credit claimant, the aggregate amount of*  
11            *taxable income taken into account under sub-*  
12            *section (a)(1)(A) shall not exceed the adjusted*  
13            *base period income of such claimant—*

14            *“(i) in the case of the credit described*  
15            *in paragraph (2)(A), for any taxable year*  
16            *beginning after December 31, 2001, and*

17            *“(ii) in the case of the credit described*  
18            *in paragraph (2)(B), for any taxable year*  
19            *beginning after December 31, 1997.*

20            *“(B) COORDINATION WITH SUBSECTION*  
21            *(a)(4).—The amount of income described in sub-*  
22            *section (a)(1)(A) which is taken into account in*  
23            *applying subsection (a)(4) shall be such income*  
24            *as reduced under this paragraph.*

1           “(4) *ADJUSTED BASE PERIOD INCOME.*—*For*  
2           *purposes of paragraph (3)*—

3           “(A) *IN GENERAL.*—*The term ‘adjusted base*  
4           *period income’ means the average of the infla-*  
5           *tion-adjusted possession incomes of the corpora-*  
6           *tion for each base period year.*

7           “(B) *INFLATION-ADJUSTED POSSESSION IN-*  
8           *COME.*—*For purposes of subparagraph (A), the*  
9           *inflation-adjusted possession income of any cor-*  
10           *poration for any base period year shall be an*  
11           *amount equal to the sum of—*

12           “(i) *the possession income of such cor-*  
13           *poration for such base period year, plus*

14           “(ii) *such possession income multiplied*  
15           *by the inflation adjustment percentage for*  
16           *such base period year.*

17           “(C) *INFLATION ADJUSTMENT PERCENT-*  
18           *AGE.*—*For purposes of subparagraph (B), the in-*  
19           *flation adjustment percentage for any base pe-*  
20           *riod year means the percentage (if any) by*  
21           *which—*

22           “(i) *the CPI for 1995, exceeds*

23           “(ii) *the CPI for the calendar year in*  
24           *which the base period year for which the de-*  
25           *termination is being made ends.*

1           *For purposes of the preceding sentence, the CPI*  
2           *for any calendar year is the CPI (as defined in*  
3           *section 1(f)(5)) for such year under section*  
4           *1(f)(4).*

5           “(D) *INCREASE IN INFLATION ADJUSTMENT*  
6           *PERCENTAGE FOR GROWTH DURING BASE*  
7           *YEARS.—The inflation adjustment percentage*  
8           *(determined under subparagraph (C) without re-*  
9           *gard to this subparagraph) for each of the 5 tax-*  
10           *able years referred to in paragraph (5)(A) shall*  
11           *be increased by—*

12                   “(i) *5 percentage points in the case of*  
13                   *a taxable year ending during the 1-year pe-*  
14                   *riod ending on October 13, 1995;*

15                   “(ii) *10.25 percentage points in the*  
16                   *case of a taxable year ending during the 1-*  
17                   *year period ending on October 13, 1994;*

18                   “(iii) *15.76 percentage points in the*  
19                   *case of a taxable year ending during the 1-*  
20                   *year period ending on October 13, 1993;*

21                   “(iv) *21.55 percentage points in the*  
22                   *case of a taxable year ending during the 1-*  
23                   *year period ending on October 13, 1992;*  
24                   *and*

1                   “(v) 27.63 percentage points in the  
2                   case of a taxable year ending during the 1-  
3                   year period ending on October 13, 1991.

4                   “(5) *BASE PERIOD YEAR.*—For purposes of this  
5                   subsection—

6                   “(A) *IN GENERAL.*—The term ‘base period  
7                   year’ means each of 3 taxable years which are  
8                   among the 5 most recent taxable years of the cor-  
9                   poration ending before October 14, 1995, deter-  
10                  mined by disregarding—

11                  “(i) one taxable year for which the cor-  
12                  poration had the largest inflation-adjusted  
13                  possession income, and

14                  “(ii) one taxable year for which the  
15                  corporation had the smallest inflation-ad-  
16                  justed possession income.

17                  “(B) *CORPORATIONS NOT HAVING SIGNIFI-*  
18                  *CANT POSSESSION INCOME THROUGHOUT 5-YEAR*  
19                  *PERIOD.*—

20                  “(i) *IN GENERAL.*—If a corporation  
21                  does not have significant possession income  
22                  for each of the most recent 5 taxable years  
23                  ending before October 14, 1995, then, in lieu  
24                  of applying subparagraph (A), the term  
25                  ‘base period year’ means only those taxable

1           years (of such 5 taxable years) for which the  
2           corporation has significant possession in-  
3           come; except that, if such corporation has  
4           significant possession income for 4 of such  
5           5 taxable years, the rule of subparagraph  
6           (A)(ii) shall apply.

7           “(ii) *SPECIAL RULE.*—If there is no  
8           year (of such 5 taxable years) for which a  
9           corporation has significant possession in-  
10          come—

11                   “(I) the term ‘base period year’  
12                   means the first taxable year ending on  
13                   or after October 14, 1995, but

14                   “(II) the amount of possession in-  
15                   come for such year which is taken into  
16                   account under paragraph (4) shall be  
17                   the amount which would be determined  
18                   if such year were a short taxable year  
19                   ending on September 30, 1995.

20           “(iii) *SIGNIFICANT POSSESSION IN-*  
21           *COME.*—For purposes of this subparagraph,  
22           the term ‘significant possession income’  
23           means possession income which exceeds 2  
24           percent of the possession income of the tax-  
25           payer for the taxable year (of the period of

1           6 taxable years ending with the first taxable  
2           year ending on or after October 14, 1995)  
3           having the greatest possession income.

4           “(C) *ELECTION TO USE ONE BASE PERIOD*  
5           *YEAR.*—

6                   “(i) *IN GENERAL.*—At the election of  
7           the taxpayer, the term ‘base period year’  
8           means—

9                           “(I) *only the last taxable year of*  
10           *the corporation ending in calendar*  
11           *year 1992, or*

12                           “(II) *a deemed taxable year which*  
13           *includes the first ten months of cal-*  
14           *endar year 1995.*

15                   “(ii) *BASE PERIOD INCOME FOR*  
16           *1995.*—In determining the adjusted base pe-  
17           riod income of the corporation for the  
18           deemed taxable year under clause (i)(II),  
19           the possession income shall be annualized  
20           and shall be determined without regard to  
21           any extraordinary item.

22                   “(iii) *ELECTION.*—An election under  
23           this subparagraph by any possession cor-  
24           poration may be made only for the corpora-  
25           tion’s first taxable year beginning after De-

1            *ember 31, 1995, for which it is a possession*  
2            *corporation. The rules of subclauses (II)*  
3            *and (III) of subsection (a)(4)(B)(iii) shall*  
4            *apply to the election under this subpara-*  
5            *graph.*

6            “(D) *ACQUISITIONS AND DISPOSITIONS.—*  
7            *Rules similar to the rules of subparagraphs (A)*  
8            *and (B) of section 41(f)(3) shall apply for pur-*  
9            *poses of this subsection.*

10           “(6) *POSSESSION INCOME.—For purposes of this*  
11           *subsection, the term ‘possession income’ means, with*  
12           *respect to any possession, the income referred to in*  
13           *subsection (a)(1)(A) determined with respect to that*  
14           *possession. In no event shall possession income be*  
15           *treated as being less than zero.*

16           “(7) *SHORT YEARS.—If the current year or a*  
17           *base period year is a short taxable year, the applica-*  
18           *tion of this subsection shall be made with such*  
19           *annualizations as the Secretary shall prescribe.*

20           “(8) *SPECIAL RULES FOR CERTAIN POSSES-*  
21           *SIONS.—*

22           “(A) *IN GENERAL.—In the case of an exist-*  
23           *ing credit claimant with respect to an applicable*  
24           *possession—*

1           “(i) *this section (other than the preced-*  
2           *ing paragraphs of this subsection) shall*  
3           *apply to such claimant with respect to such*  
4           *applicable possession for taxable years be-*  
5           *ginning after December 31, 1995, and before*  
6           *January 1, 2006, and*

7           “(ii) *this section (including the preced-*  
8           *ing paragraphs of this subsection) shall*  
9           *apply to such claimant with respect to such*  
10          *applicable possession for taxable years be-*  
11          *ginning after December 31, 2005.*

12          “(B) *APPLICABLE POSSESSION.—For pur-*  
13          *poses of this paragraph, the term ‘applicable pos-*  
14          *session’ means Guam, American Samoa, and the*  
15          *Commonwealth of the Northern Mariana Islands.*

16          “(9) *EXISTING CREDIT CLAIMANT.—For purposes*  
17          *of this subsection—*

18                 “(A) *IN GENERAL.—The term ‘existing cred-*  
19                 *it claimant’ means a corporation—*

20                         “(i) *which was actively conducting a*  
21                         *trade or business in a possession on October*  
22                         *13, 1995, and*

23                         “(ii) *with respect to which an election*  
24                         *under this section is in effect for the cor-*

1                    *poration's taxable year which includes Octo-*  
2                    *ber 13, 1995.*

3                    “(B) *NEW LINES OF BUSINESS PROHIB-*  
4                    *ITED.—If, after October 13, 1995, a corporation*  
5                    *which would (but for this subparagraph) be an*  
6                    *existing credit claimant adds a substantial new*  
7                    *line of business, such corporation shall cease to*  
8                    *be treated as an existing credit claimant as of*  
9                    *the close of the taxable year ending before the*  
10                   *date of such addition.*

11                   “(C) *BINDING CONTRACT EXCEPTION.—If,*  
12                   *on October 13, 1995, and at all times thereafter,*  
13                   *there is in effect with respect to a corporation a*  
14                   *binding contract for the acquisition of assets to*  
15                   *be used in, or for the sale of assets to be produced*  
16                   *from, a trade or business, the corporation shall*  
17                   *be treated for purposes of this paragraph as ac-*  
18                   *tively conducting such trade or business on Octo-*  
19                   *ber 13, 1995. The preceding sentence shall not*  
20                   *apply if such trade or business is not actively*  
21                   *conducted before January 1, 1996.*

22                   “(10) *SEPARATE APPLICATION TO EACH POSSES-*  
23                   *SION.—For purposes of determining—*

24                   “(A) *whether a taxpayer is an existing*  
25                   *credit claimant, and*

1                   “(B) the amount of the credit allowed under  
2                   this section,  
3                   this subsection (and so much of this section as relates  
4                   to this subsection) shall be applied separately with re-  
5                   spect to each possession.”.

6                   (b) *ECONOMIC ACTIVITY CREDIT FOR PUERTO RICO.*—

7                   (1) *IN GENERAL.*—Subpart B of part IV of sub-  
8                   chapter A of chapter 1 is amended by adding at the  
9                   end the following new section:

10                  “**SEC. 30A. PUERTO RICAN ECONOMIC ACTIVITY CREDIT.**

11                  “(a) *ALLOWANCE OF CREDIT.*—

12                         “(1) *IN GENERAL.*—Except as otherwise provided  
13                         in this section, if the conditions of both paragraph (1)  
14                         and paragraph (2) of subsection (b) are satisfied with  
15                         respect to a qualified domestic corporation, there shall  
16                         be allowed as a credit against the tax imposed by this  
17                         chapter an amount equal to the portion of the tax  
18                         which is attributable to the taxable income, from  
19                         sources without the United States, from—

20                                 “(A) the active conduct of a trade or busi-  
21                                 ness within Puerto Rico, or

22                                 “(B) the sale or exchange of substantially  
23                                 all of the assets used by the taxpayer in the ac-  
24                                 tive conduct of such trade or business.

1 *In the case of any taxable year beginning after De-*  
2 *cember 31, 2001, the aggregate amount of taxable in-*  
3 *come taken into account under the preceding sentence*  
4 *(and in applying subsection (d)) shall not exceed the*  
5 *adjusted base period income of such corporation, as*  
6 *determined in the same manner as under section*  
7 *936(j).*

8 “(2) *QUALIFIED DOMESTIC CORPORATION.*—*For*  
9 *purposes of paragraph (1), the term ‘qualified domes-*  
10 *tic corporation’ means a domestic corporation—*

11 “(A) *which is an existing credit claimant*  
12 *with respect to Puerto Rico, and*

13 “(B) *with respect to which section*  
14 *936(a)(4)(B) does not apply for the taxable year.*

15 “(3) *SEPARATE APPLICATION.*—*For purposes of*  
16 *determining—*

17 “(A) *whether a taxpayer is an existing*  
18 *credit claimant with respect to Puerto Rico, and*

19 “(B) *the amount of the credit allowed under*  
20 *this section,*

21 *this section (and so much of section 936 as relates to*  
22 *this section) shall be applied separately with respect*  
23 *to Puerto Rico.*

24 “(b) *CONDITIONS WHICH MUST BE SATISFIED.*—*The*  
25 *conditions referred to in subsection (a) are—*

1           “(1) *3-YEAR PERIOD.*—If 80 percent or more of  
2           the gross income of the qualified domestic corporation  
3           for the 3-year period immediately preceding the close  
4           of the taxable year (or for such part of such period  
5           immediately preceding the close of such taxable year  
6           as may be applicable) was derived from sources with-  
7           in a possession of the United States (determined with-  
8           out regard to section 904(f)).

9           “(2) *TRADE OR BUSINESS.*—If 75 percent or  
10          more of the gross income of the qualified domestic cor-  
11          poration for such period or such part thereof was de-  
12          rived from the active conduct of a trade or business  
13          within a possession of the United States.

14          “(c) *CREDIT NOT ALLOWED AGAINST CERTAIN*  
15          *TAXES.*—The credit provided by subsection (a) shall not be  
16          allowed against the tax imposed by—

17                 “(1) section 59A (relating to environmental tax),

18                 “(2) section 531 (relating to the tax on accumu-  
19                 lated earnings),

20                 “(3) section 541 (relating to personal holding  
21                 company tax), or

22                 “(4) section 1351 (relating to recoveries of for-  
23                 eign expropriation losses).

1       “(d) *LIMITATIONS ON CREDIT.*—*The amount of the*  
2 *credit determined under subsection (a) for any taxable year*  
3 *shall not exceed the sum of the following amounts:*

4               “(1) *60 percent (40 percent in the case of taxable*  
5 *years beginning after December 31, 2005) of the sum*  
6 *of—*

7                       “(A) *the aggregate amount of the qualified*  
8 *domestic corporation’s qualified possession wages*  
9 *for such taxable year, plus*

10                      “(B) *the allocable employee fringe benefit*  
11 *expenses of the qualified domestic corporation for*  
12 *such taxable year.*

13               “(2) *The sum of—*

14                      “(A) *15 percent of the depreciation allow-*  
15 *ances for the taxable year with respect to short-*  
16 *life qualified tangible property,*

17                      “(B) *40 percent of the depreciation allow-*  
18 *ances for the taxable year with respect to me-*  
19 *dium-life qualified tangible property, and*

20                      “(C) *65 percent of the depreciation allow-*  
21 *ances for the taxable year with respect to long-*  
22 *life qualified tangible property.*

23               “(3) *If the qualified domestic corporation does*  
24 *not have an election to use the method described in*  
25 *section 936(h)(5)(C)(ii) (relating to profit split) in ef-*

1       *fect for the taxable year, the amount of the qualified*  
2       *possession income taxes for the taxable year allocable*  
3       *to nonsheltered income.*

4       “(e) *ADMINISTRATIVE PROVISIONS.—For purposes of*  
5       *this title (other than section 27)—*

6               “(1) *the provisions of section 936 (including any*  
7       *applicable election thereunder) shall apply in the*  
8       *same manner as if the credit under this section were*  
9       *a credit under section 936(a)(1)(A) for a domestic*  
10       *corporation to which section 936(a)(4)(A) applies,*

11               “(2) *the credit under this section shall be treated*  
12       *in the same manner as the credit under section 936,*  
13       *and*

14               “(3) *a corporation to which this section applies*  
15       *shall be treated in the same manner as if it were a*  
16       *corporation electing the application of section 936.*

17       “(f) *DEFINITIONS.—For purposes of this section, any*  
18       *term used in this section which is also used in section 936*  
19       *shall have the same meaning given such term by section*  
20       *936.*

21       “(g) *APPLICATION OF SECTION.—This section shall*  
22       *apply to taxable years beginning after December 31, 1995.”*

23               “(2) *CONFORMING AMENDMENTS.—*

24                       “(A) *Paragraph (1) of section 55(c) is*  
25       *amended by striking “and the section 936 credit*

1           *allowable under section 27(b)*” and inserting “,  
2           *the section 936 credit allowable under section*  
3           *27(b), and the Puerto Rican economic activity*  
4           *credit under section 30A*”.

5           *(B) Subclause (I) of section 56(g)(4)(C)(ii)*  
6           *is amended—*

7                     *(i) by inserting “30A,” before “936”,*

8                     *and*

9                     *(ii) by striking “and (i)” and insert-*  
10                    *ing “, (i), and (j)”.*

11           *(C) Clause (iii) of section 56(g)(4)(C) is*  
12           *amended by adding at the end the following new*  
13           *subclause:*

14                             *“(VI) APPLICATION TO SECTION*  
15                             *30A CORPORATIONS.—References in this*  
16                             *clause to section 936 shall be treated as*  
17                             *including references to section 30A.”.*

18           *(D)(i) Subsection (b) of section 59 is*  
19           *amended by striking “section 936,” and all that*  
20           *follows and inserting “section 30A or 936, alter-*  
21           *native minimum taxable income shall not in-*  
22           *clude any income with respect to which a credit*  
23           *is determined under section 30A or 936.”.*

24                     *(ii) The heading for section 59(b) is amend-*  
25                     *ed by inserting “30A OR” before “936”.*

1           (E) *The table of sections for subpart B of*  
 2           *part IV of subchapter A of chapter 1 is amended*  
 3           *by adding at the end the following new item:*

*“Sec. 30A. Puerto Rican economic activity credit.”.*

4           (F)(i) *The heading for subpart B of part IV*  
 5           *of subchapter A of chapter 1 is amended to read*  
 6           *as follows:*

7                           **“Subpart B—Other Credits”.**

8           (ii) *The table of subparts for part IV of sub-*  
 9           *chapter A of chapter 1 is amended by striking*  
 10           *the item relating to subpart B and inserting the*  
 11           *following new item:*

*“Subpart B. Other credits.”.*

12           (c) *EFFECTIVE DATES.—*

13                   (1) *IN GENERAL.—The amendments made by*  
 14           *this section shall apply to taxable years beginning*  
 15           *after December 31, 1995.*

16                   (2) *SPECIAL RULE FOR QUALIFIED POSSESSION*  
 17           *SOURCE INVESTMENT INCOME.—The amendments*  
 18           *made by this section shall not apply to qualified pos-*  
 19           *session source investment income received or accrued*  
 20           *before July 1, 1996, without regard to the taxable*  
 21           *year in which received or accrued.*

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 on  
5 certain loans used to acquire employer securities) is hereby  
6 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 amended*  
16 *by striking subparagraph (A) and all that follows and*  
17 *inserting the following:*

18 “(A) *first from qualified securities to which*  
19 *section 1042 applied acquired during the 3-year*  
20 *period ending on the date of the disposition, be-*  
21 *ginning with the securities first so acquired, and*

22 “(B) *then from any other employer securi-*  
23 *ties.*

24 *If subsection (d) applies to a disposition, the dispo-*  
25 *sition shall be treated as made from employer securities*  
26 *in the opposite order of the preceding sentence.”.*

1           (5)(A) *Section 4978B (relating to tax on disposi-*  
2 *tion of employer securities to which section 133 ap-*  
3 *plied) is hereby repealed.*

4           (B) *The table of sections for chapter 43 is*  
5 *amended by striking the item relating to section*  
6 *4978B.*

7           (6) *Subsection (e) of section 6047 is amended by*  
8 *striking paragraphs (1), (2), and (3) and inserting*  
9 *the following new paragraphs:*

10           “(1) *any employer maintaining, or the plan ad-*  
11 *ministrator (within the meaning of section 414(g)) of,*  
12 *an employee stock ownership plan which holds stock*  
13 *with respect to which section 404(k) applies to divi-*  
14 *dends paid on such stock, or*

15           “(2) *both such employer or plan administrator,*”.

16           (7) *Subsection (f) of section 7872 is amended by*  
17 *striking paragraph (12).*

18           (8) *The table of sections for part III of sub-*  
19 *chapter B of chapter 1 is amended by striking the*  
20 *item relating to section 133.*

21           (c) *EFFECTIVE DATE.—*

22           (1) *IN GENERAL.—The amendments made by*  
23 *this section shall apply to loans made after the date*  
24 *of the enactment of this Act.*

1           (2) *REFINANCINGS.*—*The amendments made by*  
2 *this section shall not apply to loans made after the*  
3 *date of the enactment of this Act to refinance securi-*  
4 *ties acquisition loans (determined without regard to*  
5 *section 133(b)(1)(B) of the Internal Revenue Code of*  
6 *1986, as in effect on the day before the date of the en-*  
7 *actment of this Act) made on or before such date or*  
8 *to refinance loans described in this paragraph if—*

9                   (A) *the refinancing loans meet the require-*  
10 *ments of section 133 of such Code (as so in ef-*  
11 *fect),*

12                   (B) *immediately after the refinancing the*  
13 *principal amount of the loan resulting from the*  
14 *refinancing does not exceed the principal amount*  
15 *of the refinanced loan (immediately before the re-*  
16 *financing), and*

17                   (C) *the term of such refinancing loan does*  
18 *not extend beyond the last day of the term of the*  
19 *original securities acquisition loan.*

20 *For purposes of this paragraph, the term “securities*  
21 *acquisition loan” includes a loan from a corporation*  
22 *to an employee stock ownership plan described in sec-*  
23 *tion 133(b)(3) of such Code (as so in effect).*

24           (3) *EXCEPTION.*—*Any loan made pursuant to a*  
25 *binding written contract in effect before June 10,*

1       1996, and at all times thereafter before such loan is  
2       made, shall be treated for purposes of paragraphs (1)  
3       and (2) as a loan made on or before the date of the  
4       enactment of this Act.

5       **SEC. 1603. REPEAL OF EXCLUSION FOR PUNITIVE DAMAGES.**

6       (a) *IN GENERAL.*—Paragraph (2) of section 104(a)  
7       (relating to compensation for injuries or sickness) is amend-  
8       ed to read as follows:

9               “(2) the amount of any damages (other than pu-  
10       nitive damages) received (whether by suit or agree-  
11       ment and whether as lump sums or as periodic pay-  
12       ments) on account of personal injuries or sickness;”.

13       (b) *APPLICATION OF PRIOR LAW FOR STATES IN*  
14       *WHICH ONLY PUNITIVE DAMAGES MAY BE AWARDED IN*  
15       *WRONGFUL DEATH ACTIONS.*—Section 104 is amended by  
16       redesignating subsection (c) as subsection (d) and by insert-  
17       ing after subsection (b) the following new subsection:

18               “(c) *APPLICATION OF PRIOR LAW IN CERTAIN*  
19       *CASES.*—Notwithstanding subsection (a)(2), gross income  
20       shall not include punitive damages awarded in a civil ac-  
21       tion—

22               “(1) which is a wrongful death action, and

23               “(2) with respect to which applicable State law  
24       (as in effect on September 13, 1995 and without re-  
25       gard to any modification after such date) provides, or

1       *has been construed to provide by a court of competent*  
2       *jurisdiction pursuant to a decision issued on or before*  
3       *September 13, 1995, that only punitive damages may*  
4       *be awarded in such an action.*

5       *This subsection shall cease to apply to any civil action filed*  
6       *on or after the first date on which the applicable State law*  
7       *ceases to provide (or is no longer construed to provide) the*  
8       *treatment described in paragraph (2).”.*

9       (c) *CONFORMING AMENDMENT.*—Section 104(a) is  
10      *amended by striking the last sentence.*

11      (d) *EFFECTIVE DATE.*—

12           (1) *IN GENERAL.*—*Except as provided in para-*  
13           *graph (2), the amendments made by this section shall*  
14           *apply to amounts received after June 30, 1996, in*  
15           *taxable years ending after such date.*

16           (2) *EXCEPTION.*—*The amendments made by this*  
17           *section shall not apply to any amount received under*  
18           *a written binding agreement, court decree, or medi-*  
19           *ation award in effect on (or issued on or before) Sep-*  
20           *tember 13, 1995.*

21      **SEC. 1604. EXTENSION AND PHASEDOWN OF LUXURY PAS-**  
22    **SENGER AUTOMOBILE TAX.**

23      (a) *EXTENSION.*—*Subsection (f) of section 4001 is*  
24      *amended by striking “1999” and inserting “2002”.*

1           (b) *PHASEDOWN.*—Section 4001 is amended by redese-  
 2           ignating subsection (f) (as amended by subsection (a) of this  
 3           section) as subsection (g) and by inserting after subsection  
 4           (e) the following new subsection:

5           “(f) *PHASEDOWN.*—For sales occurring after June 30  
 6           in calendar year 1996, and in calendar years after 1996  
 7           and before 2003, subsection (a) shall be applied by sub-  
 8           stituting for ‘10 percent’ the percentage determined in ac-  
 9           cordance with the following table:

<b>“If the calendar year is:</b>	<b>The percentage is:</b>
1996 .....	9 percent
1997 .....	8 percent
1998 .....	7 percent
1999 .....	6 percent
2000 .....	5 percent
2001 .....	4 percent
2002 .....	3 percent.”

10           (c) *EFFECTIVE DATE.*—The amendments made by this  
 11           section shall take effect on July 1, 1996.

12   **SEC. 1605. TERMINATION OF FUTURE TAX-EXEMPT BOND FI-**  
 13                           **NANCING FOR LOCAL FURNISHERS OF ELEC-**  
 14                           **TRICITY AND GAS.**

15           Section 142(f) (relating to local furnishing of electric  
 16           energy or gas) is amended by adding at the end the follow-  
 17           ing new paragraphs:

18           “(3) *TERMINATION OF FUTURE FINANCING.*—For  
 19           purposes of this section, no bond may be issued as  
 20           part of an issue described in subsection (a)(8) with  
 21           respect to a facility for the local furnishing of electric

1 *energy or gas on or after the date of the enactment*  
2 *of this paragraph unless—*

3 *“(A) the facility will—*

4 *“(i) be used by a person who is en-*  
5 *gaged in the local furnishing of that energy*  
6 *source on such date, and*

7 *“(ii) be used to provide service within*  
8 *the area served by such person on such date,*  
9 *or*

10 *“(B) the facility will be used by a successor*  
11 *in interest to such person for the same use and*  
12 *within the same service area as described in sub-*  
13 *paragraph (A).*

14 *“(4) ELECTION TO TERMINATE TAX-EXEMPT*  
15 *BOND FINANCING BY CERTAIN FURNISHERS.—*

16 *“(A) IN GENERAL.—In the case of a facility*  
17 *financed with bonds issued before the date of the*  
18 *enactment of this paragraph which would cease*  
19 *to be tax-exempt by reason of the failure to meet*  
20 *the local furnishing requirement of subsection*  
21 *(a)(8) as a result of a service area expansion,*  
22 *such bonds shall not cease to be tax-exempt bonds*  
23 *(and section 150(b)(4) shall not apply) if the*  
24 *person engaged in such local furnishing by such*

1       *facility makes an election described in subpara-*  
2       *graph (B).*

3               “(B) *ELECTION.*—*An election is described*  
4       *in this subparagraph if it is an election made in*  
5       *such manner as the Secretary prescribes, and*  
6       *such person (or its predecessor in interest) agrees*  
7       *that—*

8                       “(i) *such election is made with respect*  
9       *to all facilities for the local furnishing of*  
10       *electric energy or gas, or both, by such per-*  
11       *son,*

12                      “(ii) *no bond exempt from tax under*  
13       *section 103 and described in subsection*  
14       *(a)(8) may be issued on or after the date of*  
15       *the enactment of this paragraph with re-*  
16       *spect to all such facilities of such person,*

17                      “(iii) *any expansion of the service*  
18       *area—*

19                               “(I) *is not financed with the pro-*  
20       *ceeds of any exempt facility bond de-*  
21       *scribed in subsection (a)(8), and*

22                               “(II) *is not treated as a non-*  
23       *qualifying use under the rules of para-*  
24       *graph (2), and*

1                   “(iv) all outstanding bonds used to fi-  
2                   nance the facilities for such person are re-  
3                   deemed not later than 6 months after the  
4                   later of—

5                               “(I) the earliest date on which  
6                               such bonds may be redeemed, or

7                               “(II) the date of the election.

8                               “(C) *RELATED PERSONS.*—For purposes of  
9                               this paragraph, the term ‘person’ includes a  
10                              group of related persons (within the meaning of  
11                              section 144(a)(3)) which includes such person.”

12 **SEC. 1606. REPEAL OF FINANCIAL INSTITUTION TRANSI-**  
13 **TION RULE TO INTEREST ALLOCATION**  
14 **RULES.**

15                   (a) *IN GENERAL.*—Paragraph (5) of section 1215(c)  
16 of the Tax Reform Act of 1986 (Public Law 99–514, 100  
17 Stat. 2548) is hereby repealed.

18                   (b) *EFFECTIVE DATE.*—The amendments made by this  
19 section shall apply to taxable years beginning after Decem-  
20 ber 31, 1995.

21 **SEC. 1607. EXTENSION OF AIRPORT AND AIRWAY TRUST**  
22 **FUND EXCISE TAXES.**

23                   (a) *FUEL TAX.*—

24                               (1) Subparagraph (A) of section 4091(b)(3) is  
25                               amended to read as follows:

1           “(A) The rate of tax specified in paragraph  
2           (1) shall be 4.3 cents per gallon—

3                   “(i) after December 31, 1995, and be-  
4                   fore the date which is 7 days after the date  
5                   of the enactment of the Small Business Job  
6                   Protection Act of 1996, and

7                   “(ii) after December 31, 1996.”

8           (2) Section 4081(d) is amended—

9                   (A) by adding at the end the following new  
10                  paragraph:

11                  “(3) AVIATION GASOLINE.—After December 31,  
12                  1996, the rate of tax specified in subsection  
13                  (a)(2)(A)(i) on aviation gasoline shall be 4.3 cents per  
14                  gallon.”, and

15                  (B) by inserting “(other than the tax on  
16                  aviation gasoline)” after “subsection (a)(2)(A)”.

17           (3) Section 4041(c)(5) is amended by inserting  
18           “, and during the period beginning on the date which  
19           is 7 days after the date of the enactment of the Small  
20           Business Job Protection Act of 1996 and ending on  
21           December 31, 1996” after “December 31, 1995”.

22           (b) TICKET TAXES.—Sections 4261(g) and 4271(d) are  
23           each amended by striking “January 1, 1996” and inserting  
24           “January 1, 1996, and to transportation beginning on or  
25           after the date which is 7 days after the date of the enactment

1 *of the Small Business Job Protection Act of 1996 and before*  
2 *January 1, 1997”.*

3 (c) *TRANSFERS TO AIRPORT AND AIRWAY TRUST*  
4 *FUND.—*

5 (1) *Subsection (b) of section 9502 is amended by*  
6 *striking “January 1, 1996” each place it appears and*  
7 *inserting “January 1, 1997”.*

8 (2) *Paragraph (3) of section 9502(f) is amended*  
9 *to read as follows:*

10 “(3) *TERMINATION.—Notwithstanding the pre-*  
11 *ceding provisions of this subsection, the Airport and*  
12 *Airway Trust Fund financing rate shall be zero with*  
13 *respect to—*

14 “(A) *taxes imposed after December 31,*  
15 *1995, and before the date which is 7 days after*  
16 *the date of the enactment of the Small Business*  
17 *Job Protection Act of 1996, and*

18 “(B) *taxes imposed after December 31,*  
19 *1996.”*

20 (3) *Subsection (d) of section 9502 is amended by*  
21 *adding at the end the following new paragraph:*

22 “(5) *TRANSFERS FROM AIRPORT AND AIRWAY*  
23 *TRUST FUND ON ACCOUNT OF REFUNDS OF TAXES ON*  
24 *TRANSPORTATION BY AIR.—The Secretary of the*  
25 *Treasury shall pay from time to time from the Air-*

1        *port and Airway Trust Fund into the general fund*  
2        *of the Treasury amounts equivalent to the amounts*  
3        *paid after December 31, 1995, under section 6402 (re-*  
4        *lating to authority to make credits or refunds) or sec-*  
5        *tion 6415 (relating to credits or refunds to persons*  
6        *who collected certain taxes) in respect of taxes under*  
7        *sections 4261 and 4271.”*

8        *(d) EXCISE TAX EXEMPTION FOR CERTAIN EMER-*  
9        *GENCY MEDICAL TRANSPORTATION BY AIR AMBULANCE.—*  
10        *Subsection (f) of section 4261 (relating to imposition of tax*  
11        *on transportation by air) is amended to read as follows:*

12        *“(f) EXEMPTION FOR AIR AMBULANCES PROVIDING*  
13        *CERTAIN EMERGENCY MEDICAL TRANSPORTATION.—No*  
14        *tax shall be imposed under this section or section 4271 on*  
15        *any air transportation for the purpose of providing emer-*  
16        *gency medical services—*

17                *“(1) by helicopter, or*

18                *“(2) by a fixed-wing aircraft equipped for and*  
19        *exclusively dedicated to acute care emergency medical*  
20        *services.”*

21        *(e) EXEMPTION FOR CERTAIN HELICOPTER USES.—*  
22        *Subsection (e) of section 4261 is amended by adding at the*  
23        *end the following new sentence: “In the case of helicopter*  
24        *transportation described in paragraph (1), this subsection*

1 *shall be applied by treating each flight segment as a distinct*  
2 *flight.”*

3 *(f) FLOOR STOCKS TAXES ON AVIATION FUEL.—*

4 *(1) IMPOSITION OF TAX.—In the case of aviation*  
5 *fuel on which tax was imposed under section 4091 of*  
6 *the Internal Revenue Code of 1986 before the tax-in-*  
7 *crease date described in paragraph (3)(A)(i) and*  
8 *which is held on such date by any person, there is*  
9 *hereby imposed a floor stocks tax of 17.5 cents per*  
10 *gallon.*

11 *(2) LIABILITY FOR TAX AND METHOD OF PAY-*  
12 *MENT.—*

13 *(A) LIABILITY FOR TAX.—A person holding*  
14 *aviation fuel on a tax-increase date to which the*  
15 *tax imposed by paragraph (1) applies shall be*  
16 *liable for such tax.*

17 *(B) METHOD OF PAYMENT.—The tax im-*  
18 *posed by paragraph (1) shall be paid in such*  
19 *manner as the Secretary shall prescribe.*

20 *(C) TIME FOR PAYMENT.—The tax imposed*  
21 *by paragraph (1) with respect to any tax-in-*  
22 *crease date shall be paid on or before the first*  
23 *day of the 7th month beginning after such tax-*  
24 *increase date.*

1           (3) *DEFINITIONS.*—*For purposes of this sub-*  
2 *section—*

3           (A) *TAX INCREASE DATE.*—*The term “tax-*  
4 *increase date” means the date which is 7 days*  
5 *after the date of the enactment of this Act.*

6           (B) *AVIATION FUEL.*—*The term “aviation*  
7 *fuel” has the meaning given such term by section*  
8 *4093 of such Code.*

9           (C) *HELD BY A PERSON.*—*Aviation fuel*  
10 *shall be considered as “held by a person” if title*  
11 *thereto has passed to such person (whether or not*  
12 *delivery to the person has been made).*

13           (D) *SECRETARY.*—*The term “Secretary”*  
14 *means the Secretary of the Treasury or his dele-*  
15 *gate.*

16           (4) *EXCEPTION FOR EXEMPT USES.*—*The tax*  
17 *imposed by paragraph (1) shall not apply to aviation*  
18 *fuel held by any person on any tax-increase date ex-*  
19 *clusively for any use for which a credit or refund of*  
20 *the entire tax imposed by section 4091 of such Code*  
21 *is allowable for aviation fuel purchased on or after*  
22 *such tax-increase date for such use.*

23           (5) *EXCEPTION FOR CERTAIN AMOUNTS OF*  
24 *FUEL.*—

1           (A) *IN GENERAL.*—No tax shall be imposed  
2 by paragraph (1) on aviation fuel held on any  
3 tax-increase date by any person if the aggregate  
4 amount of aviation fuel held by such person on  
5 such date does not exceed 2,000 gallons. The pre-  
6 ceding sentence shall apply only if such person  
7 submits to the Secretary (at the time and in the  
8 manner required by the Secretary) such informa-  
9 tion as the Secretary shall require for purposes  
10 of this paragraph.

11           (B) *EXEMPT FUEL.*—For purposes of sub-  
12 paragraph (A), there shall not be taken into ac-  
13 count fuel held by any person which is exempt  
14 from the tax imposed by paragraph (1) by rea-  
15 son of paragraph (4).

16           (C) *CONTROLLED GROUPS.*—For purposes of  
17 this paragraph—

18                   (i) *CORPORATIONS.*—

19                           (I) *IN GENERAL.*—All persons  
20 treated as a controlled group shall be  
21 treated as 1 person.

22                           (II) *CONTROLLED GROUP.*—The  
23 term “controlled group” has the mean-  
24 ing given to such term by subsection  
25 (a) of section 1563 of such Code; except

1           that for such purposes the phrase  
2           “more than 50 percent” shall be sub-  
3           stituted for the phrase “at least 80 per-  
4           cent” each place it appears in such  
5           subsection.

6           (ii) *NONINCORPORATED PERSONS*  
7           *UNDER COMMON CONTROL.*—Under regula-  
8           tions prescribed by the Secretary, principles  
9           similar to the principles of clause (i) shall  
10          apply to a group of persons under common  
11          control where 1 or more of such persons is  
12          not a corporation.

13          (6) *OTHER LAW APPLICABLE.*—All provisions of  
14          law, including penalties, applicable with respect to  
15          the taxes imposed by section 4091 of such Code shall,  
16          insofar as applicable and not inconsistent with the  
17          provisions of this subsection, apply with respect to the  
18          floor stock taxes imposed by paragraph (1) to the  
19          same extent as if such taxes were imposed by such sec-  
20          tion 4091.

21          (g) *EFFECTIVE DATE.*—The amendments made by this  
22          section shall take effect 7 days after the date of the enact-  
23          ment of this Act, except that the amendment made by sub-  
24          section (b) shall not apply to any amount paid on or before  
25          such date.

1 **SEC. 1608. BASIS ADJUSTMENT TO PROPERTY HELD BY**  
2 **CORPORATION WHERE STOCK IN CORPORA-**  
3 **TION IS REPLACEMENT PROPERTY UNDER IN-**  
4 **VOLUNTARY CONVERSION RULES.**

5 (a) *IN GENERAL.*—Subsection (b) of section 1033 is  
6 amended to read as follows:

7 “(b) *BASIS OF PROPERTY ACQUIRED THROUGH IN-*  
8 *VOLUNTARY CONVERSION.*—

9 “(1) *CONVERSIONS DESCRIBED IN SUBSECTION*  
10 *(a)(1).*—If the property was acquired as the result of  
11 a compulsory or involuntary conversion described in  
12 subsection (a)(1), the basis shall be the same as in the  
13 case of the property so converted—

14 “(A) decreased in the amount of any money  
15 received by the taxpayer which was not expended  
16 in accordance with the provisions of law (appli-  
17 cable to the year in which such conversion was  
18 made) determining the taxable status of the gain  
19 or loss upon such conversion, and

20 “(B) increased in the amount of gain or de-  
21 creased in the amount of loss to the taxpayer rec-  
22 ognized upon such conversion under the law ap-  
23 plicable to the year in which such conversion  
24 was made.

25 “(2) *CONVERSIONS DESCRIBED IN SUBSECTION*  
26 *(a)(2).*—In the case of property purchased by the tax-

1        *payer in a transaction described in subsection (a)(2)*  
2        *which resulted in the nonrecognition of any part of*  
3        *the gain realized as the result of a compulsory or in-*  
4        *voluntary conversion, the basis shall be the cost of*  
5        *such property decreased in the amount of the gain not*  
6        *so recognized; and if the property purchased consists*  
7        *of more than 1 piece of property, the basis determined*  
8        *under this sentence shall be allocated to the purchased*  
9        *properties in proportion to their respective costs.*

10            *“(3) PROPERTY HELD BY CORPORATION THE*  
11            *STOCK OF WHICH IS REPLACEMENT PROPERTY.—*

12                    *“(A) IN GENERAL.—If the basis of stock in*  
13                    *a corporation is decreased under paragraph (2),*  
14                    *an amount equal to such decrease shall also be*  
15                    *applied to reduce the basis of property held by*  
16                    *the corporation at the time the taxpayer ac-*  
17                    *quired control (as defined in subsection*  
18                    *(a)(2)(E)) of such corporation.*

19                    *“(B) LIMITATION.—Subparagraph (A) shall*  
20                    *not apply to the extent that it would (but for*  
21                    *this subparagraph) require a reduction in the*  
22                    *aggregate adjusted bases of the property of the*  
23                    *corporation below the taxpayer’s adjusted basis*  
24                    *of the stock in the corporation (determined im-*

1           *mediately after such basis is decreased under*  
2           *paragraph (2)).*

3           “(C) *ALLOCATION OF BASIS REDUCTION.*—

4           *The decrease required under subparagraph (A)*  
5           *shall be allocated—*

6                   “(i) *first to property which is similar*  
7                   *or related in service or use to the converted*  
8                   *property,*

9                   “(ii) *second to depreciable property (as*  
10                   *defined in section 1017(b)(3)(B)) not de-*  
11                   *scribed in clause (i), and*

12                   “(iii) *then to other property.*

13           “(D) *SPECIAL RULES.*—

14                   “(i) *REDUCTION NOT TO EXCEED AD-*  
15                   *JUSTED BASIS OF PROPERTY.*—*No reduction*  
16                   *in the basis of any property under this*  
17                   *paragraph shall exceed the adjusted basis of*  
18                   *such property (determined without regard*  
19                   *to such reduction).*

20                   “(ii) *ALLOCATION OF REDUCTION*  
21                   *AMONG PROPERTIES.*—*If more than 1 prop-*  
22                   *erty is described in a clause of subpara-*  
23                   *graph (C), the reduction under this para-*  
24                   *graph shall be allocated among such prop-*

1                   erty in proportion to the adjusted bases of  
2                   such property (as so determined).”

3           (b) *EFFECTIVE DATE.*—The amendment made by this  
4 section shall apply to involuntary conversions occurring  
5 after the date of the enactment of this Act.

6 **SEC. 1609. EXTENSION OF WITHHOLDING TO CERTAIN GAM-**  
7 **BLING WINNINGS.**

8           (a) *REPEAL OF EXEMPTION FOR BINGO AND KENO.*—  
9 Paragraph (5) of section 3402(q) is amended to read as fol-  
10 lows:

11                   “(5) *EXEMPTION FOR SLOT MACHINES.*—The tax  
12 imposed under paragraph (1) shall not apply to  
13 winnings from a slot machine.”

14           (b) *THRESHOLD AMOUNT.*—Paragraph (3) of section  
15 3402(q) is amended—

16                   (1) by striking “(B) and (C)” in subparagraph  
17 (A) and inserting “(B), (C), and (D)”, and

18                   (2) by adding at the end the following new sub-  
19 paragraph:

20                           “(D) *BINGO AND KENO.*—Proceeds of more  
21 than \$5,000 from a wager placed in a bingo or  
22 keno game.”

23           (c) *EFFECTIVE DATE.*—The amendments made by this  
24 section shall take effect on the 30th day after the date of  
25 the enactment of this Act.

1 **SEC. 1610. TREATMENT OF CERTAIN INSURANCE CON-**  
2 **TRACTS ON RETIRED LIVES.**

3 (a) *GENERAL RULE.*—

4 (1) *Paragraph (2) of section 817(d) (defining*  
5 *variable contract) is amended by striking “or” at the*  
6 *end of subparagraph (A), by striking “and” at the*  
7 *end of subparagraph (B) and inserting “or”, and by*  
8 *inserting after subparagraph (B) the following new*  
9 *subparagraph:*

10 “(C) *provides for funding of insurance on*  
11 *retired lives as described in section 807(c)(6),*  
12 *and”.*

13 (2) *Paragraph (3) of section 817(d) is amended*  
14 *by striking “or” at the end of subparagraph (A), by*  
15 *striking the period at the end of subparagraph (B)*  
16 *and inserting “, or”, and by inserting after subpara-*  
17 *graph (B) the following new subparagraph:*

18 “(C) *in the case of funds held under a con-*  
19 *tract described in paragraph (2)(C), the amounts*  
20 *paid in, or the amounts paid out, reflect the in-*  
21 *vestment return and the market value of the seg-*  
22 *regated asset account.”.*

23 (b) *EFFECTIVE DATE.*—*The amendments made by this*  
24 *section shall apply to taxable years beginning after Decem-*  
25 *ber 31, 1995.*

1 **SEC. 1611. TREATMENT OF CONTRIBUTIONS IN AID OF CON-**  
2 **STRUCTION.**

3 (a) *TREATMENT OF CONTRIBUTIONS IN AID OF CON-*  
4 *STRUCTION.—*

5 (1) *IN GENERAL.—Section 118 (relating to con-*  
6 *tributions to the capital of a corporation) is amend-*  
7 *ed—*

8 (A) *by redesignating subsection (c) as sub-*  
9 *section (e), and*

10 (B) *by inserting after subsection (b) the fol-*  
11 *lowing new subsections:*

12 “(c) *SPECIAL RULES FOR WATER AND SEWERAGE*  
13 *DISPOSAL UTILITIES.—*

14 “(1) *GENERAL RULE.—For purposes of this sec-*  
15 *tion, the term ‘contribution to the capital of the tax-*  
16 *payer’ includes any amount of money or other prop-*  
17 *erty received from any person (whether or not a*  
18 *shareholder) by a regulated public utility which pro-*  
19 *vides water or sewerage disposal services if—*

20 “(A) *such amount is a contribution in aid*  
21 *of construction,*

22 “(B) *in the case of contribution of property*  
23 *other than water or sewerage disposal facilities,*  
24 *such amount meets the requirements of the ex-*  
25 *penditure rule of paragraph (2), and*

1           “(C) such amount (or any property ac-  
2           quired or constructed with such amount) is not  
3           included in the taxpayer’s rate base for rate-  
4           making purposes.

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

7           “(A) an amount equal to such amount is  
8           expended for the acquisition or construction of  
9           tangible property described in section 1231(b)—

10           “(i) which is the property for which  
11           the contribution was made or is of the same  
12           type as such property, and

13           “(ii) which is used predominantly in  
14           the trade or business of furnishing water or  
15           sewerage disposal services,

16           “(B) the expenditure referred to in subpara-  
17           graph (A) occurs before the end of the second tax-  
18           able year after the year in which such amount  
19           was received, and

20           “(C) accurate records are kept of the  
21           amounts contributed and expenditures made, the  
22           expenditures to which contributions are allo-  
23           cated, and the year in which the contributions  
24           and expenditures are received and made.

1           “(3) *DEFINITIONS.*—*For purposes of this sub-*  
2           *section—*

3                   “(A) *CONTRIBUTION IN AID OF CONSTRUC-*  
4                   *TION.*—*The term ‘contribution in aid of con-*  
5                   *struction’ shall be defined by regulations pre-*  
6                   *scribed by the Secretary, except that such term*  
7                   *shall not include amounts paid as service*  
8                   *charges for starting or stopping services.*

9                   “(B) *PREDOMINANTLY.*—*The term ‘pre-*  
10                   *dominantly’ means 80 percent or more.*

11                   “(C) *REGULATED PUBLIC UTILITY.*—*The*  
12                   *term ‘regulated public utility’ has the meaning*  
13                   *given such term by section 7701(a)(33), except*  
14                   *that such term shall not include any utility*  
15                   *which is not required to provide water or sewer-*  
16                   *age disposal services to members of the general*  
17                   *public in its service area.*

18                   “(4) *DISALLOWANCE OF DEDUCTIONS AND CRED-*  
19                   *ITS; ADJUSTED BASIS.*—*Notwithstanding any other*  
20                   *provision of this subtitle, no deduction or credit shall*  
21                   *be allowed for, or by reason of, any expenditure which*  
22                   *constitutes a contribution in aid of construction to*  
23                   *which this subsection applies. The adjusted basis of*  
24                   *any property acquired with contributions in aid of*

1       *construction to which this subsection applies shall be*  
2       *zero.*

3       “(d) *STATUTE OF LIMITATIONS.*—*If the taxpayer for*  
4       *any taxable year treats an amount as a contribution to the*  
5       *capital of the taxpayer described in subsection (c), then—*

6               “(1) *the statutory period for the assessment of*  
7       *any deficiency attributable to any part of such*  
8       *amount shall not expire before the expiration of 3*  
9       *years from the date the Secretary is notified by the*  
10       *taxpayer (in such manner as the Secretary may pre-*  
11       *scribe) of—*

12               “(A) *the amount of the expenditure referred*  
13       *to in subparagraph (A) of subsection (c)(2),*

14               “(B) *the taxpayer’s intention not to make*  
15       *the expenditures referred to in such subpara-*  
16       *graph, or*

17               “(C) *a failure to make such expenditure*  
18       *within the period described in subparagraph (B)*  
19       *of subsection (c)(2), and*

20               “(2) *such deficiency may be assessed before the*  
21       *expiration of such 3-year period notwithstanding the*  
22       *provisions of any other law or rule of law which*  
23       *would otherwise prevent such assessment.”.*

1           (2) *CONFORMING AMENDMENT.*—Section 118(b)  
2           is amended by inserting “except as provided in sub-  
3           section (c),” before “the term”.

4           (3) *EFFECTIVE DATE.*—The amendments made  
5           by this subsection shall apply to amounts received  
6           after June 12, 1996.

7           (b) *RECOVERY METHOD AND PERIOD FOR WATER*  
8           *UTILITY PROPERTY.*—

9           (1) *REQUIREMENT TO USE STRAIGHT LINE*  
10           *METHOD.*—Section 168(b)(3) is amended by adding  
11           at the end the following new subparagraph:

12                     “(F) Water utility property described in  
13                     subsection (e)(5).”.

14           (2) *25-YEAR RECOVERY PERIOD.*—The table con-  
15           tained in section 168(c)(1) is amended by inserting  
16           the following item after the item relating to 20-year  
17           property:

“Water utility property ..... 25 years”.

18           (3) *WATER UTILITY PROPERTY.*—

19                     (A) *IN GENERAL.*—Section 168(e) is amend-  
20                     ed by adding at the end the following new para-  
21                     graph:

22                     “(5) *WATER UTILITY PROPERTY.*—The term  
23                     ‘water utility property’ means property—

24                             “(A) which is an integral part of the gath-  
25                             ering, treatment, or commercial distribution of

1           *water, and which, without regard to this para-*  
 2           *graph, would be 20-year property, and*

3           *“(B) any municipal sewer.”.*

4           *(B) CONFORMING AMENDMENTS.—Section*  
 5           *168 is amended—*

6                   *(i) by striking subparagraph (F) of*  
 7                   *subsection (e)(3), and*

8                   *(ii) by striking the item relating to*  
 9                   *subparagraph (F) in the table in subsection*  
 10                   *(g)(3).*

11           *(4) ALTERNATIVE SYSTEM.—Clause (iv) of sec-*  
 12           *tion 168(g)(2)(C) is amended by inserting “or water*  
 13           *utility property” after “tunnel bore”.*

14           *(5) EFFECTIVE DATE.—The amendments made*  
 15           *by this subsection shall apply to property placed in*  
 16           *service after June 12, 1996, other than property*  
 17           *placed in service pursuant to a binding contract in*  
 18           *effect before June 10, 1996, and at all times thereafter*  
 19           *before the property is placed in service.*

20           ***PART II—FINANCIAL ASSET SECURITIZATION***

21                   ***INVESTMENTS***

22           ***SEC. 1621. FINANCIAL ASSET SECURITIZATION INVEST-***  
 23                   ***MENT TRUSTS.***

24           *(a) IN GENERAL.—Subchapter M of chapter 1 is*  
 25           *amended by adding at the end the following new part:*

1    **“PART V—FINANCIAL ASSET SECURITIZATION**2                                    **INVESTMENT TRUSTS**

“Sec. 860H. *Taxation of a FASIT; other general rules.*

“Sec. 860I. *Gain recognition on contributions to and distributions from a FASIT and in other cases.*

“Sec. 860J. *Non-FASIT losses not to offset certain FASIT inclusions.*

“Sec. 860K. *Treatment of transfers of high-yield interests to disqualified holders.*

“Sec. 860L. *Definitions and other special rules.*

3    **“SEC. 860H. TAXATION OF A FASIT; OTHER GENERAL RULES.**

4            “(a) *TAXATION OF FASIT.—A FASIT as such shall*  
5 *not be subject to taxation under this subtitle (and shall not*  
6 *be treated as a trust, partnership, corporation, or taxable*  
7 *mortgage pool).*

8            “(b) *TAXATION OF HOLDER OF OWNERSHIP INTER-*  
9 *EST.—In determining the taxable income of the holder of*  
10 *the ownership interest in a FASIT—*

11            “(1) *all assets, liabilities, and items of income,*  
12 *gain, deduction, loss, and credit of a FASIT shall be*  
13 *treated as assets, liabilities, and such items (as the*  
14 *case may be) of such holder,*

15            “(2) *the constant yield method (including the*  
16 *rules of section 1272(a)(6)) shall be applied under an*  
17 *accrual method of accounting in determining all in-*  
18 *terest, acquisition discount, original issue discount,*  
19 *and market discount and all premium deductions or*  
20 *adjustments with respect to all debt instruments of the*  
21 *FASIT,*

1           “(3) there shall not be taken into account any  
2           item of income, gain, or deduction allocable to a pro-  
3           hibited transaction, and

4           “(4) interest accrued by the FASIT which is ex-  
5           empt from tax imposed by this subtitle shall, when  
6           taken into account by such holder, be treated as ordi-  
7           nary income.

8           For purposes of this subtitle, securities treated as held by  
9           such holder under paragraph (1) shall be treated as held  
10          for investment.

11          “(c) *TREATMENT OF REGULAR INTERESTS.*—For pur-  
12          poses of this title—

13                 “(1) a regular interest in a FASIT, if not other-  
14                 wise a debt instrument, shall be treated as a debt in-  
15                 strument,

16                 “(2) section 163(e)(5) shall not apply to such an  
17                 interest, and

18                 “(3) amounts includible in gross income with re-  
19                 spect to such an interest shall be determined under an  
20                 accrual method of accounting.

21          **“SEC. 860I. GAIN RECOGNITION ON CONTRIBUTIONS TO**  
22                         **AND DISTRIBUTIONS FROM A FASIT AND IN**  
23                         **OTHER CASES.**

24                 “(a) *TREATMENT OF PROPERTY ACQUIRED BY*  
25                 *FASIT.*—

1           “(1) *PROPERTY ACQUIRED FROM HOLDER OF*  
2           *OWNERSHIP INTEREST OR RELATED PERSON.—If*  
3           *property is sold or contributed to a FASIT by the*  
4           *holder of the ownership interest in such FASIT (or by*  
5           *a related person) gain (if any) shall be recognized to*  
6           *such holder (or person) in an amount equal to the ex-*  
7           *cess (if any) of such property’s value under subsection*  
8           *(d) on the date of such sale or contribution over its*  
9           *adjusted basis on such date.*

10           “(2) *PROPERTY ACQUIRED OTHER THAN FROM*  
11           *HOLDER OF OWNERSHIP INTEREST OR RELATED PER-*  
12           *SON.—Property which is acquired by a FASIT other*  
13           *than in a transaction to which paragraph (1) applies*  
14           *shall be treated—*

15                   “(A) *as having been acquired by the holder*  
16                   *of the ownership interest in the FASIT for an*  
17                   *amount equal to the FASIT’s adjusted basis in*  
18                   *such property as of the date such property is ac-*  
19                   *quired by the FASIT, and*

20                   “(B) *as having been sold by such holder to*  
21                   *the FASIT at its value under subsection (d) on*  
22                   *such date.*

23           “(b) *GAIN RECOGNITION ON PROPERTY OUTSIDE*  
24           *FASIT WHICH SUPPORTS REGULAR INTERESTS.—If prop-*  
25           *erty held by the holder of the ownership interest in a FASIT*

1 *(or by any person related to such holder) supports any regu-*  
2 *lar interest in such FASIT—*

3           “(1) *gain shall be recognized to such holder in*  
4 *the same manner as if such holder had sold such*  
5 *property at its value under subsection (d) on the ear-*  
6 *liest date such property supports such an interest,*  
7 *and*

8           “(2) *such property shall be treated as held by*  
9 *such FASIT for purposes of this part.*

10          “(c) *DEFERRAL OF GAIN RECOGNITION.—The Sec-*  
11 *retary may prescribe regulations which—*

12           “(1) *provide that gain otherwise recognized*  
13 *under subsection (a) or (b) shall not be recognized be-*  
14 *fore the earliest date on which such property supports*  
15 *any regular interest in such FASIT or any indebted-*  
16 *ness of the holder of the ownership interest (or of any*  
17 *person related to such holder), and*

18           “(2) *provide such adjustments to the other provi-*  
19 *sions of this part to the extent appropriate in the con-*  
20 *text of the treatment provided under paragraph (1).*

21          “(d) *VALUATION.—For purposes of this section—*

22           “(1) *IN GENERAL.—The value of any property*  
23 *under this subsection shall be—*

24           “(A) *in the case of a debt instrument which*  
25 *is not traded on an established securities market,*

1           *the sum of the present values of the reasonably*  
2           *expected payments under such instrument deter-*  
3           *mined (in the manner provided by regulations*  
4           *prescribed by the Secretary)—*

5                   *“(i) as of the date of the event resulting*  
6                   *in the gain recognition under this section,*  
7                   *and*

8                   *“(ii) by using a discount rate equal to*  
9                   *120 percent of the applicable Federal rate*  
10                  *(as defined in section 1274(d)), or such*  
11                  *other discount rate specified in such regula-*  
12                  *tions, compounded semiannually, and*

13                  *“(B) in the case of any other property, its*  
14                  *fair market value.*

15                  *“(2) SPECIAL RULE FOR REVOLVING LOAN AC-*  
16                  *COUNTS.—For purposes of paragraph (1)—*

17                    *“(A) each extension of credit (other than the*  
18                    *accrual of interest) on a revolving loan account*  
19                    *shall be treated as a separate debt instrument,*  
20                    *and*

21                    *“(B) payments on such extensions of credit*  
22                    *having substantially the same terms shall be ap-*  
23                    *plied to such extensions beginning with the earli-*  
24                    *est such extension.*

25                  *“(e) SPECIAL RULES.—*

1           “(1) *NONRECOGNITION RULES NOT TO APPLY.*—  
2           *Gain required to be recognized under this section*  
3           *shall be recognized notwithstanding any other provi-*  
4           *sion of this subtitle.*

5           “(2) *BASIS ADJUSTMENTS.*—*The basis of any*  
6           *property on which gain is recognized under this sec-*  
7           *tion shall be increased by the amount of gain so rec-*  
8           *ognized.*

9           **“SEC. 860J. NON-FASIT LOSSES NOT TO OFFSET CERTAIN**  
10           **FASIT INCLUSIONS.**

11           “(a) *IN GENERAL.*—*The taxable income of the holder*  
12           *of the ownership interest or any high-yield interest in a*  
13           *FASIT for any taxable year shall in no event be less than*  
14           *such holder’s taxable income determined solely with respect*  
15           *to such interests.*

16           “(b) *COORDINATION WITH SECTION 172.*—*Any in-*  
17           *crease in the taxable income of any holder of the ownership*  
18           *interest or a high-yield interest in a FASIT for any taxable*  
19           *year by reason of subsection (a) shall be disregarded—*

20           “(1) *in determining under section 172 the*  
21           *amount of any net operating loss for such taxable*  
22           *year, and*

23           “(2) *in determining taxable income for such tax-*  
24           *able year for purposes of the 2nd sentence of section*  
25           *172(b)(2).*

1       “(c) *COORDINATION WITH MINIMUM TAX.*—For pur-  
2 poses of part VI of subchapter A of this chapter—

3               “(1) the reference in section 55(b)(2) to taxable  
4 income shall be treated as a reference to taxable in-  
5 come determined without regard to this section,

6               “(2) the alternative minimum taxable income of  
7 any holder of the ownership interest or a high-yield  
8 interest in a FASIT for any taxable year shall in no  
9 event be less than such holder’s taxable income deter-  
10 mined solely with respect to such interests, and

11              “(3) any increase in taxable income under this  
12 section shall be disregarded for purposes of computing  
13 the alternative tax net operating loss deduction.

14 **“SEC. 860K. TREATMENT OF TRANSFERS OF HIGH-YIELD IN-**  
15 **TERESTS TO DISQUALIFIED HOLDERS.**

16       “(a) *GENERAL RULE.*—In the case of any high-yield  
17 interest which is held by a disqualified holder—

18              “(1) the gross income of such holder shall not in-  
19 clude any income (other than gain) attributable to  
20 such interest, and

21              “(2) amounts not includible in the gross income  
22 of such holder by reason of paragraph (1) shall be in-  
23 cluded (at the time otherwise includible under para-  
24 graph (1)) in the gross income of the most recent

1 holder of such interest which is not a disqualified  
2 holder.

3 “(b) *EXCEPTIONS.*—Rules similar to the rules of para-  
4 graphs (4) and (7) of section 860E(e) shall apply to the  
5 tax imposed by reason of subsection (a).

6 “(c) *DISQUALIFIED HOLDER.*—For purposes of this  
7 section, the term ‘disqualified holder’ means any holder  
8 other than—

9 “(1) an eligible corporation (as defined in sec-  
10 tion 860L(a)(2)), or

11 “(2) a FASIT.

12 “(d) *TREATMENT OF INTERESTS HELD BY SECURI-*  
13 *TIES DEALERS.*—

14 “(1) *IN GENERAL.*—Subsection (a) shall not  
15 apply to any high-yield interest held by a disqualified  
16 holder if such holder is a dealer in securities who ac-  
17 quired such interest exclusively for sale to customers  
18 in the ordinary course of business (and not for invest-  
19 ment).

20 “(2) *CHANGE IN DEALER STATUS.*—

21 “(A) *IN GENERAL.*—In the case of a dealer  
22 in securities which is not an eligible corporation  
23 (as defined in section 860L(a)(2)), if—

24 “(i) such dealer ceases to be a dealer in  
25 securities, or

1           “(i) such dealer commences holding  
2           the high-yield interest for investment,  
3           there is hereby imposed (in addition to other  
4           taxes) an excise tax equal to the product of the  
5           highest rate of tax specified in section 11(b)(1)  
6           and the income of such dealer attributable to  
7           such interest for periods after the date of such  
8           cessation or commencement.

9           “(B) *HOLDING FOR 31 DAYS OR LESS.*—For  
10          purposes of subparagraph (A)(i), a dealer shall  
11          not be treated as holding an interest for invest-  
12          ment before the 32d day after the date such deal-  
13          er acquired such interest unless such interest is  
14          so held as part of a plan to avoid the purposes  
15          of this paragraph.

16          “(C) *ADMINISTRATIVE PROVISIONS.*—The  
17          deficiency procedures of subtitle F shall apply to  
18          the tax imposed by this paragraph.

19          “(e) *TREATMENT OF HIGH-YIELD INTERESTS IN PASS-*  
20 *THRU ENTITIES.*—

21                 “(1) *IN GENERAL.*—If a pass-thru entity (as de-  
22                 fined in section 860E(e)(6)) issues a debt or equity  
23                 interest—

24                         “(A) which is supported by any regular in-  
25                         terest in a FASIT, and

1           “(B) which has an original yield to matu-  
2           rity which is greater than each of—

3                   “(i) the sum determined under clauses  
4                   (i) and (ii) of section 163(i)(1)(B) with re-  
5                   spect to such debt or equity interest, and

6                   “(ii) the yield to maturity to such en-  
7                   tity on such regular interest (determined as  
8                   of the date such entity acquired such inter-  
9                   est),

10           there is hereby imposed on the pass-thru entity a tax  
11           (in addition to other taxes) equal to the product of the  
12           highest rate of tax specified in section 11(b)(1) and  
13           the income of the holder of such debt or equity interest  
14           which is properly attributable to such regular inter-  
15           est. For purposes of the preceding sentence, the yield  
16           to maturity of any equity interest shall be determined  
17           under regulations prescribed by the Secretary.

18                   “(2) *EXCEPTION.*—The Secretary may provide  
19                   that paragraph (1) shall not apply to arrangements  
20                   not having as a principal purpose the avoidance of  
21                   the purposes of this subsection.

22           **“SEC. 860L. DEFINITIONS AND OTHER SPECIAL RULES.**

23                   “(a) *FASIT.*—

1           “(1) *IN GENERAL.*—For purposes of this title, the  
2 terms ‘financial asset securitization investment trust’  
3 and ‘FASIT’ mean any entity—

4           “(A) for which an election to be treated as  
5 a FASIT applies for the taxable year,

6           “(B) all of the interests in which are regu-  
7 lar interests or the ownership interest,

8           “(C) which has only 1 ownership interest  
9 and such ownership interest is held directly by  
10 an eligible corporation,

11           “(D) as of the close of the 3rd month begin-  
12 ning after the day of its formation and at all  
13 times thereafter, substantially all of the assets of  
14 which (including assets treated as held by the en-  
15 tity under section 860I(c)(2)) consist of per-  
16 mitted assets, and

17           “(E) which is not described in section  
18 851(a).

19           A rule similar to the rule of the last sentence of sec-  
20 tion 860D(a) shall apply for purposes of this para-  
21 graph.

22           “(2) *ELIGIBLE CORPORATION.*—For purposes of  
23 paragraph (1)(C), the term ‘eligible corporation’  
24 means any domestic C corporation other than—

1           “(A) a corporation which is exempt from, or  
2           is not subject to, tax under this chapter,

3           “(B) an entity described in section 851(a)  
4           or 856(a),

5           “(C) a REMIC, and

6           “(D) an organization to which part I of  
7           subchapter T applies.

8           “(3) *ELECTION.*—An entity (otherwise meeting  
9           the requirements of paragraph (1)) may elect to be  
10          treated as a FASIT. Except as provided in paragraph  
11          (5), such an election shall apply to the taxable year  
12          for which made and all subsequent taxable years un-  
13          less revoked with the consent of the Secretary.

14          “(4) *TERMINATION.*—If any entity ceases to be a  
15          FASIT at any time during the taxable year, such en-  
16          tity shall not be treated as a FASIT for such taxable  
17          year or any succeeding taxable year.

18          “(5) *INADVERTENT TERMINATIONS, ETC.*—Rules  
19          similar to the rules of section 860D(b)(2)(B) shall  
20          apply to inadvertent failures to qualify or remain  
21          qualified as a FASIT.

22          “(b) *INTERESTS IN FASIT.*—For purposes of this  
23          part—

24          “(1) *REGULAR INTEREST.*—

1           “(A) *IN GENERAL.*—*The term ‘regular in-*  
2           *terest’ means any interest which is issued by a*  
3           *FASIT after the startup date with fixed terms*  
4           *and which is designated as a regular interest*  
5           *if—*

6                     “(i) *such interest unconditionally enti-*  
7                     *ties the holder to receive a specified prin-*  
8                     *cipal amount (or other similar amount),*

9                     “(ii) *except as otherwise provided by*  
10                    *the Secretary—*

11                    “(I) *in the case of a FASIT which*  
12                    *would be treated as a REMIC if an*  
13                    *election under section 860D(b) had*  
14                    *been made, interest payments (or other*  
15                    *similar amounts), if any, with respect*  
16                    *to such interest at or before maturity*  
17                    *meet the requirements applicable under*  
18                    *clause (i) or (ii) of section*  
19                    *860G(a)(1)(B), or*

20                    “(II) *in the case of any other*  
21                    *FASIT, interest payments (or other*  
22                    *similar amounts), if any, with respect*  
23                    *to such interest are determined based*  
24                    *on a fixed rate, a current rate which is*  
25                    *reasonably expected to measure contem-*

1                    *poraneous variations in the cost of*  
2                    *newly borrowed funds in the currency*  
3                    *in which the regular interest is de-*  
4                    *nominated, or any combination of such*  
5                    *rates,*

6                    *“(iii) such interest does not have a*  
7                    *stated maturity (including options to*  
8                    *renew) greater than 30 years (or such*  
9                    *longer period as may be permitted by regu-*  
10                   *lations),*

11                   *“(iv) the issue price of such interest*  
12                   *does not exceed 125 percent of its stated*  
13                   *principal amount, and*

14                   *“(v) the yield to maturity on such in-*  
15                   *terest is less than the sum determined under*  
16                   *section 163(i)(1)(B) with respect to such in-*  
17                   *terest.*

18                   *An interest shall not fail to meet the require-*  
19                   *ments of clause (i) merely because the timing*  
20                   *(but not the amount) of the principal payments*  
21                   *(or other similar amounts) may be contingent on*  
22                   *the extent that payments on debt instruments*  
23                   *held by the FASIT are made in advance of an-*  
24                   *ticipated payments and on the amount of income*  
25                   *from permitted assets.*

1                   “(B) *HIGH-YIELD INTERESTS.*—

2                   “(i) *IN GENERAL.*—*The term ‘regular*  
3                   *interest’ includes any high-yield interest.*

4                   “(ii) *HIGH-YIELD INTEREST.*—*The*  
5                   *term ‘high-yield interest’ means any interest*  
6                   *which would be described in subparagraph*  
7                   *(A) but for failing to meet the requirements*  
8                   *of one or more of clauses (i), (iv), or (v)*  
9                   *thereof.*

10                  “(2) *OWNERSHIP INTEREST.*—*The term ‘owner-*  
11                  *ship interest’ means the interest issued by a FASIT*  
12                  *after the startup day which is designated as an own-*  
13                  *ership interest and which is not a regular interest.*

14                  “(c) *PERMITTED ASSETS.*—*For purposes of this*  
15                  *part—*

16                  “(1) *IN GENERAL.*—*The term ‘permitted asset’*  
17                  *means—*

18                         “(A) *cash or cash equivalents,*

19                         “(B) *any debt instrument (as defined in*  
20                         *section 1275(a)(1)) under which interest pay-*  
21                         *ments (or other similar amounts), if any, at or*  
22                         *before maturity meet the requirements applicable*  
23                         *under clause (i) or (ii) of section 860G(a)(1)(B),*

24                         “(C) *foreclosure property,*

25                         “(D) *any asset—*

1           “(i) which is an interest rate or foreign  
2           currency notional principal contract, letter  
3           of credit, insurance, guarantee against pay-  
4           ment defaults, or other similar instrument  
5           permitted by the Secretary, and

6           “(ii) which is reasonably required to  
7           guarantee or hedge against the FASIT’s  
8           risks associated with being the obligor on  
9           interests issued by the FASIT,

10          “(E) contract rights to acquire debt instru-  
11          ments described in subparagraph (B) or assets  
12          described in subparagraph (D), and

13          “(F) any regular interest in another  
14          FASIT.

15          “(2) DEBT ISSUED BY HOLDER OF OWNERSHIP  
16          INTEREST NOT PERMITTED ASSET.—The term ‘per-  
17          mitted asset’ shall not include any debt instrument is-  
18          sued by the holder of the ownership interest in the  
19          FASIT or by any person related to such holder or  
20          any direct or indirect interest in such a debt instru-  
21          ment. The preceding sentence shall not apply to cash  
22          equivalents and to any other investment specified in  
23          regulations prescribed by the Secretary.

24          “(3) FORECLOSURE PROPERTY.—The term ‘fore-  
25          closure property’ means property—

1           “(A) which would be foreclosure property  
2           under section 856(e) (determined without regard  
3           to paragraph (5) thereof) if acquired by a real  
4           estate investment trust, and

5           “(B) which is acquired in connection with  
6           the default or imminent default of a debt instru-  
7           ment held by the FASIT unless the security in-  
8           terest in such property was created for the prin-  
9           cipal purpose of permitting the FASIT to invest  
10          in such property.

11          Solely for purposes of subsection (a)(1), the deter-  
12          mination of whether any property is foreclosure prop-  
13          erty shall be made without regard to section  
14          856(e)(4).

15          “(d) *STARTUP DAY*.—For purposes of this part—

16                 “(1) *IN GENERAL*.—The term ‘startup day’  
17                 means the date designated in the election under sub-  
18                 section (a)(3) as the startup day of the FASIT. Such  
19                 day shall be the beginning of the first taxable year of  
20                 the FASIT.

21                 “(2) *TREATMENT OF PROPERTY HELD ON START-*  
22                 *UP DAY*.—All property held (or treated as held under  
23                 section 860I(c)(2)) by an entity as of the startup day  
24                 shall be treated as contributed to such entity on such

1       *day by the holder of the ownership interest in such*  
2       *entity.*

3       “(e) *TAX ON PROHIBITED TRANSACTIONS.*—

4               “(1) *IN GENERAL.*—*There is hereby imposed for*  
5       *each taxable year of a FASIT a tax equal to 100 per-*  
6       *cent of the net income derived from prohibited trans-*  
7       *actions. Such tax shall be paid by the holder of the*  
8       *ownership interest in the FASIT.*

9               “(2) *PROHIBITED TRANSACTIONS.*—*For purposes*  
10       *of this part, the term ‘prohibited transaction’*  
11       *means—*

12               “(A) *the receipt of any income derived from*  
13       *any asset that is not a permitted asset,*

14               “(B) *except as provided in paragraph (3),*  
15       *the disposition of any permitted asset,*

16               “(C) *the receipt of any income derived from*  
17       *any loan originated by the FASIT, and*

18               “(D) *the receipt of any income representing*  
19       *a fee or other compensation for services (other*  
20       *than any fee received as compensation for a*  
21       *waiver, amendment, or consent under permitted*  
22       *assets (other than foreclosure property) held by*  
23       *the FASIT).*

24               “(3) *EXCEPTION FOR INCOME FROM CERTAIN*  
25       *DISPOSITIONS.*—

1           “(A) *IN GENERAL.*—Paragraph (2)(B) shall  
2           *not apply to a disposition which would not be a*  
3           *prohibited transaction (as defined in section*  
4           *860F(a)(2)) by reason of—*

5                   “(i) *clause (ii), (iii), or (iv) of section*  
6                   *860F(a)(2)(A), or*

7                   “(ii) *section 860F(a)(5),*  
8           *if the FASIT were treated as a REMIC and debt*  
9           *instruments described in subsection (c)(1)(B)*  
10           *were treated as qualified mortgages.*

11           “(B) *SUBSTITUTION OF DEBT INSTRU-*  
12           *MENTS;           REDUCTION           OF           OVER-*  
13           *COLLATERALIZATION.*—Paragraph (2)(B) shall  
14           *not apply to—*

15                   “(i) *the substitution of a debt instru-*  
16                   *ment described in subsection (c)(1)(B) for*  
17                   *another debt instrument which is a per-*  
18                   *mitted asset, or*

19                   “(ii) *the distribution of a debt instru-*  
20                   *ment contributed by the holder of the owner-*  
21                   *ship interest to such holder in order to re-*  
22                   *duce over-collateralization of the FASIT,*  
23           *but only if a principal purpose of acquiring the*  
24           *debt instrument which is disposed of was not the*  
25           *recognition of gain (or the reduction of a loss) as*

1           *a result of an increase in the market value of the*  
2           *debt instrument after its acquisition by the*  
3           *FASIT.*

4           “(C) *LIQUIDATION OF CLASS OF REGULAR*  
5           *INTERESTS.—Paragraph (2)(B) shall not apply*  
6           *to the complete liquidation of any class of regu-*  
7           *lar interests.*

8           “(4) *NET INCOME.—For purposes of this sub-*  
9           *section, net income shall be determined in accordance*  
10          *with section 860F(a)(3).*

11          “(f) *COORDINATION WITH WASH SALES RULES.—*  
12          *Rules similar to the rules of section 860F(d) shall apply*  
13          *to the ownership interest in a FASIT.*

14          “(g) *RELATED PERSON.—For purposes of this part, a*  
15          *person (hereinafter in this subsection referred to as the ‘re-*  
16          *lated person’) is related to any person if—*

17                  “(1) *the related person bears a relationship to*  
18                  *such person specified in section 267(b) or section*  
19                  *707(b)(1), or*

20                  “(2) *the related person and such person are en-*  
21                  *gaged in trades or businesses under common control*  
22                  *(within the meaning of subsections (a) and (b) of sec-*  
23                  *tion 52).*

1 *For purposes of paragraph (1), in applying section 267(b)*  
2 *or 707(b)(1), ‘20 percent’ shall be substituted for ‘50 per-*  
3 *cent’.*

4 *“(h) REGULATIONS.—The Secretary shall prescribe*  
5 *such regulations as may be necessary or appropriate to*  
6 *carry out the purposes of this part, including regulations*  
7 *to prevent the abuse of the purposes of this part through*  
8 *transactions which are not primarily related to*  
9 *securitization of debt instruments by a FASIT.”.*

10 *(b) TECHNICAL AMENDMENTS.—*

11 *(1) Paragraph (2) of section 26(b) is amended by*  
12 *striking “and” at the end of subparagraph (M), by*  
13 *striking the period at the end of subparagraph (N)*  
14 *and inserting “, and”, and by adding at the end the*  
15 *following new subparagraph:*

16 *“(O) section 860K (relating to treatment of*  
17 *transfers of high-yield interests to disqualified*  
18 *holders).”.*

19 *(2) Paragraph (6) of section 56(g) is amended by*  
20 *striking “or REMIC” and inserting “REMIC, or*  
21 *FASIT”.*

22 *(3) Clause (ii) of section 382(l)(4)(B) is amended*  
23 *by striking “or a REMIC to which part IV of sub-*  
24 *chapter M applies” and inserting “a REMIC to*

1       *which part IV of subchapter M applies, or a FASIT*  
2       *to which part V of subchapter M applies”.*

3           (4) *Paragraph (1) of section 582(c) is amended*  
4       *by inserting “, and any regular or ownership interest*  
5       *in a FASIT,” after “REMIC”.*

6           (5) *Subparagraph (E) of section 856(c)(6) is*  
7       *amended by adding at the end the following new sen-*  
8       *tence: “The principles of the preceding provisions of*  
9       *this subparagraph shall apply to regular and owner-*  
10      *ship interests in a FASIT.”.*

11          (6) *Subparagraph (C) of section 1202(e)(4) is*  
12      *amended by striking “or REMIC” and inserting*  
13      *“REMIC, or FASIT”.*

14          (7) *Clause (xi) of section 7701(a)(19)(C) is*  
15      *amended to read as follows:*

16                   *“(xi) any regular or residual interest*  
17                   *in a REMIC, and any regular or ownership*  
18                   *interest in a FASIT, but only in the pro-*  
19                   *portion which the assets of such REMIC or*  
20                   *FASIT consist of property described in any*  
21                   *of the preceding clauses of this subpara-*  
22                   *graph; except that if 95 percent or more of*  
23                   *the assets of such REMIC or FASIT are as-*  
24                   *sets described in clauses (i) through (x), the*

1           *entire interest in the REMIC or FASIT*  
2           *shall qualify.”.*

3           (8) *Subparagraph (A) of section 7701(i)(2) is*  
4           *amended by inserting “or a FASIT” after “a*  
5           *REMIC”.*

6           (c) *CLERICAL AMENDMENT.—The table of parts for*  
7           *subchapter M of chapter 1 is amended by adding at the*  
8           *end the following new item:*

*“Part V. Financial asset securitization investment trusts.”.*

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

12          (e) *TREATMENT OF EXISTING SECURITIZATION ENTI-*  
13          *TIES.—*

14                 (1) *IN GENERAL.—In the case of the holder of the*  
15          *ownership interest in a pre-effective date FASIT—*

16                         (A) *gain shall not be recognized under sec-*  
17                         *tion 860L(d)(2) of the Internal Revenue Code of*  
18                         *1986 on property deemed contributed to the*  
19                         *FASIT, and*

20                         (B) *gain shall not be recognized under sec-*  
21                         *tion 860I of such Code on property contributed*  
22                         *to such FASIT,*

23                         *until such property (or portion thereof) ceases to be*  
24                         *properly allocable to a pre-FASIT interest.*

1           (2) *ALLOCATION OF PROPERTY TO PRE-FASIT IN-*  
2           *TEREST.*—For purposes of paragraph (1), property  
3           shall be allocated to a pre-FASIT interest in such  
4           manner as the Secretary of the Treasury may pre-  
5           scribe, except that all property in a FASIT shall be  
6           treated as properly allocable to pre-FASIT interests if  
7           the fair market value of all such property does not ex-  
8           ceed 107 percent of the aggregate principal amount of  
9           all outstanding pre-FASIT interests.

10           (3) *DEFINITIONS.*—For purposes of this sub-  
11           section—

12           (A) *PRE-EFFECTIVE DATE FASIT.*—The  
13           term “pre-effective date FASIT” means any  
14           FASIT if the entity (with respect to which the  
15           election under section 860L(a)(3) of such Code  
16           was made) was in existence on June 10, 1996.

17           (B) *PRE-FASIT INTEREST.*—The term “pre-  
18           FASIT interest” means any interest in the en-  
19           tity referred to in subparagraph (A) which was  
20           issued before the startup day (other than any in-  
21           terest held by the holder of the ownership interest  
22           in the FASIT).

1     **PART III—TREATMENT OF INDIVIDUALS WHO**  
2                             **EXPATRIATE**

3     **SEC. 1631. REVISION OF TAX RULES ON EXPATRIATION.**

4             (a) *IN GENERAL.*—Subpart A of part II of subchapter  
5 *N* of chapter 1 is amended by inserting after section 877  
6 *the following new section:*

7     **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

8             “(a) *GENERAL RULES.*—For purposes of this sub-  
9 *title—*

10                 “(1) *MARK TO MARKET.*—Except as provided in  
11 *subsection (f), all property of a covered expatriate to*  
12 *which this section applies shall be treated as sold on*  
13 *the expatriation date for its fair market value.*

14                 “(2) *RECOGNITION OF GAIN OR LOSS.*—In the  
15 *case of any sale under paragraph (1)—*

16                         “(A) *notwithstanding any other provision of*  
17 *this title, any gain arising from such sale shall*  
18 *be taken into account for the taxable year of the*  
19 *sale unless such gain is excluded from gross in-*  
20 *come under part III of subchapter B, and*

21                         “(B) *any loss arising from such sale shall*  
22 *be taken into account for the taxable year of the*  
23 *sale to the extent otherwise provided by this title,*  
24 *except that section 1091 shall not apply (and*  
25 *section 1092 shall apply) to any such loss.*

1           “(3) *EXCLUSION FOR CERTAIN GAIN.*—*The*  
2           *amount which would (but for this paragraph) be in-*  
3           *cludible in the gross income of any individual by rea-*  
4           *son of this section shall be reduced (but not below*  
5           *zero) by \$600,000. For purposes of this paragraph, al-*  
6           *locable expatriation gain taken into account under*  
7           *subsection (f)(2) shall be treated in the same manner*  
8           *as an amount required to be includible in gross in-*  
9           *come.*

10           “(4) *ELECTION TO CONTINUE TO BE TAXED AS*  
11           *UNITED STATES CITIZEN.*—

12                   “(A) *IN GENERAL.*—*If an expatriate elects*  
13           *the application of this paragraph—*

14                           “(i) *this section (other than this para-*  
15                           *graph) shall not apply to the expatriate, but*

16                           “(ii) *the expatriate shall be subject to*  
17                           *tax under this title, with respect to property*  
18                           *to which this section would apply but for*  
19                           *such election, in the same manner as if the*  
20                           *individual were a United States citizen.*

21                   “(B) *LIMITATION ON AMOUNT OF ESTATE,*  
22           *GIFT, AND GENERATION-SKIPPING TRANSFER*  
23           *TAXES.*—*The aggregate amount of taxes imposed*  
24           *under subtitle B with respect to any transfer of*  
25           *property by reason of an election under subpara-*

1           *graph (A) shall not exceed the amount of income*  
2           *tax which would be due if the property were sold*  
3           *for its fair market value immediately before the*  
4           *time of the transfer or death (taking into account*  
5           *the rules of paragraph (2)).*

6           “(C) *REQUIREMENTS.*—*Subparagraph (A)*  
7           *shall not apply to an individual unless the indi-*  
8           *vidual—*

9                   “(i) *provides security for payment of*  
10                   *tax in such form and manner, and in such*  
11                   *amount, as the Secretary may require,*

12                   “(ii) *consents to the waiver of any*  
13                   *right of the individual under any treaty of*  
14                   *the United States which would preclude as-*  
15                   *essment or collection of any tax which may*  
16                   *be imposed by reason of this paragraph,*  
17                   *and*

18                   “(iii) *complies with such other require-*  
19                   *ments as the Secretary may prescribe.*

20           “(D) *ELECTION.*—*An election under sub-*  
21           *paragraph (A) shall apply to all property to*  
22           *which this section would apply but for the elec-*  
23           *tion and, once made, shall be irrevocable. Such*  
24           *election shall also apply to property the basis of*  
25           *which is determined in whole or in part by ref-*

1           *erence to the property with respect to which the*  
2           *election was made.*

3           “(b) *ELECTION TO DEFER TAX.*—

4           “(1) *IN GENERAL.*—*If the taxpayer elects the ap-*  
5           *plication of this subsection with respect to any prop-*  
6           *erty—*

7           “(A) *no amount shall be required to be in-*  
8           *cluded in gross income under subsection (a)(1)*  
9           *with respect to the gain from such property for*  
10          *the taxable year of the sale, but*

11          “(B) *the taxpayer’s tax for the taxable year*  
12          *in which such property is disposed of shall be in-*  
13          *creased by the deferred tax amount with respect*  
14          *to the property.*

15          *Except to the extent provided in regulations, subpara-*  
16          *graph (B) shall apply to a disposition whether or not*  
17          *gain or loss is recognized in whole or in part on the*  
18          *disposition.*

19          “(2) *DEFERRED TAX AMOUNT.*—

20          “(A) *IN GENERAL.*—*For purposes of para-*  
21          *graph (1), the term ‘deferred tax amount’ means,*  
22          *with respect to any property, an amount equal*  
23          *to the sum of—*

24                  “(i) *the difference between the amount*  
25                  *of tax paid for the taxable year described in*

1 paragraph (1)(A) and the amount which  
2 would have been paid for such taxable year  
3 if the election under paragraph (1) had not  
4 applied to such property, plus

5 “(ii) an amount of interest on the  
6 amount described in clause (i) determined  
7 for the period—

8 “(I) beginning on the 91st day  
9 after the expatriation date, and

10 “(II) ending on the due date for  
11 the taxable year described in para-  
12 graph (1)(B),

13 by using the rates and method applicable  
14 under section 6621 for underpayments of  
15 tax for such period.

16 For purposes of clause (ii), the due date is the  
17 date prescribed by law (determined without re-  
18 gard to extension) for filing the return of the tax  
19 imposed by this chapter for the taxable year.

20 “(B) ALLOCATION OF LOSSES.—For pur-  
21 poses of subparagraph (A), any losses described  
22 in subsection (a)(2)(B) shall be allocated ratably  
23 among the gains described in subsection  
24 (a)(2)(A).

25 “(3) SECURITY.—

1           “(A) *IN GENERAL.*—No election may be  
2           made under paragraph (1) with respect to any  
3           property unless adequate security is provided  
4           with respect to such property.

5           “(B) *ADEQUATE SECURITY.*—For purposes  
6           of subparagraph (A), security with respect to  
7           any property shall be treated as adequate secu-  
8           rity if—

9                   “(i) it is a bond in an amount equal  
10                  to the deferred tax amount under paragraph  
11                  (2)(A) for the property, or

12                  “(ii) the taxpayer otherwise establishes  
13                  to the satisfaction of the Secretary that the  
14                  security is adequate.

15           “(4) *WAIVER OF CERTAIN RIGHTS.*—No election  
16           may be made under paragraph (1) unless the tax-  
17           payer consents to the waiver of any right under any  
18           treaty of the United States which would preclude as-  
19           sessment or collection of any tax imposed by reason  
20           of this section.

21           “(5) *DISPOSITIONS.*—For purposes of this sub-  
22           section, a taxpayer making an election under this  
23           subsection with respect to any property shall be treat-  
24           ed as having disposed of such property—

1           “(A) immediately before death if such prop-  
2           erty is held at such time, and

3           “(B) at any time the security provided with  
4           respect to the property fails to meet the require-  
5           ments of paragraph (3) and the taxpayer does  
6           not correct such failure within the time specified  
7           by the Secretary.

8           “(6) *ELECTIONS*.—An election under paragraph  
9           (1) shall only apply to property described in the elec-  
10          tion and, once made, is irrevocable. An election may  
11          be under paragraph (1) with respect to an interest in  
12          a trust with respect to which gain is required to be  
13          recognized under subsection (f)(1).

14          “(c) *COVERED EXPATRIATE*.—For purposes of this sec-  
15          tion—

16                 “(1) *IN GENERAL*.—The term ‘covered expatriate’  
17                 means an expatriate—

18                         “(A) whose average annual net income tax  
19                         (as defined in section 38(c)(1)) for the period of  
20                         5 taxable years ending before the expatriation  
21                         date is greater than \$100,000, or

22                         “(B) whose net worth as of such date is  
23                         \$500,000 or more.

24           If the expatriation date is after 1996, such \$100,000  
25           and \$500,000 amounts shall be increased by an

1        *amount equal to such dollar amount multiplied by*  
2        *the cost-of-living adjustment determined under section*  
3        *1(f)(3) for such calendar year by substituting ‘1995’*  
4        *for ‘1992’ in subparagraph (B) thereof. Any increase*  
5        *under the preceding sentence shall be rounded to the*  
6        *nearest multiple of \$1,000.*

7                *“(2) EXCEPTIONS.—An individual shall not be*  
8        *treated as a covered expatriate if—*

9                        *“(A) the individual—*

10                                *“(i) became at birth a citizen of the*  
11                                *United States and a citizen of another*  
12                                *country and, as of the expatriation date,*  
13                                *continues to be a citizen of, and is taxed as*  
14                                *a resident of, such other country, and*

15                                *“(ii) has been a resident of the United*  
16                                *States (as defined in section*  
17                                *7701(b)(1)(A)(ii)) for not more than 8 tax-*  
18                                *able years during the 15-taxable year period*  
19                                *ending with the taxable year during which*  
20                                *the expatriation date occurs, or*

21                                *“(B)(i) the individual’s relinquishment of*  
22        *United States citizenship occurs before such indi-*  
23        *vidual attains age 18½, and*

24                                *“(ii) the individual has been a resident of*  
25        *the United States (as so defined) for not more*

1           *than 5 taxable years before the date of relin-*  
2           *quishment.*

3           “(d) *PROPERTY TO WHICH SECTION APPLIES.—For*  
4 *purposes of this section—*

5           “(1) *IN GENERAL.—Except as otherwise provided*  
6 *by the Secretary, this section shall apply to—*

7           “(A) *any interest in property held by a cov-*  
8 *ered expatriate on the expatriation date the gain*  
9 *from which would be includible in the gross in-*  
10 *come of the expatriate if such interest had been*  
11 *sold for its fair market value on such date in a*  
12 *transaction in which gain is recognized in whole*  
13 *or in part, and*

14           “(B) *any other interest in a trust to which*  
15 *subsection (f) applies.*

16           “(2) *EXCEPTIONS.—This section shall not apply*  
17 *to the following property:*

18           “(A) *UNITED STATES REAL PROPERTY IN-*  
19 *TERESTS.—Any United States real property in-*  
20 *terest (as defined in section 897(c)(1)), other*  
21 *than stock of a United States real property hold-*  
22 *ing corporation which does not, on the expatria-*  
23 *tion date, meet the requirements of section*  
24 *897(c)(2).*

1           “(B) *INTEREST IN CERTAIN RETIREMENT*  
2           *PLANS.*—

3           “(i) *IN GENERAL.*—*Any interest in a*  
4           *qualified retirement plan (as defined in sec-*  
5           *tion 4974(c)), other than any interest at-*  
6           *tributable to contributions which are in ex-*  
7           *cess of any limitation or which violate any*  
8           *condition for tax-favored treatment.*

9           “(ii) *FOREIGN PENSION PLANS.*—

10           “(I) *IN GENERAL.*—*Under regula-*  
11           *tions prescribed by the Secretary, in-*  
12           *terests in foreign pension plans or*  
13           *similar retirement arrangements or*  
14           *programs.*

15           “(II) *LIMITATION.*—*The value of*  
16           *property which is treated as not sold*  
17           *by reason of this subparagraph shall*  
18           *not exceed \$500,000.*

19           “(e) *DEFINITIONS.*—*For purposes of this section—*

20           “(1) *EXPATRIATE.*—*The term ‘expatriate’*  
21           *means—*

22           “(A) *any United States citizen who relin-*  
23           *quishes his citizenship, or*

24           “(B) *any long-term resident of the United*  
25           *States who—*

1           “(i) ceases to be a lawful permanent  
2           resident of the United States (within the  
3           meaning of section 7701(b)(6)), or

4           “(ii) commences to be treated as a resi-  
5           dent of a foreign country under the provi-  
6           sions of a tax treaty between the United  
7           States and the foreign country and who  
8           does not waive the benefits of such treaty  
9           applicable to residents of the foreign coun-  
10          try.

11          “(2) *EXPATRIATION DATE*.—The term ‘expatria-  
12          tion date’ means—

13                 “(A) the date an individual relinquishes  
14                 United States citizenship, or

15                 “(B) in the case of a long-term resident of  
16                 the United States, the date of the event described  
17                 in clause (i) or (ii) of paragraph (1)(B).

18          “(3) *RELINQUISHMENT OF CITIZENSHIP*.—A citi-  
19          zen shall be treated as relinquishing his United States  
20          citizenship on the earliest of—

21                 “(A) the date the individual renounces his  
22                 United States nationality before a diplomatic or  
23                 consular officer of the United States pursuant to  
24                 paragraph (5) of section 349(a) of the Immigra-  
25                 tion and Nationality Act (8 U.S.C. 1481(a)(5)),

1           “(B) the date the individual furnishes to the  
2           United States Department of State a signed  
3           statement of voluntary relinquishment of United  
4           States nationality confirming the performance of  
5           an act of expatriation specified in paragraph  
6           (1), (2), (3), or (4) of section 349(a) of the Im-  
7           migration and Nationality Act (8 U.S.C.  
8           1481(a)(1)–(4)),

9           “(C) the date the United States Department  
10          of State issues to the individual a certificate of  
11          loss of nationality, or

12          “(D) the date a court of the United States  
13          cancels a naturalized citizen’s certificate of natu-  
14          ralization.

15          Subparagraph (A) or (B) shall not apply to any in-  
16          dividual unless the renunciation or voluntary relin-  
17          quishment is subsequently approved by the issuance to  
18          the individual of a certificate of loss of nationality by  
19          the United States Department of State.

20          “(4) LONG-TERM RESIDENT.—

21          “(A) IN GENERAL.—The term ‘long-term  
22          resident’ means any individual (other than a cit-  
23          izen of the United States) who is a lawful per-  
24          manent resident of the United States in at least  
25          8 taxable years during the period of 15 taxable

1           years ending with the taxable year during which  
2           the expatriation date occurs. For purposes of the  
3           preceding sentence, an individual shall not be  
4           treated as a lawful permanent resident for any  
5           taxable year if such individual is treated as a  
6           resident of a foreign country for the taxable year  
7           under the provisions of a tax treaty between the  
8           United States and the foreign country and does  
9           not waive the benefits of such treaty applicable  
10          to residents of the foreign country.

11           “(B) SPECIAL RULE.—For purposes of sub-  
12          paragraph (A), there shall not be taken into ac-  
13          count—

14                   “(i) any taxable year during which  
15                   any prior sale is treated under subsection  
16                   (a)(1) as occurring, or

17                   “(ii) any taxable year prior to the tax-  
18                   able year referred to in clause (i).

19          “(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES’  
20 INTERESTS IN TRUST.—

21           “(1) IN GENERAL.—Except as provided in para-  
22          graph (2), if an individual is determined under para-  
23          graph (3) to hold an interest in a trust—

24                   “(A) the individual shall not be treated as  
25                   having sold such interest,

1           “(B) such interest shall be treated as a sep-  
2           arate share in the trust, and

3           “(C)(i) such separate share shall be treated  
4           as a separate trust consisting of the assets alloca-  
5           ble to such share,

6           “(ii) the separate trust shall be treated as  
7           having sold its assets immediately before the ex-  
8           patriation date for their fair market value and  
9           as having distributed all of its assets to the indi-  
10          vidual as of such time, and

11          “(iii) the individual shall be treated as hav-  
12          ing recontributed the assets to the separate trust.

13          Subsection (a)(2) shall apply to any income, gain, or  
14          loss of the individual arising from a distribution de-  
15          scribed in subparagraph (C)(ii).

16          “(2) SPECIAL RULES FOR INTERESTS IN QUALI-  
17          FIED TRUSTS.—

18          “(A) IN GENERAL.—If the trust interest de-  
19          scribed in paragraph (1) is an interest in a  
20          qualified trust—

21                  “(i) paragraph (1) and subsection (a)  
22                  shall not apply, and

23                  “(ii) in addition to any other tax im-  
24                  posed by this title, there is hereby imposed  
25                  on each distribution with respect to such in-

1            *terest a tax in the amount determined*  
2            *under subparagraph (B).*

3            *“(B) AMOUNT OF TAX.—The amount of tax*  
4            *under subparagraph (A)(ii) shall be equal to the*  
5            *lesser of—*

6            *“(i) the highest rate of tax imposed by*  
7            *section 1(e) for the taxable year in which*  
8            *the expatriation date occurs, multiplied by*  
9            *the amount of the distribution, or*

10            *“(ii) the balance in the deferred tax ac-*  
11            *count immediately before the distribution*  
12            *determined without regard to any increases*  
13            *under subparagraph (C)(ii) after the 30th*  
14            *day preceding the distribution.*

15            *“(C) DEFERRED TAX ACCOUNT.—For pur-*  
16            *poses of subparagraph (B)(ii)—*

17            *“(i) OPENING BALANCE.—The opening*  
18            *balance in a deferred tax account with re-*  
19            *spect to any trust interest is an amount*  
20            *equal to the tax which would have been im-*  
21            *posed on the allocable expatriation gain*  
22            *with respect to the trust interest if such*  
23            *gain had been included in gross income*  
24            *under subsection (a).*

1           “(ii) *INCREASE FOR INTEREST.*—The  
2           *balance in the deferred tax account shall be*  
3           *increased by the amount of interest deter-*  
4           *mined (on the balance in the account at the*  
5           *time the interest accrues), for periods after*  
6           *the 90th day after the expatriation date, by*  
7           *using the rates and method applicable*  
8           *under section 6621 for underpayments of*  
9           *tax for such periods.*

10           “(iii) *DECREASE FOR TAXES PRE-*  
11           *VIOUSLY PAID.*—The balance in the tax de-  
12           *ferred account shall be reduced—*

13                   “(I) *by the amount of taxes im-*  
14                   *posed by subparagraph (A) on any dis-*  
15                   *tribution to the person holding the*  
16                   *trust interest, and*

17                   “(II) *in the case of a person hold-*  
18                   *ing a nonvested interest, to the extent*  
19                   *provided in regulations, by the amount*  
20                   *of taxes imposed by subparagraph (A)*  
21                   *on distributions from the trust with re-*  
22                   *spect to nonvested interests not held by*  
23                   *such person.*

24           “(D) *ALLOCABLE EXPATRIATION GAIN.*—For  
25           *purposes of this paragraph, the allocable expa-*

1            *triation gain with respect to any beneficiary's*  
2            *interest in a trust is the amount of gain which*  
3            *would be allocable to such beneficiary's vested*  
4            *and nonvested interests in the trust if the bene-*  
5            *ficiary held directly all assets allocable to such*  
6            *interests.*

7            *“(E) TAX DEDUCTED AND WITHHELD.—*

8            *“(i) IN GENERAL.—The tax imposed by*  
9            *subparagraph (A)(i) shall be deducted and*  
10           *withheld by the trustees from the distribu-*  
11           *tion to which it relates.*

12           *“(ii) EXCEPTION WHERE FAILURE TO*  
13           *WAIVE TREATY RIGHTS.—If an amount may*  
14           *not be deducted and withheld under clause*  
15           *(i) by reason of the distributee failing to*  
16           *waive any treaty right with respect to such*  
17           *distribution—*

18           *“(I) the tax imposed by subpara-*  
19           *graph (A)(i) shall be imposed on the*  
20           *trust and each trustee shall be person-*  
21           *ally liable for the amount of such tax,*  
22           *and*

23           *“(II) any other beneficiary of the*  
24           *trust shall be entitled to recover from*

1                    *the distributee the amount of such tax*  
2                    *imposed on the other beneficiary.*

3                    “(F) *DISPOSITION.*—*If a trust ceases to be*  
4                    *a qualified trust at any time, a covered expatri-*  
5                    *ate disposes of an interest in a qualified trust,*  
6                    *or a covered expatriate holding an interest in a*  
7                    *qualified trust dies, then, in lieu of the tax im-*  
8                    *posed by subparagraph (A)(ii), there is hereby*  
9                    *imposed a tax equal to the lesser of—*

10                    “(i) *the tax determined under para-*  
11                    *graph (1) as if the expatriation date were*  
12                    *the date of such cessation, disposition, or*  
13                    *death, whichever is applicable, or*

14                    “(ii) *the balance in the tax deferred ac-*  
15                    *count immediately before such date.*

16                    *Such tax shall be imposed on the trust and each*  
17                    *trustee shall be personally liable for the amount*  
18                    *of such tax and any other beneficiary of the trust*  
19                    *shall be entitled to recover from the covered expa-*  
20                    *triate or the estate the amount of such tax im-*  
21                    *posed on the other beneficiary.*

22                    “(G) *DEFINITIONS AND SPECIAL RULE.*—  
23                    *For purposes of this paragraph—*

24                    “(i) *QUALIFIED TRUST.*—*The term*  
25                    *‘qualified trust’ means a trust—*

1           “(I) which is organized under,  
2           and governed by, the laws of the Unit-  
3           ed States or a State, and

4           “(II) with respect to which the  
5           trust instrument requires that at least  
6           1 trustee of the trust be an individual  
7           citizen of the United States or a do-  
8           mestic corporation.

9           “(ii) *VESTED INTEREST*.—The term  
10          ‘vested interest’ means any interest which,  
11          as of the expatriation date, is vested in the  
12          beneficiary.

13          “(iii) *NONVESTED INTEREST*.—The  
14          term ‘nonvested interest’ means, with re-  
15          spect to any beneficiary, any interest in a  
16          trust which is not a vested interest. Such  
17          interest shall be determined by assuming the  
18          maximum exercise of discretion in favor of  
19          the beneficiary and the occurrence of all  
20          contingencies in favor of the beneficiary.

21          “(iv) *ADJUSTMENTS*.—The Secretary  
22          may provide for such adjustments to the  
23          bases of assets in a trust or a deferred tax  
24          account, and the timing of such adjust-

1                   ments, in order to ensure that gain is taxed  
2                   only once.

3                   “(3) *DETERMINATION OF BENEFICIARIES’ INTER-*  
4                   *EST IN TRUST.—*

5                   “(A) *DETERMINATIONS UNDER PARAGRAPH*  
6                   *(1).—For purposes of paragraph (1), a bene-*  
7                   *ficiary’s interest in a trust shall be based upon*  
8                   *all relevant facts and circumstances, including*  
9                   *the terms of the trust instrument and any letter*  
10                   *of wishes or similar document, historical pat-*  
11                   *terns of trust distributions, and the existence of*  
12                   *and functions performed by a trust protector or*  
13                   *any similar advisor.*

14                   “(B) *OTHER DETERMINATIONS.—For pur-*  
15                   *poses of this section—*

16                   “(i) *CONSTRUCTIVE OWNERSHIP.—If a*  
17                   *beneficiary of a trust is a corporation, part-*  
18                   *nership, trust, or estate, the shareholders,*  
19                   *partners, or beneficiaries shall be deemed to*  
20                   *be the trust beneficiaries for purposes of this*  
21                   *section.*

22                   “(ii) *TAXPAYER RETURN POSITION.—A*  
23                   *taxpayer shall clearly indicate on its in-*  
24                   *come tax return—*

1                   “(I) the methodology used to de-  
2                   termine that taxpayer’s trust interest  
3                   under this section, and

4                   “(II) if the taxpayer knows (or  
5                   has reason to know) that any other  
6                   beneficiary of such trust is using a dif-  
7                   ferent methodology to determine such  
8                   beneficiary’s trust interest under this  
9                   section.

10                  “(g) *TERMINATION OF DEFERRALS, ETC.*—On the date  
11 any property held by an individual is treated as sold under  
12 subsection (a), notwithstanding any other provision of this  
13 title—

14                   “(1) any period during which recognition of in-  
15 come or gain is deferred shall terminate, and

16                   “(2) any extension of time for payment of tax  
17 shall cease to apply and the unpaid portion of such  
18 tax shall be due and payable at the time and in the  
19 manner prescribed by the Secretary.

20                  “(h) *IMPOSITION OF TENTATIVE TAX.*—

21                   “(1) *IN GENERAL.*—If an individual is required  
22 to include any amount in gross income under sub-  
23 section (a) for any taxable year, there is hereby im-  
24 posed, immediately before the expatriation date, a tax  
25 in an amount equal to the amount of tax which

1       *would be imposed if the taxable year were a short tax-*  
2       *able year ending on the expatriation date.*

3           “(2) *DUE DATE.*—*The due date for any tax im-*  
4       *posed by paragraph (1) shall be the 90th day after the*  
5       *expatriation date.*

6           “(3) *TREATMENT OF TAX.*—*Any tax paid under*  
7       *paragraph (1) shall be treated as a payment of the*  
8       *tax imposed by this chapter for the taxable year to*  
9       *which subsection (a) applies.*

10          “(4) *DEFERRAL OF TAX.*—*The provisions of sub-*  
11       *section (b) shall apply to the tax imposed by this sub-*  
12       *section to the extent attributable to gain includible in*  
13       *gross income by reason of this section.*

14          “(i) *COORDINATION WITH ESTATE AND GIFT*  
15       *TAXES.*—*If subsection (a) applies to property held by an*  
16       *individual for any taxable year and—*

17           “(1) *such property is includible in the gross es-*  
18       *tate of such individual solely by reason of section*  
19       *2107, or*

20           “(2) *section 2501 applies to a transfer of such*  
21       *property by such individual solely by reason of sec-*  
22       *tion 2501(a)(3),*

23       *then there shall be allowed as a credit against the additional*  
24       *tax imposed by section 2101 or 2501, whichever is applica-*  
25       *ble, solely by reason of section 2107 or 2501(a)(3) an*

1 *amount equal to the increase in the tax imposed by this*  
2 *chapter for such taxable year by reason of this section.*

3       “(j) *REGULATIONS.—The Secretary shall prescribe*  
4 *such regulations as may be necessary or appropriate to*  
5 *carry out the purposes of this section, including regula-*  
6 *tions—*

7               “(1) *to prevent double taxation by ensuring*  
8 *that—*

9                       “(A) *appropriate adjustments are made to*  
10 *basis to reflect gain recognized by reason of sub-*  
11 *section (a) and the exclusion provided by sub-*  
12 *section (a)(3), and*

13                       “(B) *any gain by reason of a deemed sale*  
14 *under subsection (a) of an interest in a corpora-*  
15 *tion, partnership, trust, or estate is reduced to*  
16 *reflect that portion of such gain which is attrib-*  
17 *utable to an interest in a trust which a share-*  
18 *holder, partner, or beneficiary is treated as hold-*  
19 *ing directly under subsection (f)(3)(B)(i), and*

20               “(2) *which provide for the proper allocation of*  
21 *the exclusion under subsection (a)(3) to property to*  
22 *which this section applies.*

1       “(k) *CROSS REFERENCE.*—

**“For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47).”.**

2       (b) *INCLUSION IN INCOME OF GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.*—Section 102 (relating to gifts, etc. not included in gross income) is amended

3

4

5 by adding at the end the following new subsection:

6       “(d) *GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.*—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest,

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.”.

(c) *DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.*—Section 7701(a) is amended by adding at the end the following new paragraph:

“(47) *TERMINATION OF UNITED STATES CITIZENSHIP.*—An individual shall not cease to be treated as a United States citizen before the date on which the individual’s citizenship is treated as relinquished under section 877A(e)(3).”.

(d) *CONFORMING AMENDMENTS.*—

(1) Section 877 is amended by adding at the end the following new subsection:

1       “(f) *APPLICATION.*—*This section shall not apply to*  
2 *any individual who relinquishes (within the meaning of*  
3 *section 877A(e)(3)) United States citizenship on or after*  
4 *February 6, 1995.*”.

5           (2) *Section 2107(c) is amended by adding at the*  
6 *end the following new paragraph:*

7           “(3) *CROSS REFERENCE.*—*For credit against the*  
8 *tax imposed by subsection (a) for expatriation tax, see*  
9 *section 877A(i).*”.

10          (3) *Section 2501(a)(3) is amended by adding at*  
11 *the end the following new flush sentence:*

12          “*For credit against the tax imposed under this section*  
13 *by reason of this paragraph, see section 877A(i).*”.

14          (4) *Paragraph (10) of section 7701(b) is amend-*  
15 *ed by adding at the end the following new sentence:*

16          “*This paragraph shall not apply to any long-term*  
17 *resident of the United States who is an expatriate (as*  
18 *defined in section 877A(e)(1)).*”.

19          (e) *CLERICAL AMENDMENT.*—*The table of sections for*  
20 *subpart A of part II of subchapter N of chapter 1 is amend-*  
21 *ed by inserting after the item relating to section 877 the*  
22 *following new item:*

      “*Sec. 877A. Tax responsibilities of expatriation.*”.

23          (f) *EFFECTIVE DATE.*—

24          (1) *IN GENERAL.*—*Except as provided in this*  
25 *subsection, the amendments made by this section shall*

1        *apply to expatriates (within the meaning of section*  
2        *877A(e) of the Internal Revenue Code of 1986, as*  
3        *added by this section) whose expatriation date (as so*  
4        *defined) occurs on or after February 6, 1995.*

5                (2) *GIFTS AND BEQUESTS.—Section 102(d) of*  
6        *the Internal Revenue Code of 1986 (as added by sub-*  
7        *section (b)) shall apply to amounts received from ex-*  
8        *patriates (as so defined) whose expatriation date (as*  
9        *so defined) occurs on and after February 6, 1995.*

10               (3) *SPECIAL RULES RELATING TO CERTAIN ACTS*  
11        *OCCURRING BEFORE FEBRUARY 6, 1995.—In the case*  
12        *of an individual who took an act of expatriation spec-*  
13        *ified in paragraph (1), (2), (3), or (4) of section*  
14        *349(a) of the Immigration and Nationality Act (8*  
15        *U.S.C. 1481(a) (1)–(4)) before February 6, 1995, but*  
16        *whose expatriation date (as so defined) occurs after*  
17        *February 6, 1995—*

18                (A) *the amendment made by subsection (c)*  
19        *shall not apply,*

20                (B) *the amendment made by subsection*  
21        *(d)(1) shall not apply for any period prior to the*  
22        *expatriation date, and*

23                (C) *the other amendments made by this sec-*  
24        *tion shall apply as of the expatriation date.*



1           “(B) *NONCITIZENS.*—*In the case of an ex-*  
2           *patriate described in section 877A(e)(1)(B), such*  
3           *statement shall be provided to the Secretary with*  
4           *the return of tax imposed by chapter 1 for the*  
5           *taxable year during which the event described in*  
6           *such section occurs.*

7           “(b) *INFORMATION TO BE PROVIDED.*—*Information*  
8           *required under subsection (a) shall include—*

9                   “(1) *the taxpayer’s TIN,*

10                   “(2) *the mailing address of such individual’s*  
11           *principal foreign residence,*

12                   “(3) *the foreign country in which such individ-*  
13           *ual is residing,*

14                   “(4) *the foreign country of which such individual*  
15           *is a citizen,*

16                   “(5) *in the case of an individual having a net*  
17           *worth of at least the dollar amount applicable under*  
18           *section 877A(c)(1)(B), information detailing the as-*  
19           *sets and liabilities of such individual, and*

20                   “(6) *such other information as the Secretary*  
21           *may prescribe.*

22           “(c) *PENALTY.*—*Any individual failing to provide a*  
23           *statement required under subsection (a) shall be subject to*  
24           *a penalty for each year during any portion of which such*  
25           *failure continues in an amount equal to the greater of—*

1           “(1) 5 percent of the additional tax required to  
2           be paid under section 877A for such year, or

3           “(2) \$1,000,  
4           unless it is shown that such failure is due to reasonable  
5           cause and not to willful neglect.

6           “(d) *INFORMATION TO BE PROVIDED TO SEC-*  
7           *RETARY.—Notwithstanding any other provision of law—*

8           “(1) any Federal agency or court which collects  
9           (or is required to collect) the statement under sub-  
10          section (a) shall provide to the Secretary—

11                   “(A) a copy of any such statement, and

12                   “(B) the name (and any other identifying  
13                   information) of any individual refusing to com-  
14                   ply with the provisions of subsection (a),

15           “(2) the Secretary of State shall provide to the  
16           Secretary a copy of each certificate as to the loss of  
17           American nationality under section 358 of the *Immigra-*  
18           *tion and Nationality Act* which is approved by the  
19           Secretary of State, and

20           “(3) the Federal agency primarily responsible for  
21           administering the immigration laws shall provide to  
22           the Secretary the name of each lawful permanent resi-  
23           dent of the United States (within the meaning of sec-  
24           tion 7701(b)(6)) whose status as such has been re-

1        *voked or has been administratively or judicially de-*  
2        *termined to have been abandoned.*

3        *Notwithstanding any other provision of law, not later than*  
4        *30 days after the close of each calendar quarter, the Sec-*  
5        *retary shall publish in the Federal Register the name of*  
6        *each individual relinquishing United States citizenship*  
7        *(within the meaning of section 877A(e)(3)) with respect to*  
8        *whom the Secretary receives information under the preced-*  
9        *ing sentence during such quarter.*

10        *“(e) EXEMPTION.—The Secretary may by regulations*  
11        *exempt any class of individuals from the requirements of*  
12        *this section if the Secretary determines that applying this*  
13        *section to such individuals is not necessary to carry out*  
14        *the purposes of this section.”.*

15        *(b) CLERICAL AMENDMENT.—The table of sections for*  
16        *such subpart A is amended by inserting after the item relat-*  
17        *ing to section 6039E the following new item:*

*“Sec. 6039F. Information on individuals expatriating.”.*

18        *(c) EFFECTIVE DATE.—The amendments made by this*  
19        *section shall apply to individuals to whom section 877A*  
20        *of the Internal Revenue Code of 1986 applies and whose*  
21        *expatriation date (as defined in section 877A(e)(2)) occurs*  
22        *on or after February 6, 1995, except that no statement shall*  
23        *be required by such amendments before the 90th day after*  
24        *the date of the enactment of this Act.*

1 **SEC. 1633. REPORT ON TAX COMPLIANCE BY UNITED**  
2 **STATES CITIZENS AND RESIDENTS LIVING**  
3 **ABROAD.**

4 *Not later than 90 days after the date of the enactment*  
5 *of this Act, the Secretary of the Treasury shall prepare and*  
6 *submit to the Committee on Ways and Means of the House*  
7 *of Representatives and the Committee on Finance of the*  
8 *Senate a report—*

9 *(1) describing the compliance with subtitle A of*  
10 *the Internal Revenue Code of 1986 by citizens and*  
11 *lawful permanent residents of the United States*  
12 *(within the meaning of section 7701(b)(6) of such*  
13 *Code) residing outside the United States, and*

14 *(2) recommending measures to improve such*  
15 *compliance (including improved coordination between*  
16 *executive branch agencies).*

17 ***Subtitle F—Technical Corrections***

18 **SEC. 1701. COORDINATION WITH OTHER SUBTITLES.**

19 *For purposes of applying the amendments made by*  
20 *any subtitle of this title other than this subtitle, the provi-*  
21 *sions of this subtitle shall be treated as having been enacted*  
22 *immediately before the provisions of such other subtitles.*

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 amended*  
5 *by striking “joint of a return” and inserting “joint*  
6 *return”.*

7           **(b) AMENDMENTS RELATED TO SUBTITLE B.—**

8           (1) *Paragraph (1) of section 11212(e) of the Rev-*  
9 *enue Reconciliation Act of 1990 is amended by strik-*  
10 *ing “Paragraph (1) of section 6724(d)” and inserting*  
11 *“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 Reve-*  
14 *nuue Reconciliation Act of 1993, is amended by insert-*  
15 *ing before the period “unless such fuel is sold for ex-*  
16 *clusive use by a State or any political subdivision*  
17 *thereof”.*

18           (B) *Paragraph (4) of section 6427(l), as in effect*  
19 *before the amendments made by the Revenue Rec-*  
20 *onciliation Act of 1993, is amended by inserting be-*  
21 *fore the period “unless such fuel was used by a State*  
22 *or any political subdivision thereof”.*

23           (3) *Paragraph (1) of section 6416(b) is amended*  
24 *by striking “chapter 32 or by section 4051” and in-*  
25 *serting “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 redesignig-*  
6 *ating paragraphs (5) and (6) as paragraphs*  
7 *(4) and (5), respectively.*

8           (5) *Subsection (c) of section 5041 is amended by*  
9 *striking paragraph (6) and by inserting the following*  
10 *new paragraphs:*

11                   “(6) *CREDIT FOR TRANSFEREE IN BOND.—If—*

12                           (A) *wine produced by any person would be*  
13 *eligible for any credit under paragraph (1) if re-*  
14 *moved by such person during the calendar year,*

15                           (B) *wine produced by such person is re-*  
16 *moved during such calendar year by any other*  
17 *person (hereafter in this paragraph referred to as*  
18 *the ‘transferee’) to whom such wine was trans-*  
19 *ferred in bond and who is liable for the tax im-*  
20 *posed by this section with respect to such wine,*  
21 *and*

22                           (C) *such producer holds title to such wine*  
23 *at the time of its removal and provides to the*  
24 *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 al-*  
4           *lowed the credit under paragraph (1) which would be*  
5           *allowed to the producer if the wine removed by the*  
6           *transferee had been removed by the producer on that*  
7           *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 of wine*  
15                 *during a 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 amended*  
20           *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 by*  
3 *redesignating subparagraphs (I) and (J) as subpara-*  
4 *graphs (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 by*  
12 *inserting “, 22,” after “chapters 21”.*

13          (4) *The earnings and profits of any insurance*  
14 *company to which section 11305(c)(3) of the Revenue*  
15 *Reconciliation Act of 1990 applies shall be deter-*  
16 *mined without regard to any deduction allowed under*  
17 *such section; except that, for purposes of applying sec-*  
18 *tions 56 and 902, and subpart F of part III of sub-*  
19 *chapter N of chapter 1 of the Internal Revenue Code*  
20 *of 1986, such deduction shall be taken into account.*

21          (5) *Subparagraph (D) of section 6038A(e)(4) is*  
22 *amended—*

23           (A) *by striking “any transaction to which*

24 *the summons relates” and inserting “any af-*

25 *ected taxable year”, and*

1           (B) by adding at the end thereof the follow-  
2           ing new sentence: “For purposes of this subpara-  
3           graph, the term ‘affected taxable year’ means  
4           any taxable year if the determination of the  
5           amount of tax imposed for such taxable year is  
6           affected by the treatment of the transaction to  
7           which the summons relates.”.

8           (6) Subparagraph (A) of section 6621(c)(2) is  
9           amended by adding at the end thereof the following  
10          new flush sentence:

11           “The preceding sentence shall be applied without  
12           regard to any such letter or notice which is with-  
13           drawn by the Secretary.”.

14          (7) Clause (i) of section 6621(c)(2)(B) is amend-  
15          ed by striking “this subtitle” and inserting “this  
16          title”.

17          (d) AMENDMENTS RELATED TO SUBTITLE D.—

18           (1) Notwithstanding section 11402(c) of the Rev-  
19           enue Reconciliation Act of 1990, the amendment  
20           made by section 11402(b)(1) of such Act shall apply  
21           to taxable years ending after December 31, 1989.

22           (2) Clause (ii) of section 143(m)(4)(C) is amend-  
23          ed—

1           (A) by striking “any month of the 10-year  
2           period” and inserting “any year of the 4-year  
3           period”,

4           (B) by striking “succeeding months” and  
5           inserting “succeeding years”, and

6           (C) by striking “over the remainder of such  
7           period (or, if lesser, 5 years)” and inserting “to  
8           zero over the succeeding 5 years”.

9           (e) *AMENDMENTS RELATED TO SUBTITLE E.*—

10           (1)(A) Clause (ii) of section 56(d)(1)(B) is  
11           amended to read as follows:

12                   “(ii) appropriate adjustments in the  
13                   application of section 172(b)(2) shall be  
14                   made to take into account the limitation of  
15                   subparagraph (A).”.

16           (B) For purposes of applying sections 56(g)(1)  
17           and 56(g)(3) of the Internal Revenue Code of 1986  
18           with respect to taxable years beginning in 1991 and  
19           1992, the reference in such sections to the alternative  
20           tax net operating loss deduction shall be treated as  
21           including a reference to the deduction under section  
22           56(h) of such Code as in effect before the amendments  
23           made by section 1915 of the Energy Policy Act of  
24           1992.

1           (2) *Clause (i) of section 613A(c)(3)(A) is amend-*  
2 *ed by striking “the table contained in”.*

3           (3) *Section 6501 is amended—*

4                 (A) *by striking subsection (m) (relating to*  
5 *deficiency attributable to election under section*  
6 *44B) and by redesignating subsections (n) and*  
7 *(o) as subsections (m) and (n), respectively, and*

8                 (B) *by striking “section 40(f) or 51(j)” in*  
9 *subsection (m) (as redesignated by subparagraph*  
10 *(A)) and inserting “section 40(f), 43, or 51(j)”.*

11           (4) *Subparagraph (C) of section 38(c)(2) (as in*  
12 *effect on the day before the date of the enactment of*  
13 *the Revenue Reconciliation Act of 1990) is amended*  
14 *by inserting before the period at the end of the first*  
15 *sentence the following: “and without regard to the de-*  
16 *duction under section 56(h)”.*

17           (5) *The amendment made by section*  
18 *1913(b)(2)(C)(i) of the Energy Policy Act of 1992*  
19 *shall apply to taxable years beginning after December*  
20 *31, 1990.*

21           (f) *AMENDMENTS RELATED TO SUBTITLE F.—*

22                 (1)(A) *Section 2701(a)(3) is amended by adding*  
23 *at the end thereof the following new subparagraph:*

24                         “(C) *VALUATION OF QUALIFIED PAYMENTS*

25                         *WHERE NO LIQUIDATION, ETC. RIGHTS.—In the*

1           *case of an applicable retained interest which is*  
2           *described in subparagraph (B)(i) but not sub-*  
3           *paragraph (B)(ii), the value of the distribution*  
4           *right shall be determined without regard to this*  
5           *section.”.*

6           *(B) Section 2701(a)(3)(B) is amended by insert-*  
7           *ing “CERTAIN” before “QUALIFIED” in the heading*  
8           *thereof.*

9           *(C) Sections 2701 (d)(1) and (d)(4) are each*  
10          *amended by striking “subsection (a)(3)(B)” and in-*  
11          *serting “subsection (a)(3) (B) or (C)”.*

12          *(2) Clause (i) of section 2701(a)(4)(B) is amend-*  
13          *ed by inserting “(or, to the extent provided in regula-*  
14          *tions, the rights as to either income or capital)” after*  
15          *“income and capital”.*

16          *(3)(A) Section 2701(e)(3) is amended—*

17                  *(i) by striking subparagraph (B), and*

18                  *(ii) by striking so much of paragraph (3) as*  
19                  *precedes “shall be treated as holding” and insert-*  
20                  *ing:*

21                  *“(3) CONTRIBUTION OF INDIRECT HOLDINGS AND*  
22                  *TRANSFERS.—An individual”.*

23          *(B) Section 2704(c)(3) is amended by striking*  
24          *“section 2701(e)(3)(A)” and inserting “section*  
25          *2701(e)(3)”.*

1           (4) *Clause (i) of section 2701(c)(1)(B) is amend-*  
2 *ed to read as follows:*

3                   “(i) *a right to distributions with re-*  
4 *spect to any interest which is junior to the*  
5 *rights of the transferred interest,”.*

6           (5)(A) *Clause (i) of section 2701(c)(3)(C) is*  
7 *amended to read as follows:*

8                   “(i) *IN GENERAL.—Payments under*  
9 *any interest held by a transferor which*  
10 *(without regard to this subparagraph) are*  
11 *qualified payments shall be treated as*  
12 *qualified payments unless the transferor*  
13 *elects not to treat such payments as quali-*  
14 *fied payments. Payments described in the*  
15 *preceding sentence which are held by an ap-*  
16 *plicable family member shall be treated as*  
17 *qualified payments only if such member*  
18 *elects to treat such payments as qualified*  
19 *payments.”.*

20           (B) *The first sentence of section 2701(c)(3)(C)(ii)*  
21 *is amended to read as follows: “A transferor or appli-*  
22 *cable family member holding any distribution right*  
23 *which (without regard to this subparagraph) is not a*  
24 *qualified payment may elect to treat such right as a*

1 *qualified payment, to be paid in the amounts and at*  
2 *the times specified in such election.”.*

3 *(C) The time for making an election under the*  
4 *second sentence of section 2701(c)(3)(C)(i) of the In-*  
5 *ternal Revenue Code of 1986 (as amended by sub-*  
6 *paragraph (A)) shall not expire before the due date*  
7 *(including extensions) for filing the transferor’s re-*  
8 *turn of the tax imposed by section 2501 of such Code*  
9 *for the first calendar year ending after the date of en-*  
10 *actment.*

11 *(6) Section 2701(d)(3)(A)(iii) is amended by*  
12 *striking “the period ending on the date of”.*

13 *(7) Subclause (I) of section 2701(d)(3)(B)(ii) is*  
14 *amended by inserting “or the exclusion under section*  
15 *2503(b),” after “section 2523,”.*

16 *(8) Section 2701(e)(5) is amended—*

17 *(A) by striking “such contribution to cap-*  
18 *ital or such redemption, recapitalization, or*  
19 *other change” in subparagraph (A) and insert-*  
20 *ing “such transaction”, and*

21 *(B) by striking “the transfer” in subpara-*  
22 *graph (B) and inserting “such transaction”.*

23 *(9) Section 2701(d)(4) is amended by adding at*  
24 *the end thereof the following new subparagraph:*

1           “(C) *TRANSFER TO TRANSFERORS.*—*In the*  
2           *case of a taxable event described in paragraph*  
3           *(3)(A)(ii) involving a transfer of an applicable*  
4           *retained interest from an applicable family*  
5           *member to a transferor, this subsection shall con-*  
6           *tinue to apply to the transferor during any pe-*  
7           *riod the transferor holds such interest.”.*

8           (10) *Section 2701(e)(6) is amended by inserting*  
9           *“or to reflect the application of subsection (d)” before*  
10          *the period at the end thereof.*

11          (11)(A) *Section 2702(a)(3)(A) is amended—*

12                 (i) *by striking “to the extent” and inserting*  
13                 *“if” in clause (i),*

14                 (ii) *by striking “or” at the end of clause (i),*

15                 (iii) *by striking the period at the end of*  
16                 *clause (ii) and inserting “, or”, and*

17                 (iv) *by adding at the end thereof the follow-*  
18                 *ing new clause:*

19                         “(iii) *to the extent that regulations*  
20                         *provide that such transfer is not inconsis-*  
21                         *ent with the purposes of this section.”.*

22          (B)(i) *Section 2702(a)(3) is amended by striking*  
23          *“incomplete transfer” each place it appears and in-*  
24          *serting “incomplete gift”.*

1           (ii) *The heading for section 2702(a)(3)(B) is*  
2 *amended by striking “INCOMPLETE TRANSFER” and*  
3 *inserting “INCOMPLETE GIFT”.*

4 *(g) AMENDMENTS RELATED TO SUBTITLE G.—*

5           (1)(A) *Subsection (a) of section 1248 is amend-*  
6 *ed—*

7                 (i) *by striking “, or if a United States per-*  
8 *son receives a distribution from a foreign cor-*  
9 *poration which, under section 302 or 331, is*  
10 *treated as an exchange of stock” in paragraph*  
11 *(1), and*

12                 (ii) *by adding at the end thereof the follow-*  
13 *ing new sentence: “For purposes of this section,*  
14 *a United States person shall be treated as having*  
15 *sold or exchanged any stock if, under any provi-*  
16 *sion of this subtitle, such person is treated as re-*  
17 *alizing gain from the sale or exchange of such*  
18 *stock.”.*

19           (B) *Paragraph (1) of section 1248(e) is amended*  
20 *by striking “, or receives a distribution from a domes-*  
21 *tic corporation which, under section 302 or 331, is*  
22 *treated as an exchange of stock”.*

23           (C) *Subparagraph (B) of section 1248(f)(1) is*  
24 *amended by striking “or 361(c)(1)” and inserting*  
25 *“355(c)(1), or 361(c)(1)”.*

1           (D) Paragraph (1) of section 1248(i) is amended  
2           to read as follows:

3           “(1) *IN GENERAL.*—If any shareholder of a 10-  
4           percent corporate shareholder of a foreign corporation  
5           exchanges stock of the 10-percent corporate share-  
6           holder for stock of the foreign corporation, such 10-  
7           percent corporate shareholder shall recognize gain in  
8           the same manner as if the stock of the foreign cor-  
9           poration received in such exchange had been—

10                   “(A) issued to the 10-percent corporate  
11                   shareholder, and

12                   “(B) then distributed by the 10-percent cor-  
13                   porate shareholder to such shareholder in re-  
14                   demption or liquidation (whichever is appro-  
15                   priate).

16           The amount of gain recognized by such 10-percent  
17           corporate shareholder under the preceding sentence  
18           shall not exceed the amount treated as a dividend  
19           under this section.”.

20           (2) Section 897 is amended by striking sub-  
21           section (f).

22           (3) Paragraph (13) of section 4975(d) is amend-  
23           ed by striking “section 408(b)” and inserting “section  
24           408(b)(12)”.



1           (B) Subparagraph (B) of section 168(e)(3) (re-  
2 relating to 5-year property) is amended by adding at  
3 the end the following flush sentence:

4           “Nothing in any provision of law shall be con-  
5 strued to treat property as not being described in  
6 clause (vi)(I) (or the corresponding provisions of  
7 prior law) by reason of being public utility  
8 property (within the meaning of section  
9 48(a)(3)).”.

10          (C) Subparagraph (K) of section 168(g)(4) is  
11 amended by striking “section 48(a)(3)(A)(iii)” and  
12 inserting “section 48(l)(3)(A)(ix) (as in effect on the  
13 day before the date of the enactment of the Revenue  
14 Reconciliation Act of 1990)”.

15          (2) Clause (ii) of section 172(b)(1)(E) is amend-  
16 ed by striking “subsection (m)” and inserting “sub-  
17 section (h)”.

18          (3) Sections 805(a)(4)(E), 832(b)(5)(C)(ii)(II),  
19 and 832(b)(5)(D)(ii)(II) are each amended by strik-  
20 ing “243(b)(5)” and inserting “243(b)(2)”.

21          (4) Subparagraph (A) of section 243(b)(3) is  
22 amended by inserting “of” after “In the case”.

23          (5) The subsection heading for subsection (a) of  
24 section 280F is amended by striking “INVESTMENT  
25 TAX CREDIT AND”.

1           (6) Clause (i) of section 1504(c)(2)(B) is amend-  
2           ed by inserting “section” before “243(b)(2)”.

3           (7) Paragraph (3) of section 341(f) is amended  
4           by striking “351, 361, 371(a), or 374(a)” and insert-  
5           ing “351, or 361”.

6           (8) Paragraph (2) of section 243(b) is amended  
7           to read as follows:

8           “(2) *AFFILIATED GROUP.*—For purposes of this  
9           subsection:

10           “(A) *IN GENERAL.*—The term ‘affiliated  
11           group’ has the meaning given such term by sec-  
12           tion 1504(a), except that for such purposes sec-  
13           tions 1504(b)(2), 1504(b)(4), and 1504(c) shall  
14           not apply.

15           “(B) *GROUP MUST BE CONSISTENT IN FOR-*  
16           *EIGN TAX TREATMENT.*—The requirements of  
17           paragraph (1)(A) shall not be treated as being  
18           met with respect to any dividend received by a  
19           corporation if, for any taxable year which in-  
20           cludes the day on which such dividend is re-  
21           ceived—

22           “(i) 1 or more members of the affili-  
23           ated group referred to in paragraph (1)(A)  
24           choose to any extent to take the benefits of  
25           section 901, and

1                   “(ii) 1 or more other members of such  
2                   group claim to any extent a deduction for  
3                   taxes otherwise creditable under section  
4                   901.”.

5                   (9) The amendment made by section  
6                   11813(b)(17) of the Revenue Reconciliation Act of  
7                   1990 shall be applied as if the material stricken by  
8                   such amendment included the closing parenthesis  
9                   after “section 48(a)(5)”.

10                  (10) Paragraph (1) of section 179(d) is amended  
11                  by striking “in a trade or business” and inserting “a  
12                  trade or business”.

13                  (11) Subparagraph (E) of section 50(a)(2) is  
14                  amended by striking “section 48(a)(5)(A)” and in-  
15                  serting “section 48(a)(5)”.

16                  (12) The amendment made by section  
17                  11801(c)(9)(G)(ii) of the Revenue Reconciliation Act  
18                  of 1990 shall be applied as if it struck “Section  
19                  422A(c)(2)” and inserted “Section 422(c)(2)”.

20                  (13) Subparagraph (B) of section 424(c)(3) is  
21                  amended by striking “a qualified stock option, an in-  
22                  centive stock option, an option granted under an em-  
23                  ployee stock purchase plan, or a restricted stock op-  
24                  tion” and inserting “an incentive stock option or an

1     *option granted under an employee stock purchase*  
2     *plan”.*

3             (14) *Subparagraph (E) of section 1367(a)(2) is*  
4     *amended by striking “section 613A(c)(13)(B)” and*  
5     *inserting “section 613A(c)(11)(B)”.*

6             (15) *Subparagraph (B) of section 460(e)(6) is*  
7     *amended by striking “section 167(k)” and inserting*  
8     *“section 168(e)(2)(A)(ii)”.*

9             (16) *Subparagraph (C) of section 172(h)(4) is*  
10    *amended by striking “subsection (b)(1)(M)” and in-*  
11    *serting “subsection (b)(1)(E)”.*

12            (17) *Section 6503 is amended—*

13                (A) *by redesignating the subsection relating*  
14                *to extension in case of certain summonses as sub-*  
15                *section (j), and*

16                (B) *by redesignating the subsection relating*  
17                *to cross references as subsection (k).*

18            (18) *Paragraph (4) of section 1250(e) is hereby*  
19    *repealed.*

20            (19) *Paragraph (1) of section 179(d) is amended*  
21    *by adding at the end the following new sentence:*  
22    *“Such term shall not include any property described*  
23    *in section 50(b) and shall not include air condi-*  
24    *tioning or heating units.”.*

1       (i) *EFFECTIVE DATE.*—*Except as otherwise expressly*  
2 *provided—*

3           (1) *the amendments made by this section shall be*  
4 *treated as amendments to the Internal Revenue Code*  
5 *of 1986 as amended by the Revenue Reconciliation*  
6 *Act of 1993; and*

7           (2) *any amendment made by this section shall*  
8 *apply to periods before the date of the enactment of*  
9 *this section in the same manner as if it had been in-*  
10 *cluded in the provision of the Revenue Reconciliation*  
11 *Act of 1990 to which such amendment relates.*

12 **SEC. 1703. AMENDMENTS RELATED TO REVENUE REC-**  
13 **ONCILIATION ACT OF 1993.**

14       (a) *AMENDMENT RELATED TO SECTION 13114.*—  
15 *Paragraph (2) of section 1044(c) is amended to read as fol-*  
16 *lows:*

17           “(2) *PURCHASE.*—*The taxpayer shall be consid-*  
18 *ered to have purchased any property if, but for sub-*  
19 *section (d), the unadjusted basis of such property*  
20 *would be its cost within the meaning of section*  
21 *1012.”.*

22       (b) *AMENDMENTS RELATED TO SECTION 13142.*—

23           (1) *Subparagraph (B) of section 13142(b)(6) of*  
24 *the Revenue Reconciliation Act of 1993 is amended to*  
25 *read as follows:*

1                   “(B) *FULL-TIME STUDENTS, WAIVER AU-*  
2                   *THORITY, AND PROHIBITED DISCRIMINATION.—*  
3                   *The amendments made by paragraphs (2), (3),*  
4                   *and (4) shall take effect on the date of the enact-*  
5                   *ment of this Act.”.*

6                   (2) *Subparagraph (C) of section 13142(b)(6) of*  
7                   *such Act is amended by striking “paragraph (2)” and*  
8                   *inserting “paragraph (5)”.*

9                   (c) *AMENDMENT RELATED TO SECTION 13161.—*

10                   (1) *IN GENERAL.—Subsection (e) of section 4001*  
11                   *(relating to inflation adjustment) is amended to read*  
12                   *as follows:*

13                   “(e) *INFLATION ADJUSTMENT.—*

14                   “(1) *IN GENERAL.—The \$30,000 amount in sub-*  
15                   *section (a) and section 4003(a) shall be increased by*  
16                   *an amount equal to—*

17                   “(A) *\$30,000, multiplied by*

18                   “(B) *the cost-of-living adjustment under sec-*  
19                   *tion 1(f)(3) for the calendar year in which the*  
20                   *vehicle is sold, determined by substituting ‘cal-*  
21                   *endar year 1990’ for ‘calendar year 1992’ in*  
22                   *subparagraph (B) thereof.*

23                   “(2) *ROUNDING.—If any amount as adjusted*  
24                   *under paragraph (1) is not a multiple of \$2,000, such*

1        *amount shall be rounded to the next lowest multiple*  
2        *of \$2,000.”.*

3            (2) *EFFECTIVE DATE.*—*The amendment made by*  
4        *paragraph (1) shall take effect on the date of the en-*  
5        *actment of this Act.*

6            (d) *AMENDMENT RELATED TO SECTION 13201.*—  
7        *Clause (ii) of section 135(b)(2)(B) is amended by inserting*  
8        *before the period at the end thereof the following: “, deter-*  
9        *mined by substituting ‘calendar year 1989’ for ‘calendar*  
10       *year 1992’ in subparagraph (B) thereof’.*

11          (e) *AMENDMENTS RELATED TO SECTION 13203.*—*Sub-*  
12       *section (a) of section 59 is amended—*

13            (1) *by striking “the amount determined under*  
14        *section 55(b)(1)(A)” in paragraph (1)(A) and*  
15        *(2)(A)(i) and inserting “the pre-credit tentative mini-*  
16        *imum tax”,*

17            (2) *by striking “specified in section 55(b)(1)(A)”*  
18        *in paragraph (1)(C) and inserting “specified in sub-*  
19        *paragraph (A)(i) or (B)(i) of section 55(b)(1) (which-*  
20        *ever applies)”,*

21            (3) *by striking “which would be determined*  
22        *under section 55(b)(1)(A)” in paragraph (2)(A)(ii)*  
23        *and inserting “which would be the pre-credit tentative*  
24        *minimum tax”, and*

1           (4) *by adding at the end thereof the following*  
2           *new paragraph:*

3           “(3) *PRE-CREDIT TENTATIVE MINIMUM TAX.—*  
4           *For purposes of this subsection, the term ‘pre-credit*  
5           *tentative minimum tax’ means—*

6                     “(A) *in the case of a taxpayer other than a*  
7                     *corporation, the amount determined under the*  
8                     *first sentence of section 55(b)(1)(A)(i), or*

9                     “(B) *in the case of a corporation, the*  
10                    *amount determined under section*  
11                    *55(b)(1)(B)(i).”.*

12           (f) *AMENDMENT RELATED TO SECTION 13221.—Sec-*  
13           *tions 1201(a) and 1561(a) are each amended by striking*  
14           *“last sentence” each place it appears and inserting “last*  
15           *2 sentences”.*

16           (g) *AMENDMENTS RELATED TO SECTION 13222.—*

17                     (1) *Subparagraph (B) of section 6033(e)(1) is*  
18                     *amended by adding at the end thereof the following*  
19                     *new clause:*

20                             “(iii) *COORDINATION WITH SECTION*  
21                             *527(f).—This subsection shall not apply to*  
22                             *any amount on which tax is imposed by*  
23                             *reason of section 527(f).”.*

1           (2) *Clause (i) of section 6033(e)(1)(B) is amend-*  
2           *ed by striking “this subtitle” and inserting “section*  
3           *501”.*

4           (h) *AMENDMENT RELATED TO SECTION 13225.—Para-*  
5           *graph (3) of section 6655(g) is amended by striking all that*  
6           *follows “‘3rd month’” in the sentence following subpara-*  
7           *graph (C) and inserting “, subsection (e)(2)(A) shall be ap-*  
8           *plied by substituting ‘2 months’ for ‘3 months’ in clause*  
9           *(i)(I), the election under clause (i) of subsection (e)(2)(C)*  
10           *may be made separately for each installment, and clause*  
11           *(ii) of subsection (e)(2)(C) shall not apply.”.*

12           (i) *AMENDMENTS RELATED TO SECTION 13231.—*

13           (1) *Subparagraph (G) of section 904(d)(3) is*  
14           *amended by striking “section 951(a)(1)(B)” and in-*  
15           *serting “subparagraph (B) or (C) of section*  
16           *951(a)(1)”.*

17           (2) *Paragraph (1) of section 956A(b) is amended*  
18           *to read as follows:*

19           *“(1) the amount (not including a deficit) re-*  
20           *ferred to in section 316(a)(1) to the extent such*  
21           *amount was accumulated in prior taxable years be-*  
22           *ginning after September 30, 1993, and”.*

23           (3) *Subsection (f) of section 956A is amended by*  
24           *inserting before the period at the end thereof: “and*

1 *regulations coordinating the provisions of subsections*  
2 *(c)(3)(A) and (d)”.*

3 *(4) Subsection (b) of section 958 is amended by*  
4 *striking “956(b)(2)” each place it appears and insert-*  
5 *ing “956(c)(2)”.*

6 *(5)(A) Subparagraph (A) of section 1297(d)(2) is*  
7 *amended by striking “The adjusted basis of any*  
8 *asset” and inserting “The amount taken into account*  
9 *under section 1296(a)(2) with respect to any asset”.*

10 *(B) The paragraph heading of paragraph (2) of*  
11 *section 1297(d) is amended to read as follows:*

12 *“(2) AMOUNT TAKEN INTO ACCOUNT.—”.*

13 *(6) Subsection (e) of section 1297 is amended by*  
14 *inserting “For purposes of this part—” after the sub-*  
15 *section heading.*

16 *(j) AMENDMENT RELATED TO SECTION 13241.—Sub-*  
17 *paragraph (B) of section 40(e)(1) is amended to read as*  
18 *follows:*

19 *“(B) for any period before January 1, 2001,*  
20 *during which the rates of tax under section*  
21 *4081(a)(2)(A) are 4.3 cents per gallon.”.*

22 *(k) AMENDMENT RELATED TO SECTION 13242.—Para-*  
23 *graph (4) of section 6427(f) is amended by striking “1995”*  
24 *and inserting “1999”.*

1       (l) *AMENDMENT RELATED TO SECTION 13261.*—  
2 *Clause (iii) of section 13261(g)(2)(A) of the Revenue Rec-*  
3 *onciliation Act of 1993 is amended by striking “by the tax-*  
4 *payer” and inserting “by the taxpayer or a related person”.*

5       (m) *AMENDMENT RELATED TO SECTION 13301.*—Sub-  
6 *paragraph (B) of section 1397B(d)(5) is amended by strik-*  
7 *ing “preceding”.*

8       (n) *CLERICAL AMENDMENTS.*—

9           (1) *Subsection (d) of section 39 is amended—*

10                   (A) *by striking “45” in the heading of*  
11 *paragraph (5) and inserting “45A”, and*

12                   (B) *by striking “45” in the heading of*  
13 *paragraph (6) and inserting “45B”.*

14           (2) *Subparagraph (A) of section 108(d)(9) is*  
15 *amended by striking “paragraph (3)(B)” and insert-*  
16 *ing “paragraph (3)(C)”.*

17           (3) *Subparagraph (C) of section 143(d)(2) is*  
18 *amended by striking the period at the end thereof and*  
19 *inserting a comma.*

20           (4) *Clause (ii) of section 163(j)(6)(E) is amended*  
21 *by striking “which is a” and inserting “which is”.*

22           (5) *Subparagraph (A) of section 1017(b)(4) is*  
23 *amended by striking “subsection (b)(2)(D)” and in-*  
24 *serting “subsection (b)(2)(E)”.*

1           (6) *So much of section 1245(a)(3) as precedes*  
2           *subparagraph (A) thereof is amended to read as fol-*  
3           *lows:*

4           “(3) *SECTION 1245 PROPERTY.—For purposes of*  
5           *this section, the term ‘section 1245 property’ means*  
6           *any property which is or has been property of a char-*  
7           *acter subject to the allowance for depreciation pro-*  
8           *vided in section 167 and is either—”.*

9           (7) *Paragraph (2) of section 1394(e) is amend-*  
10          *ed—*

11                 *(A) by striking “(i)” and inserting “(A)”,*  
12          *and*

13                 *(B) by striking “(ii)” and inserting “(B)”.*

14          (8) *Subsection (m) of section 6501 (as redesign-*  
15          *ated by section 1602) is amended by striking “or*  
16          *51(j)” and inserting “45B, or 51(j)”.*

17          (9)(A) *The section 6714 added by section*  
18          *13242(b)(1) of the Revenue Reconciliation Act of 1993*  
19          *is hereby redesignated as section 6715.*

20                 *(B) The table of sections for part I of subchapter*  
21          *B of chapter 68 is amended by striking “6714” in the*  
22          *item added by such section 13242(b)(2) of such Act*  
23          *and inserting “6715”.*

24          (10) *Paragraph (2) of section 9502(b) is amend-*  
25          *ed by inserting “and before” after “1982,”.*

1           (11) *Subsection (a)(3) of section 13206 of the*  
2 *Revenue Reconciliation Act of 1993 is amended by*  
3 *striking “this section” and inserting “this sub-*  
4 *section”.*

5           (12) *Paragraph (1) of section 13215(c) of the*  
6 *Revenue Reconciliation Act of 1993 is amended by*  
7 *striking “Public Law 92–21” and inserting “Public*  
8 *Law 98–21”.*

9           (13) *Paragraph (2) of section 13311(e) of the*  
10 *Revenue Reconciliation Act of 1993 is amended by*  
11 *striking “section 1393(a)(3)” and inserting “section*  
12 *1393(a)(2)”.*

13           (14) *Subparagraph (B) of section 117(d)(2) is*  
14 *amended by striking “section 132(f)” and inserting*  
15 *“section 132(h)”.*

16           (o) *EFFECTIVE DATE.—Any amendment made by this*  
17 *section shall take effect as if included in the provision of*  
18 *the Revenue Reconciliation Act of 1993 to which such*  
19 *amendment relates.*

20 **SEC. 1704. MISCELLANEOUS PROVISIONS.**

21           (a) *APPLICATION OF AMENDMENTS MADE BY TITLE*  
22 *XII OF OMNIBUS BUDGET RECONCILIATION ACT OF*  
23 *1990.—Except as otherwise expressly provided, whenever in*  
24 *title XII of the Omnibus Budget Reconciliation Act of 1990*  
25 *an amendment or repeal is expressed in terms of an amend-*

1 *ment to, or repeal of, a section or other provision, the ref-*  
2 *erence shall be considered to be made to a section or other*  
3 *provision of the Internal Revenue Code of 1986.*

4 *(b) TREATMENT OF CERTAIN AMOUNTS UNDER*  
5 *HEDGE BOND RULES.—*

6 *(1) Clause (iii) of section 149(g)(3)(B) is amend-*  
7 *ed to read as follows:*

8 *“(iii) AMOUNTS HELD PENDING REIN-*  
9 *VESTMENT OR REDEMPTION.—Amounts held*  
10 *for not more than 30 days pending reinvest-*  
11 *ment or bond redemption shall be treated as*  
12 *invested in bonds described in clause (i).”.*

13 *(2) The amendment made by paragraph (1) shall*  
14 *take effect as if included in the amendments made by*  
15 *section 7651 of the Omnibus Budget Reconciliation*  
16 *Act of 1989.*

17 *(c) TREATMENT OF CERTAIN DISTRIBUTIONS UNDER*  
18 *SECTION 1445.—*

19 *(1) IN GENERAL.—Paragraph (3) of section*  
20 *1445(e) is amended by adding at the end thereof the*  
21 *following new sentence: “Rules similar to the rules of*  
22 *the preceding provisions of this paragraph shall*  
23 *apply in the case of any distribution to which section*  
24 *301 applies and which is not made out of the earn-*  
25 *ings and profits of such a domestic corporation.”.*

1           (2) *EFFECTIVE DATE.*—*The amendment made by*  
2           *paragraph (1) shall apply to distributions after the*  
3           *date of the enactment of this Act.*

4           (d) *TREATMENT OF CERTAIN CREDITS UNDER SEC-*  
5           *TION 469.*—

6           (1) *IN GENERAL.*—*Subparagraph (B) of section*  
7           *469(c)(3) is amended by adding at the end thereof the*  
8           *following new sentence: “If the preceding sentence ap-*  
9           *plies to the net income from any property for any*  
10           *taxable year, any credits allowable under subpart B*  
11           *(other than section 27(a)) or D of part IV of sub-*  
12           *chapter A for such taxable year which are attributable*  
13           *to such property shall be treated as credits not from*  
14           *a passive activity to the extent the amount of such*  
15           *credits does not exceed the regular tax liability of the*  
16           *taxpayer for the taxable year which is allocable to*  
17           *such net income.”.*

18           (2) *EFFECTIVE DATE.*—*The amendment made by*  
19           *paragraph (1) shall apply to taxable years beginning*  
20           *after December 31, 1986.*

21           (e) *TREATMENT OF DISPOSITIONS UNDER PASSIVE*  
22           *LOSS RULES.*—

23           (1) *IN GENERAL.*—*Subparagraph (A) of section*  
24           *469(g)(1) is amended to read as follows:*

1           “(A) *IN GENERAL.*—If all gain or loss real-  
2           ized on such disposition is recognized, the excess  
3           of—

4                   “(i) any loss from such activity for  
5                   such taxable year (determined after the ap-  
6                   plication of subsection (b)), over

7                   “(ii) any net income or gain for such  
8                   taxable year from all other passive activities  
9                   (determined after the application of sub-  
10                  section (b)),

11           shall be treated as a loss which is not from a  
12           passive activity.”.

13           (2) *EFFECTIVE DATE.*—The amendment made by  
14           paragraph (1) shall apply to taxable years beginning  
15           after December 31, 1986.

16           (f) *MISCELLANEOUS AMENDMENTS TO FOREIGN PRO-*  
17 *VISIONS.*—

18           (1) *COORDINATION OF UNIFIED ESTATE TAX*  
19 *CREDIT WITH TREATIES.*—Subparagraph (A) of sec-  
20 *tion 2102(c)(3) is amended by adding at the end*  
21 *thereof the following new sentence: “For purposes of*  
22 *the preceding sentence, property shall not be treated*  
23 *as situated in the United States if such property is*  
24 *exempt from the tax imposed by this subchapter*  
25 *under any treaty obligation of the United States.”.*

1           (2) *TREATMENT OF CERTAIN INTEREST PAID TO*  
2 *RELATED PERSON.—*

3           (A) *Subparagraph (B) of section 163(j)(1)*  
4 *is amended by inserting before the period at the*  
5 *end thereof the following: “(and clause (ii) of*  
6 *paragraph (2)(A) shall not apply for purposes of*  
7 *applying this subsection to the amount so treat-*  
8 *ed)”.*

9           (B) *Subsection (j) of section 163 is amended*  
10 *by redesignating paragraph (7) as paragraph*  
11 *(8) and by inserting after paragraph (6) the fol-*  
12 *lowing new paragraph:*

13           *“(7) COORDINATION WITH PASSIVE LOSS RULES,*  
14 *ETC.—This subsection shall be applied before sections*  
15 *465 and 469.”.*

16           (C) *The amendments made by this para-*  
17 *graph shall apply as if included in the amend-*  
18 *ments made by section 7210(a) of the Revenue*  
19 *Reconciliation Act of 1989.*

20           (3) *TREATMENT OF INTEREST ALLOCABLE TO*  
21 *EFFECTIVELY CONNECTED INCOME.—*

22           (A) *IN GENERAL.—*

23           (i) *Subparagraph (B) of section*  
24 *884(f)(1) is amended by striking “to the ex-*  
25 *tent” and all that follows down through*

1           “subparagraph (A)” and inserting “to the  
2           extent that the allocable interest exceeds the  
3           interest described in subparagraph (A)”.

4           (ii) The second sentence of section  
5           884(f)(1) is amended by striking “reason-  
6           ably expected” and all that follows down  
7           through the period at the end thereof and  
8           inserting “reasonably expected to be alloca-  
9           ble interest.”

10           (iii) Paragraph (2) of section 884(f) is  
11           amended to read as follows:

12           “(2) *ALLOCABLE INTEREST.*—For purposes of  
13           this subsection, the term ‘allocable interest’ means any  
14           interest which is allocable to income which is effec-  
15           tively connected (or treated as effectively connected)  
16           with the conduct of a trade or business in the United  
17           States.”.

18           (B) *EFFECTIVE DATE.*—The amendments  
19           made by subparagraph (A) shall take effect as if  
20           included in the amendments made by section  
21           1241(a) of the Tax Reform Act of 1986.

22           (4) *CLARIFICATION OF SOURCE RULE.*—

23           (A) *IN GENERAL.*—Paragraph (2) of section  
24           865(b) is amended by striking “863(b)” and in-  
25           serting “863”.

1           (B) *EFFECTIVE DATE.*—*The amendment*  
2           *made by subparagraph (A) shall take effect as if*  
3           *included in the amendments made by section*  
4           *1211 of the Tax Reform Act of 1986.*

5           (5) *REPEAL OF OBSOLETE PROVISIONS.*—

6           (A) *Paragraph (1) of section 6038(a) is*  
7           *amended by striking “, and” at the end of sub-*  
8           *paragraph (E) and inserting a period, and by*  
9           *striking subparagraph (F).*

10          (B) *Subsection (b) of section 6038A is*  
11          *amended by adding “and” at the end of para-*  
12          *graph (2), by striking “, and” at the end of*  
13          *paragraph (3) and inserting a period, and by*  
14          *striking paragraph (4).*

15          (g) *TREATMENT OF ASSIGNMENT OF INTEREST IN*  
16          *CERTAIN BOND-FINANCED FACILITIES.*—

17          (1) *IN GENERAL.*—*Subparagraph (A) of section*  
18          *1317(3) of the Tax Reform Act of 1986 is amended*  
19          *by adding at the end thereof the following new sen-*  
20          *tence: “A facility shall not fail to be treated as de-*  
21          *scribed in this subparagraph by reason of an assign-*  
22          *ment (or an agreement to an assignment) by the gov-*  
23          *ernmental unit on whose behalf the bonds are issued*  
24          *of any part of its interest in the property financed by*  
25          *such bonds to another governmental unit.”.*

1           (2) *EFFECTIVE DATE.*—*The amendment made by*  
2           *paragraph (1) shall take effect as if included in such*  
3           *section 1317 on the date of the enactment of the Tax*  
4           *Reform Act of 1986.*

5           (h) *CLARIFICATION OF TREATMENT OF MEDICARE EN-*  
6           *TITLEMENT UNDER COBRA PROVISIONS.*—

7           (1) *IN GENERAL.*—

8                   (A)       *Subclause (V) of section*  
9                   *4980B(f)(2)(B)(i) is amended to read as follows:*

10                               “(V) *MEDICARE ENTITLEMENT*  
11                               *FOLLOWED BY QUALIFYING EVENT.*—*In*  
12                               *the case of a qualifying event described*  
13                               *in paragraph (3)(B) that occurs less*  
14                               *than 18 months after the date the cov-*  
15                               *ered employee became entitled to bene-*  
16                               *fits under title XVIII of the Social Se-*  
17                               *curity Act, the period of coverage for*  
18                               *qualified beneficiaries other than the*  
19                               *covered employee shall not terminate*  
20                               *under this clause before the close of the*  
21                               *36-month period beginning on the date*  
22                               *the covered employee became so enti-*  
23                               *tled.”.*

1           (B) Clause (v) of section 602(2)(A) of the  
2 *Employee Retirement Income Security Act of*  
3 *1974 is amended to read as follows:*

4           “(v) *MEDICARE ENTITLEMENT FOL-*  
5 *LOWED BY QUALIFYING EVENT.*—*In the case*  
6 *of a qualifying event described in section*  
7 *603(2) that occurs less than 18 months after*  
8 *the date the covered employee became enti-*  
9 *tled to benefits under title XVIII of the So-*  
10 *cial Security Act, the period of coverage for*  
11 *qualified beneficiaries other than the covered*  
12 *employee shall not terminate under this*  
13 *subparagraph before the close of the 36-*  
14 *month period beginning on the date the cov-*  
15 *ered employee became so entitled.”.*

16           (C) Clause (iv) of section 2202(2)(A) of the  
17 *Public Health Service Act is amended to read as*  
18 *follows:*

19           “(iv) *MEDICARE ENTITLEMENT FOL-*  
20 *LOWED BY QUALIFYING EVENT.*—*In the case*  
21 *of a qualifying event described in section*  
22 *2203(2) that occurs less than 18 months*  
23 *after the date the covered employee became*  
24 *entitled to benefits under title XVIII of the*  
25 *Social Security Act, the period of coverage*

1           *for qualified beneficiaries other than the*  
2           *covered employee shall not terminate under*  
3           *this subparagraph before the close of the 36-*  
4           *month period beginning on the date the cov-*  
5           *ered employee became so entitled.”.*

6           (2) *EFFECTIVE DATE.*—*The amendments made*  
7           *by this subsection shall apply to plan years beginning*  
8           *after December 31, 1989.*

9           (i) *TREATMENT OF CERTAIN REMIC INCLUSIONS.*—

10           (1) *IN GENERAL.*—*Subsection (a) of section 860E*  
11           *is amended by adding at the end thereof the following*  
12           *new paragraph:*

13           “(6) *COORDINATION WITH MINIMUM TAX.*—*For*  
14           *purposes of part VI of subchapter A of this chapter—*

15           “(A) *the reference in section 55(b)(2) to tax-*  
16           *able income shall be treated as a reference to tax-*  
17           *able income determined without regard to this*  
18           *subsection,*

19           “(B) *the alternative minimum taxable in-*  
20           *come of any holder of a residual interest in a*  
21           *REMIC for any taxable year shall in no event*  
22           *be less than the excess inclusion for such taxable*  
23           *year, and*

1           “(C) any excess inclusion shall be dis-  
2           regarded for purposes of computing the alter-  
3           native tax net operating loss deduction.

4           *The preceding sentence shall not apply to any organi-  
5           zation to which section 593 applies, except to the ex-  
6           tent provided in regulations prescribed by the Sec-  
7           retary under paragraph (2).”.*

8           (2) *EFFECTIVE DATE.*—*The amendment made by  
9           paragraph (1) shall take effect as if included in the  
10          amendments made by section 671 of the Tax Reform  
11          Act of 1986 unless the taxpayer elects to apply such  
12          amendment only to taxable years beginning after the  
13          date of the enactment of this Act.*

14          (j) *EXEMPTION FROM HARBOR MAINTENANCE TAX  
15          FOR CERTAIN PASSENGERS.*—

16                 (1) *IN GENERAL.*—*Subparagraph (D) of section  
17                 4462(b)(1) (relating to special rule for Alaska, Ha-  
18                 wahi, and possessions) is amended by inserting before  
19                 the period the following: “, or passengers transported  
20                 on United States flag vessels operating solely within  
21                 the State waters of Alaska or Hawaii and adjacent  
22                 international waters”.*

23                 (2) *EFFECTIVE DATE.*—*The amendment made by  
24                 paragraph (1) shall take effect as if included in the*

1        *amendments made by section 1402(a) of the Harbor*  
2        *Maintenance Revenue Act of 1986.*

3        *(k) AMENDMENTS RELATED TO REVENUE PROVISIONS*  
4        *OF ENERGY POLICY ACT OF 1992.—*

5                *(1) Effective with respect to taxable years begin-*  
6        *ning after December 31, 1990, subclause (II) of sec-*  
7        *tion 53(d)(1)(B)(iv) is amended to read as follows:*

8                                *“(II) the adjusted net minimum*  
9                                *tax for any taxable year is the amount*  
10                                *of the net minimum tax for such year*  
11                                *increased in the manner provided in*  
12                                *clause (iii).”.*

13                *(2) Subsection (g) of section 179A is redesignated*  
14        *as subsection (f).*

15                *(3) Subparagraph (E) of section 6724(d)(3) is*  
16        *amended by striking “section 6109(f)” and inserting*  
17        *“section 6109(h)”.*

18                *(4)(A) Subsection (d) of section 30 is amended—*

19                                *(i) by inserting “(determined without re-*  
20                                *gard to subsection (b)(3))” before the period at*  
21                                *the end of paragraph (1) thereof, and*

22                                *(ii) by adding at the end thereof the follow-*  
23                                *ing new paragraph:*

24                                *“(4) ELECTION TO NOT TAKE CREDIT.—No credit*  
25        *shall be allowed under subsection (a) for any vehicle*

1 *if the taxpayer elects to not have this section apply*  
2 *to such vehicle.”.*

3 *(B) Subsection (m) of section 6501 (as redesign-*  
4 *ated by section 1602) is amended by striking “sec-*  
5 *tion 40(f)” and inserting “section 30(d)(4), 40(f)”.*

6 *(5) Subclause (III) of section 501(c)(21)(D)(ii) is*  
7 *amended by striking “section 101(6)” and inserting*  
8 *“section 101(7)” and by striking “1752(6)” and in-*  
9 *serting “1752(7)”.*

10 *(6) Paragraph (1) of section 1917(b) of the En-*  
11 *ergy Policy Act of 1992 shall be applied as if “at a*  
12 *rate” appeared instead of “at the rate” in the mate-*  
13 *rial proposed to be stricken.*

14 *(7) Paragraph (2) of section 1921(b) of the En-*  
15 *ergy Policy Act of 1992 shall be applied as if a*  
16 *comma appeared after “(2)” in the material proposed*  
17 *to be stricken.*

18 *(8) Subsection (a) of section 1937 of the Energy*  
19 *Policy Act of 1992 shall be applied as if “Subpart B”*  
20 *appeared instead of “Subpart C”.*

21 *(l) TREATMENT OF QUALIFIED FOOTBALL COACHES*

22 *PLAN.—*

23 *(1) IN GENERAL.—For purposes of the Internal*  
24 *Revenue Code of 1986, a qualified football coaches*  
25 *plan—*

1           (A) shall be treated as a multiemployer col-  
2           lectively bargained plan, and

3           (B) notwithstanding section 401(k)(4)(B) of  
4           such Code, may include a qualified cash and de-  
5           ferred arrangement under section 401(k) of such  
6           Code.

7           (2) *QUALIFIED FOOTBALL COACHES PLAN.*—For  
8           purposes of this subsection, the term “qualified foot-  
9           ball coaches plan” means any defined contribution  
10          plan which is established and maintained by an orga-  
11          nization—

12           (A) which is described in section 501(c) of  
13          such Code,

14           (B) the membership of which consists en-  
15          tirely of individuals who primarily coach foot-  
16          ball as full-time employees of 4-year colleges or  
17          universities described in section 170(b)(1)(A)(ii)  
18          of such Code, and

19           (C) which was in existence on September  
20          18, 1986.

21           (3) *EFFECTIVE DATE.*—This subsection shall  
22          apply to years beginning after December 22, 1987.

23           (m) *DETERMINATION OF UNRECOVERED INVESTMENT*  
24          *IN ANNUITY CONTRACT.*—

1           (1) *IN GENERAL.*—Subparagraph (A) of section  
2           72(b)(4) is amended by inserting “(determined with-  
3           out regard to subsection (c)(2))” after “contract”.

4           (2) *EFFECTIVE DATE.*—The amendment made by  
5           paragraph (1) shall take effect as if included in the  
6           amendments made by section 1122(c) of the Tax Re-  
7           form Act of 1986.

8           (n) *MODIFICATIONS TO ELECTION TO INCLUDE*  
9           *CHILD’S INCOME ON PARENT’S RETURN.*—

10           (1) *ELIGIBILITY FOR ELECTION.*—Clause (ii) of  
11           section 1(g)(7)(A) (relating to election to include cer-  
12           tain unearned income of child on parent’s return) is  
13           amended to read as follows:

14                           “(ii) such gross income is more than  
15                           the amount described in paragraph  
16                           (4)(A)(ii)(I) and less than 10 times the  
17                           amount so described,”.

18           (2) *COMPUTATION OF TAX.*—Subparagraph (B)  
19           of section 1(g)(7) (relating to income included on par-  
20           ent’s return) is amended—

21                           (A) by striking “\$1,000” in clause (i) and  
22                           inserting “twice the amount described in para-  
23                           graph (4)(A)(ii)(I)”, and

24                           (B) by amending subclause (II) of clause  
25                           (ii) to read as follows:

1                   “(II) for each such child, 15 per-  
2                   cent of the lesser of the amount de-  
3                   scribed in paragraph (4)(A)(ii)(I) or  
4                   the excess of the gross income of such  
5                   child over the amount so described,  
6                   and”.

7                   (3) *MINIMUM TAX.*—Subparagraph (B) of section  
8                   59(j)(1) is amended by striking “\$1,000” and insert-  
9                   ing “twice the amount in effect for the taxable year  
10                  under section 63(c)(5)(A)”.

11                  (4) *EFFECTIVE DATE.*—The amendments made  
12                  by this subsection shall apply to taxable years begin-  
13                  ning after December 31, 1995.

14                  (o) *TREATMENT OF CERTAIN VETERANS’ REEMPLOY-*  
15 *MENT RIGHTS.*—

16                  (1) *IN GENERAL.*—Section 414 is amended by  
17                  adding at the end the following new subsection:

18                  “(u) *SPECIAL RULES RELATING TO VETERANS’ REEM-*  
19 *PLOYMENT RIGHTS UNDER USERRA.*—

20                  “(1) *TREATMENT OF CERTAIN CONTRIBUTIONS*  
21 *MADE PURSUANT TO VETERANS’ REEMPLOYMENT*  
22 *RIGHTS.*—If any contribution is made by an em-  
23                  ployer or an employee under an individual account  
24                  plan with respect to an employee, or by an employee  
25                  to a defined benefit plan that provides for employee

1        *contributions, and such contribution is required by*  
2        *reason of such employee’s rights under chapter 43 of*  
3        *title 38, United States Code, resulting from qualified*  
4        *military service, then—*

5                *“(A) such contribution shall not be subject*  
6                *to any otherwise applicable limitation contained*  
7                *in section 402(g), 402(h), 403(b), 404(a), 404(h),*  
8                *408, 415, or 457, and shall not be taken into ac-*  
9                *count in applying such limitations to other con-*  
10              *tributions or benefits under such plan or any*  
11              *other plan, with respect to the year in which the*  
12              *contribution is made,*

13              *“(B) such contribution shall be subject to*  
14              *the limitations referred to in subparagraph (A)*  
15              *with respect to the year to which the contribu-*  
16              *tion relates (in accordance with rules prescribed*  
17              *by the Secretary), and*

18              *“(C) such plan shall not be treated as fail-*  
19              *ing to meet the requirements of section 401(a)(4),*  
20              *401(a)(26), 401(k)(3), 401(k)(11), 401(k)(12),*  
21              *401(m), 403(b)(12), 408(k)(3), 408(k)(6), 408(p),*  
22              *410(b), or 416 by reason of the making of (or the*  
23              *right to make) such contribution.*

24        *For purposes of the preceding sentence, any elective*  
25        *deferral or employee contribution made under para-*

1 *graph (2) shall be treated as required by reason of the*  
2 *employee's rights under such chapter 43.*

3 *“(2) REEMPLOYMENT RIGHTS UNDER USERRA*  
4 *WITH RESPECT TO ELECTIVE DEFERRALS.—*

5 *“(A) IN GENERAL.—For purposes of this*  
6 *subchapter and section 457, if an employee is en-*  
7 *titled to the benefits of chapter 43 of title 38,*  
8 *United States Code, with respect to any plan*  
9 *which provides for elective deferrals, the em-*  
10 *ployer sponsoring the plan shall be treated as*  
11 *meeting the requirements of such chapter 43 with*  
12 *respect to such elective deferrals only if such em-*  
13 *ployer—*

14 *“(i) permits such employee to make ad-*  
15 *ditional elective deferrals under such plan*  
16 *(in the amount determined under subpara-*  
17 *graph (B) or such lesser amount as is elect-*  
18 *ed by the employee) during the period which*  
19 *begins on the date of the reemployment of*  
20 *such employee with such employer and has*  
21 *the same length as the lesser of—*

22 *“(I) the product of 3 and the pe-*  
23 *riod of qualified military service which*  
24 *resulted in such rights, and*

25 *“(II) 5 years, and*

1           “(i) makes a matching contribution  
2           with respect to any additional elective deferr-  
3           ral made pursuant to clause (i) which  
4           would have been required had such deferral  
5           actually been made during the period of  
6           such qualified military service.

7           “(B) AMOUNT OF MAKEUP REQUIRED.—The  
8           amount determined under this subparagraph  
9           with respect to any plan is the maximum  
10          amount of the elective deferrals that the individ-  
11          ual would have been permitted to make under the  
12          plan in accordance with the limitations referred  
13          to in paragraph (1)(A) during the period of  
14          qualified military service if the individual had  
15          continued to be employed by the employer during  
16          such period and received compensation as deter-  
17          mined under paragraph (7). Proper adjustment  
18          shall be made to the amount determined under  
19          the preceding sentence for any elective deferrals  
20          actually made during the period of such quali-  
21          fied military service.

22          “(C) ELECTIVE DEFERRAL.—For purposes  
23          of this paragraph, the term ‘elective deferral’ has  
24          the meaning given such term by section  
25          402(g)(3); except that such term shall include

1           *any deferral of compensation under an eligible*  
2           *deferred compensation plan (as defined in sec-*  
3           *tion 457(b)).*

4           “(D) *AFTER-TAX EMPLOYEE CONTRIBU-*  
5           *TIONS.—References in subparagraphs (A) and*  
6           *(B) to elective deferrals shall be treated as in-*  
7           *cluding references to employee contributions.*

8           “(3) *CERTAIN RETROACTIVE ADJUSTMENTS NOT*  
9           *REQUIRED.—For purposes of this subchapter and sub-*  
10          *chapter E, no provision of chapter 43 of title 38,*  
11          *United States Code, shall be construed as requiring—*

12           “(A) *any crediting of earnings to an em-*  
13           *ployee with respect to any contribution before*  
14           *such contribution is actually made, or*

15           “(B) *any allocation of any forfeiture with*  
16           *respect to the period of qualified military service.*

17          “(4) *LOAN REPAYMENT SUSPENSIONS PER-*  
18          *MITTED.—If any plan suspends the obligation to*  
19          *repay any loan made to an employee from such plan*  
20          *for any part of any period during which such em-*  
21          *ployee is performing service in the uniformed services*  
22          *(as defined in chapter 43 of title 38, United States*  
23          *Code), whether or not qualified military service, such*  
24          *suspension shall not be taken into account for pur-*  
25          *poses of section 72(p), 401(a), or 4975(d)(1).*

1           “(5) *QUALIFIED MILITARY SERVICE.*—*For pur-*  
2           *poses of this subsection, the term ‘qualified military*  
3           *service’ means any service in the uniformed services*  
4           *(as defined in chapter 43 of title 38, United States*  
5           *Code) by any individual if such individual is entitled*  
6           *to reemployment rights under such chapter with re-*  
7           *spect to such service.*

8           “(6) *INDIVIDUAL ACCOUNT PLAN.*—*For purposes*  
9           *of this subsection, the term ‘individual account plan’*  
10           *means any defined contribution plan (including any*  
11           *tax-sheltered annuity plan under section 403(b), any*  
12           *simplified employee pension under section 408(k),*  
13           *any qualified salary reduction arrangement under*  
14           *section 408(p), and any eligible deferred compensa-*  
15           *tion plan (as defined in section 457(b)).*

16           “(7) *COMPENSATION.*—*For purposes of sections*  
17           *403(b)(3), 415(c)(3), and 457(e)(5), an employee who*  
18           *is in qualified military service shall be treated as re-*  
19           *ceiving compensation from the employer during such*  
20           *period of qualified military service equal to—*

21                   “(A) *the compensation the employee would*  
22                   *have received during such period if the employee*  
23                   *were not in qualified military service, deter-*  
24                   *mined based on the rate of pay the employee*  
25                   *would have received from the employer but for*

1           *absence during the period of qualified military*  
2           *service, or*

3           “(B) *if the compensation the employee*  
4           *would have received during such period was not*  
5           *reasonably certain, the employee’s average com-*  
6           *penetration from the employer during the 12-*  
7           *month period immediately preceding the quali-*  
8           *fied military service (or, if shorter, the period of*  
9           *employment immediately preceding the qualified*  
10           *military service).*

11           “(8) *USERRA REQUIREMENTS FOR QUALIFIED*  
12           *RETIREMENT PLANS.—For purposes of this subchapter*  
13           *and section 457, an employer sponsoring a retirement*  
14           *plan shall be treated as meeting the requirements of*  
15           *chapter 43 of title 38, United States Code, only if*  
16           *each of the following requirements is met:*

17           “(A) *An individual reemployed under such*  
18           *chapter is treated with respect to such plan as*  
19           *not having incurred a break in service with the*  
20           *employer maintaining the plan by reason of such*  
21           *individual’s period of qualified military service.*

22           “(B) *Each period of qualified military serv-*  
23           *ice served by an individual is, upon reemploy-*  
24           *ment under such chapter, deemed with respect to*  
25           *such plan to constitute service with the employer*

1           *maintaining the plan for the purpose of deter-*  
2           *mining the nonforfeitability of the individual's*  
3           *accrued benefits under such plan and for the*  
4           *purpose of determining the accrual of benefits*  
5           *under such plan.*

6           “(C) *An individual reemployed under such*  
7           *chapter is entitled to accrued benefits that are*  
8           *contingent on the making of, or derived from,*  
9           *employee contributions or elective deferrals only*  
10          *to the extent the individual makes payment to*  
11          *the plan with respect to such contributions or de-*  
12          *ferrals. No such payment may exceed the amount*  
13          *the individual would have been permitted or re-*  
14          *quired to contribute had the individual remained*  
15          *continuously employed by the employer through-*  
16          *out the period of qualified military service. Any*  
17          *payment to such plan shall be made during the*  
18          *period beginning with the date of reemployment*  
19          *and whose duration is 3 times the period of the*  
20          *qualified military service (but not greater than*  
21          *5 years).*

22          “(9) *PLANS NOT SUBJECT TO TITLE 38.—This*  
23          *subsection shall not apply to any retirement plan to*  
24          *which chapter 43 of title 38, United States Code, does*  
25          *not apply.*

1           “(10) *REFERENCES.*—For purposes of this sec-  
2           tion, any reference to chapter 43 of title 38, United  
3           States Code, shall be treated as a reference to such  
4           chapter as in effect on December 12, 1994 (without re-  
5           gard to any subsequent amendment).”.

6           (2) *EFFECTIVE DATE.*—The amendment made by  
7           this subsection shall be effective as of December 12,  
8           1994.

9           (p) *REPORTING OF REAL ESTATE TRANSACTIONS.*—

10           (1) *IN GENERAL.*—Paragraph (3) of section  
11           6045(e) (relating to prohibition of separate charge for  
12           filing return) is amended by adding at the end the  
13           following new sentence: “Nothing in this paragraph  
14           shall be construed to prohibit the real estate reporting  
15           person from taking into account its cost of complying  
16           with such requirement in establishing its charge  
17           (other than a separate charge for complying with such  
18           requirement) to any customer for performing services  
19           in the case of a real estate transaction.”.

20           (2) *EFFECTIVE DATE.*—The amendment made by  
21           paragraph (1) shall take effect as if included in sec-  
22           tion 1015(e)(2)(A) of the Technical and Miscellaneous  
23           Revenue Act of 1988.

24           (q) *CLARIFICATION OF DENIAL OF DEDUCTION FOR*  
25           *STOCK REDEMPTION EXPENSES.*

1           (1) *IN GENERAL.*—Paragraph (1) of section  
2           162(k) is amended by striking “the redemption of its  
3           stock” and inserting “the reacquisition of its stock or  
4           of the stock of any related person (as defined in sec-  
5           tion 465(b)(3)(C))”.

6           (2) *CERTAIN DEDUCTIONS PERMITTED.*—Sub-  
7           paragraph (A) of section 162(k)(2) is amended by  
8           striking “or” at the end of clause (i), by redesignating  
9           clause (ii) as clause (iii), and by inserting after  
10          clause (i) the following new clause:

11                       “(ii) deduction for amounts which are  
12                       properly allocable to indebtedness and am-  
13                       ortized over the term of such indebtedness,  
14                       or”.

15          (3) *CLERICAL AMENDMENT.*—The subsection  
16          heading for subsection (k) of section 162 is amended  
17          by striking “REDEMPTION” and inserting “REACQUI-  
18          SITION”.

19          (4) *EFFECTIVE DATE.*—

20                (A) *IN GENERAL.*—Except as provided in  
21                subparagraph (B), the amendments made by this  
22                subsection shall apply to amounts paid or in-  
23                curred after September 13, 1995, in taxable  
24                years ending after such date.

1           (B) *PARAGRAPH (2).*—*The amendment*  
2           *made by paragraph (2) shall take effect as if in-*  
3           *cluded in the amendment made by section 613 of*  
4           *the Tax Reform Act of 1986.*

5           (r) *CLERICAL AMENDMENT TO SECTION 404.*—

6           (1) *IN GENERAL.*—*Paragraph (1) of section*  
7           *404(j) is amended by striking “(10)” and inserting*  
8           *“(9)”.*

9           (2) *EFFECTIVE DATE.*—*The amendment made by*  
10          *paragraph (1) shall take effect as if included in the*  
11          *amendments made by section 713(d)(4)(A) of the Def-*  
12          *icit Reduction Act of 1984.*

13          (s) *PASSIVE INCOME NOT TO INCLUDE FSC INCOME,*  
14          *ETC.*—

15          (1) *IN GENERAL.*—*Paragraph (2) of section*  
16          *1296(b) is amended by striking “or” at the end of*  
17          *subparagraph (B), by striking the period at the end*  
18          *of subparagraph (C) and inserting “, or”, and by in-*  
19          *serting after subparagraph (C) the following new sub-*  
20          *paragraph:*

21                  *“(D) which is foreign trade income of a*  
22                  *FSC or export trade income of an export trade*  
23                  *corporation (as defined in section 971).”.*

24          (2) *EFFECTIVE DATE.*—*The amendment made by*  
25          *paragraph (1) shall take effect as if included in the*

1        *amendments made by section 1235 of the Tax Reform*  
2        *Act of 1986.*

3        *(t) MISCELLANEOUS CLERICAL AMENDMENTS.—*

4            *(1) Subclause (II) of section 56(g)(4)(C)(ii) is*  
5        *amended by striking “of the subclause” and inserting*  
6        *“of subclause”.*

7            *(2) Paragraph (2) of section 72(m) is amended*  
8        *by inserting “and” at the end of subparagraph (A),*  
9        *by striking subparagraph (B), and by redesignating*  
10       *subparagraph (C) as subparagraph (B).*

11           *(3) Paragraph (2) of section 86(b) is amended by*  
12       *striking “adusted” and inserting “adjusted”.*

13           *(4)(A) The heading for section 112 is amended*  
14       *by striking “**COMBAT PAY**” and inserting “**COMBAT***  
15       ***ZONE COMPENSATION**”.*

16           *(B) The item relating to section 112 in the table*  
17       *of sections for part III of subchapter B of chapter 1*  
18       *is amended by striking “combat pay” and inserting*  
19       *“combat zone compensation”.*

20           *(C) Paragraph (1) of section 3401(a) is amended*  
21       *by striking “combat pay” and inserting “combat zone*  
22       *compensation”.*

23           *(5) Clause (i) of section 172(h)(3)(B) is amended*  
24       *by striking the comma at the end thereof and insert-*  
25       *ing a period.*

1           (6) *Clause (ii) of section 543(a)(2)(B) is amended*  
2 *ed by striking “section 563(c)” and inserting “section*  
3 *563(d)”.*

4           (7) *Paragraph (1) of section 958(a) is amended*  
5 *by striking “sections 955(b)(1) (A) and (B),*  
6 *955(c)(2)(A)(ii), and 960(a)(1)” and inserting “sec-*  
7 *tion 960(a)(1)”.*

8           (8) *Subsection (g) of section 642 is amended by*  
9 *striking “under 2621(a)(2)” and inserting “under*  
10 *section 2621(a)(2)”.*

11           (9) *Section 1463 is amended by striking “this*  
12 *subsection” and inserting “this section”.*

13           (10) *Subsection (k) of section 3306 is amended*  
14 *by inserting a period at the end thereof.*

15           (11) *The item relating to section 4472 in the*  
16 *table of sections for subchapter B of chapter 36 is*  
17 *amended by striking “and special rules”.*

18           (12) *Paragraph (3) of section 5134(c) is amend-*  
19 *ed by striking “section 6662(a)” and inserting “sec-*  
20 *tion 6665(a)”.*

21           (13) *Paragraph (2) of section 5206(f) is amended*  
22 *by striking “section 5(e)” and inserting “section*  
23 *105(e)”.*

1           (14) Paragraph (1) of section 6050B(c) is  
2 amended by striking “section 85(c)” and inserting  
3 “section 85(b)”.

4           (15) Subsection (k) of section 6166 is amended  
5 by striking paragraph (6).

6           (16) Subsection (e) of section 6214 is amended to  
7 read as follows:

8           “(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).”**

9           (17) The section heading for section 6043 is  
10 amended by striking the semicolon and inserting a  
11 comma.

12           (18) The item relating to section 6043 in the  
13 table of sections for subpart B of part III of sub-  
14 chapter A of chapter 61 is amended by striking the  
15 semicolon and inserting a comma.

16           (19) The table of sections for part I of subchapter  
17 A of chapter 68 is amended by striking the item relat-  
18 ing to section 6662.

19           (20)(A) Section 7232 is amended—

20                   (i) by striking “**LUBRICATING OIL,**” in  
21 the heading, and

22                   (ii) by striking “lubricating oil,” in the  
23 text.

1           (B) *The table of sections for part II of sub-*  
2 *chapter A of chapter 75 is amended by striking “lu-*  
3 *bricating oil,” in the item relating to section 7232.*

4           (21) *Paragraph (1) of section 6701(a) of the Om-*  
5 *nibus Budget Reconciliation Act of 1989 is amended*  
6 *by striking “subclause (IV)” and inserting “subclause*  
7 *(V)”.*

8           (22) *Clause (ii) of section 7304(a)(2)(D) of such*  
9 *Act is amended by striking “subsection (c)(2)” and*  
10 *inserting “subsection (c)”.*

11           (23) *Paragraph (1) of section 7646(b) of such*  
12 *Act is amended by striking “section 6050H(b)(1)”*  
13 *and inserting “section 6050H(b)(2)”.*

14           (24) *Paragraph (10) of section 7721(c) of*  
15 *such Act is amended by striking “section*  
16 *6662(b)(2)(C)(ii)” and inserting “section*  
17 *6661(b)(2)(C)(ii)”.*

18           (25) *Subparagraph (A) of section 7811(i)(3) of*  
19 *such Act is amended by inserting “the first place it*  
20 *appears” before “in clause (i)”.*

21           (26) *Paragraph (10) of section 7841(d) of*  
22 *such Act is amended by striking “section 381(a)”*  
23 *and inserting “section 381(c)”.*

1           (27) Paragraph (2) of section 7861(c) of such Act  
2           is amended by inserting “the second place it appears”  
3           before “and inserting”.

4           (28) Paragraph (1) of section 460(b) is amended  
5           by striking “the look-back method of paragraph (3)”  
6           and inserting “the look-back method of paragraph  
7           (2)”.

8           (29) Subparagraph (C) of section 50(a)(2) is  
9           amended by striking “subsection (c)(4)” and inserting  
10          “subsection (d)(5)”.

11          (30) Subparagraph (B) of section 172(h)(4) is  
12          amended by striking the material following the head-  
13          ing and preceding clause (i) and inserting “For pur-  
14          poses of subsection (b)(2)—”.

15          (31) Subparagraph (A) of section 355(d)(7) is  
16          amended by inserting “section” before “267(b)”.

17          (32) Subparagraph (C) of section 420(e)(1) is  
18          amended by striking “mean” and inserting “means”.

19          (33) Paragraph (4) of section 537(b) is amended  
20          by striking “section 172(i)” and inserting “section  
21          172(f)”.

22          (34) Subparagraph (B) of section 613(e)(1) is  
23          amended by striking the comma at the end thereof  
24          and inserting a period.

1           (35) Paragraph (4) of section 856(a) is amended  
2           by striking “section 582(c)(5)” and inserting “section  
3           582(c)(2)”.

4           (36) Sections 904(f)(2)(B)(i) and  
5           907(c)(4)(B)(iii) are each amended by inserting “(as  
6           in effect on the day before the date of the enactment  
7           of the Revenue Reconciliation Act of 1990)” after  
8           “section 172(h)”.

9           (37) Subsection (b) of section 936 is amended by  
10          striking “subparagraphs (D)(ii)(I)” and inserting  
11          “subparagraphs (D)(ii)”.

12          (38) Subsection (c) of section 2104 is amended  
13          by striking “subparagraph (A), (C), or (D) of section  
14          861(a)(1)” and inserting “section 861(a)(1)(A)”.

15          (39) Subparagraph (A) of section 280A(c)(1) is  
16          amended to read as follows:

17                  “(A) as the principal place of business for  
18                  any trade or business of the taxpayer,”.

19          (40) Section 6038 is amended by redesignating  
20          the subsection relating to cross references as subsection  
21          (f).

22          (41) Clause (iv) of section 6103(e)(1)(A) is  
23          amended by striking all that follows “provisions of”  
24          and inserting “section 1(g) or 59(j);”.

1           (42) *The subsection (f) of section 6109 of the Internal Revenue Code of 1986 which was added by section 2201(d) of Public Law 101–624 is redesignated as subsection (g).*

5           (43) *Subsection (b) of section 7454 is amended by striking “section 4955(e)(2)” and inserting “section 4955(f)(2)”.*

8           (44) *Subsection (d) of section 11231 of the Revenue Reconciliation Act of 1990 shall be applied as if “comma” appeared instead of “period” and as if the paragraph (9) proposed to be added ended with a comma.*

13          (45) *Paragraph (1) of section 11303(b) of the Revenue Reconciliation Act of 1990 shall be applied as if “paragraph” appeared instead of “subparagraph” in the material proposed to be stricken.*

17          (46) *Subsection (f) of section 11701 of the Revenue Reconciliation Act of 1990 is amended by inserting “(relating to definitions)” after “section 6038(e)”.*

20          (47) *Subsection (i) of section 11701 of the Revenue Reconciliation Act of 1990 shall be applied as if “subsection” appeared instead of “section” in the material proposed to be stricken.*

24          (48) *Subparagraph (B) of section 11801(c)(2) of the Revenue Reconciliation Act of 1990 shall be ap-*

1        *plied as if “section 56(g)” appeared instead of “sec-*  
2        *tion 59(g)”.*

3            *(49) Subparagraph (C) of section 11801(c)(8) of*  
4        *the Revenue Reconciliation Act of 1990 shall be ap-*  
5        *plied as if “reorganizations” appeared instead of “re-*  
6        *organization” in the material proposed to be stricken.*

7            *(50) Subparagraph (H) of section 11801(c)(9) of*  
8        *the Revenue Reconciliation Act of 1990 shall be ap-*  
9        *plied as if “section 1042(c)(1)(B)” appeared instead*  
10       *of “section 1042(c)(2)(B)”.*

11           *(51) Subparagraph (F) of section 11801(c)(12) of*  
12       *the Revenue Reconciliation Act of 1990 shall be ap-*  
13       *plied as if “and (3)” appeared instead of “and (E)”.*

14           *(52) Subparagraph (A) of section 11801(c)(22) of*  
15       *the Revenue Reconciliation Act of 1990 shall be ap-*  
16       *plied as if “chapters 21” appeared instead of “chap-*  
17       *ter 21” in the material proposed to be stricken.*

18           *(53) Paragraph (3) of section 11812(b) of the*  
19       *Revenue Reconciliation Act of 1990 shall be applied*  
20       *by not executing the amendment therein to the head-*  
21       *ing of section 42(d)(5)(B).*

22           *(54) Clause (i) of section 11813(b)(9)(A) of the*  
23       *Revenue Reconciliation Act of 1990 shall be applied*  
24       *as if a comma appeared after “(3)(A)(ix)” in the ma-*  
25       *terial proposed to be stricken.*

1           (55) *Subparagraph (F) of section 11813(b)(13)*  
2           *of the Revenue Reconciliation Act of 1990 shall be ap-*  
3           *plied as if “tax” appeared after “investment” in the*  
4           *material proposed to be stricken.*

5           (56) *Paragraph (19) of section 11813(b) of the*  
6           *Revenue Reconciliation Act of 1990 shall be applied*  
7           *as if “Paragraph (20) of section 1016(a), as redesign-*  
8           *ated by section 11801,” appeared instead of “Para-*  
9           *graph (21) of section 1016(a)”.*

10          (57) *Paragraph (5) section 8002(a) of the Sur-*  
11          *face Transportation Revenue Act of 1991 shall be ap-*  
12          *plied as if “4481(e)” appeared instead of “4481(c)”.*

13          (58) *Section 7872 is amended—*

14                 (A) *by striking “foregone” each place it ap-*  
15                 *pears in subsections (a) and (e)(2) and inserting*  
16                 *“forgone”, and*

17                 (B) *by striking “FOREGONE” in the heading*  
18                 *for subsection (e) and the heading for paragraph*  
19                 *(2) of subsection (e) and inserting “FORGONE”.*

20          (59) *Paragraph (7) of section 7611(h) is amend-*  
21          *ed by striking “appropriat” and inserting “appro-*  
22          *priate”.*

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 inserting  
3 “Commissioners’ ”.

4           (62) Subparagraph (B) of section 1274A(c)(1) is  
5 amended by striking “instument” and inserting “in-  
6 strument”.

7           (63) Subparagraph (B) of section 724(d)(3) by  
8 striking “Subparagaph” and inserting “Subpara-  
9 graph”.

10           (64) The last sentence of paragraph (2) of section  
11 42(c) is amended by striking “of 1988”.

12           (65) Paragraph (1) of section 9707(d) is amend-  
13 ed by striking “diligence,” and inserting “diligence”.

14           (66) Subsection (c) of section 4977 is amended  
15 by striking “section 132(i)(2)” and inserting “section  
16 132(h)”.

17           (67) The last sentence of section 401(a)(20) is  
18 amended by striking “section 211” and inserting  
19 “section 521”.

20           (68) Subparagraph (A) of section 402(g)(3) is  
21 amended by striking “subsection (a)(8)” and insert-  
22 ing “subsection (e)(3)”.

23           (69) The last sentence of section 403(b)(10) is  
24 amended by striking “an direct” and inserting “a  
25 direct”.

1           (70) Subparagraph (A) of section 4973(b)(1) is  
2           amended by striking “sections 402(c)” and inserting  
3           “section 402(c)”.

4           (71) Paragraph (12) of section 3405(e) is  
5           amended by striking “(b)(3)” and inserting “(b)(2)”.

6           (72) Paragraph (41) of section 521(b) of the Un-  
7           employment Compensation Amendments of 1992 shall  
8           be applied as if “section” appeared instead of “sec-  
9           tions” in the material proposed to be stricken.

10          (73) Paragraph (27) of section 521(b) of the Un-  
11          employment Compensation Amendments of 1992 shall  
12          be applied as if “Section 691(c)(5)” appeared instead  
13          of “Section 691(c)”.

14          (74) Paragraph (5) of section 860F(a) is amend-  
15          ed by striking “paragraph (1)” and inserting “para-  
16          graph (2)”.

17          (75) Paragraph (1) of section 415(k) is amended  
18          by adding “or” at the end of subparagraph (C), by  
19          striking subparagraphs (D) and (E), and by redesign-  
20          ating subparagraph (F) as subparagraph (D).

21          (76) Paragraph (2) of section 404(a) is amended  
22          by striking “(18),”.

23          (77) Clause (ii) of section 72(p)(4)(A) is amend-  
24          ed to read as follows:

1                   “(ii) *SPECIAL RULE.*—*The term ‘quali-*  
2                   *fied employer plan’ shall include any plan*  
3                   *which was (or was determined to be) a*  
4                   *qualified employer plan or a government*  
5                   *plan.’”.*

6                   (78) *Sections 461(i)(3)(C) and 1274(b)(3)(B)(i)*  
7                   *are each amended by striking “section*  
8                   *6662(d)(2)(C)(ii)” and inserting “section*  
9                   *6662(d)(2)(C)(iii)”.*

10                  (79) *Subsection (a) of section 164 is amended by*  
11                  *striking the paragraphs relating to the generation-*  
12                  *skipping tax and the environmental tax imposed by*  
13                  *section 59A and by inserting after paragraph (3) the*  
14                  *following new paragraphs:*

15                  “(4) *The GST tax imposed on income distribu-*  
16                  *tions.*

17                  “(5) *The environmental tax imposed by section*  
18                  *59A.’”.*

19                  (80) *Subclause (I) of section 936(a)(4)(A)(ii) is*  
20                  *amended by striking “depreciation” and inserting “de-*  
21                  *preciation”.*

## **Subtitle G—Other Provisions**

### **SEC. 1801. EXEMPTION FROM DIESEL FUEL DYEING REQUIREMENTS WITH RESPECT TO CERTAIN STATES.**

(a) *IN GENERAL.*—Section 4082 (relating to exemptions for diesel fuel) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

“(c) *EXCEPTION TO DYEING REQUIREMENTS.*—Paragraph (2) of subsection (a) shall not apply with respect to any diesel fuel—

“(1) removed, entered, or sold in a State for ultimate sale or use in an area of such State during the period such area is exempted from the fuel dyeing requirements under subsection (i) of section 211 of the Clean Air Act (as in effect on the date of the enactment of this subsection) by the Administrator of the Environmental Protection Agency under paragraph (4) of such subsection (i) (as so in effect), and

“(2) the use of which is certified pursuant to regulations issued by the Secretary.”

(b) *EFFECTIVE DATE.*—The amendments made by this section shall apply with respect to fuel removed, entered,

1 *or sold on or after the first day of the first calendar quarter*  
2 *beginning after the date of the enactment of this Act.*

3 **SEC. 1802. TREATMENT OF CERTAIN UNIVERSITY**  
4 **ACCOUNTS.**

5 *(a) IN GENERAL.—For purposes of subsection (s) of*  
6 *section 3121 of the Internal Revenue Code of 1986 (relating*  
7 *to concurrent employment by 2 or more employers)—*

8 *(1) the following entities shall be deemed to be*  
9 *related corporations that concurrently employ the*  
10 *same individual:*

11 *(A) a State university which employs health*  
12 *professionals as faculty members at a medical*  
13 *school, and*

14 *(B) an agency account of a State university*  
15 *which is described in subparagraph (A) and*  
16 *from which there is distributed to such faculty*  
17 *members payments forming a part of the com-*  
18 *penetration that the State, or such State univer-*  
19 *sity, as the case may be, agrees to pay to such*  
20 *faculty members, but only if—*

21 *(i) such agency account is authorized*  
22 *by State law and receives the funds for such*  
23 *payments from a faculty practice plan de-*  
24 *scribed in section 501(c)(3) of such Code*

1           *and exempt from tax under section 501(a)*  
2           *of such Code,*

3                   *(ii) such payments are distributed by*  
4           *such agency account to such faculty mem-*  
5           *bers who render patient care at such medi-*  
6           *cal school, and*

7                   *(iii) such faculty members comprise at*  
8           *least 30 percent of the membership of such*  
9           *faculty practice plan, and*

10           (2) *remuneration which is disbursed by such*  
11           *agency account to any such faculty member of the*  
12           *medical school described in paragraph (1)(A) shall be*  
13           *deemed to have been actually disbursed by the State,*  
14           *or such State university, as the case may be, as a*  
15           *common paymaster and not to have been actually dis-*  
16           *bursed by such agency account.*

17           (b) *EFFECTIVE DATE.*—*The provisions of subsection*  
18 (a) *shall apply to remuneration paid after December 31,*  
19 *1996.*

20 **SEC. 1803. MODIFICATIONS TO EXCISE TAX ON OZONE-DE-**  
21 **PLETING CHEMICALS.**

22 (a) *RECYCLED HALON.*—

23           (1) *IN GENERAL.*—*Section 4682(d)(1) (relating*  
24           *to recycling) is amended by inserting “, or on any re-*  
25           *cycled halon imported from any country which is a*

1       *signatory to the Montreal Protocol on Substances that*  
2       *Deplete the Ozone Layer” before the period at the end.*

3               (2) *CERTIFICATION SYSTEM.—The Secretary of*  
4       *the Treasury, after consultation with the Adminis-*  
5       *trator of the Environmental Protection Agency, shall*  
6       *develop a certification system to ensure compliance*  
7       *with the recycling requirement for imported halon*  
8       *under section 4682(d)(1) of the Internal Revenue Code*  
9       *of 1986, as amended by paragraph (1).*

10       (b) *CHEMICALS USED AS PROPELLANTS IN METERED-*  
11       *DOSE INHALERS TAX-EXEMPT.—Paragraph (4) of section*  
12       *4682(g) (relating to phase-in of tax on certain substances)*  
13       *is amended to read as follows:*

14               “(4) *CHEMICALS USED AS PROPELLANTS IN ME-*  
15       *TERED-DOSE INHALERS.—*

16               “(A) *TAX-EXEMPT.—*

17               “(i) *IN GENERAL.—No tax shall be im-*  
18       *posed by section 4681 on—*

19               “(I) *any use of any substance as*  
20       *a propellant in metered-dose inhalers,*  
21       *or*

22               “(II) *any qualified sale by the*  
23       *manufacturer, producer, or importer of*  
24       *any substance.*

1           “(i) *QUALIFIED SALE.*—For purposes  
2           of clause (i), the term ‘qualified sale’ means  
3           any sale by the manufacturer, producer, or  
4           importer of any substance—

5                     “(I) for use by the purchaser as a  
6                     propellant in metered-dose inhalers, or

7                     “(II) for resale by the purchaser  
8                     to a 2d purchaser for such use by the  
9                     2d purchaser.

10           The preceding sentence shall apply only if  
11           the manufacturer, producer, and importer,  
12           and the 1st and 2d purchasers (if any) meet  
13           such registration requirements as may be  
14           prescribed by the Secretary.

15           “(B) *OVERPAYMENTS.*—If any substance on  
16           which tax was paid under this subchapter is  
17           used by any person as a propellant in metered-  
18           dose inhalers, credit or refund without interest  
19           shall be allowed to such person in an amount  
20           equal to the excess of—

21                     “(i) the tax paid under this subchapter  
22                     on such substance, over

23                     “(ii) the tax (if any) which would be  
24                     imposed by section 4681 if such substance  
25                     were used for such use by the manufacturer,

1           producer, or importer thereof on the date of  
2           its use by such person.

3           Amounts payable under the preceding sen-  
4           tence with respect to uses during the taxable  
5           year shall be treated as described in section  
6           34(a) for such year unless claim thereof has  
7           been timely filed under this subparagraph.”

8           (c) *EFFECTIVE DATES.*—

9           (1) *RECYCLED HALON.*—The amendment made  
10          by subsection (a)(1) shall take effect on January 1,  
11          1997.

12          (2) *METERED-DOSE INHALERS.*—The amend-  
13          ment made by subsection (b) shall take effect on the  
14          7th day after the date of the enactment of this Act.

15   **SEC. 1804. TAX-EXEMPT BONDS FOR SALE OF ALASKA**  
16                           **POWER ADMINISTRATION FACILITY.**

17          Sections 142(f)(3) (as added by section 1605) and  
18          147(d) of the Internal Revenue Code of 1986 shall not apply  
19          in determining whether any private activity bond issued  
20          after the date of the enactment of this Act and used to fi-  
21          nance the acquisition of the Snettisham hydroelectric  
22          project from the Alaska Power Administration is a quali-  
23          fied bond for purposes of such Code.

1 **SEC. 1805. NONRECOGNITION TREATMENT FOR CERTAIN**  
2 **TRANSFERS BY COMMON TRUST FUNDS TO**  
3 **REGULATED INVESTMENT COMPANIES.**

4 (a) *GENERAL RULE.*—Section 584 (relating to com-  
5 mon trust funds) is amended by redesignating subsection  
6 (h) as subsection (i) and by inserting after subsection (g)  
7 the following new subsection:

8 “(h) *NONRECOGNITION TREATMENT FOR CERTAIN*  
9 *TRANSFERS TO REGULATED INVESTMENT COMPANIES.*—

10 “(1) *IN GENERAL.*—If—

11 “(A) a common trust fund transfers sub-  
12 stantially all of its assets to one or more regu-  
13 lated investment companies in exchange solely  
14 for stock in the company or companies to which  
15 such assets are so transferred, and

16 “(B) such stock is distributed by such com-  
17 mon trust fund to participants in such common  
18 trust fund in exchange solely for their interests  
19 in such common trust fund,

20 no gain or loss shall be recognized by such common  
21 trust fund by reason of such transfer or distribution,  
22 and no gain or loss shall be recognized by any partic-  
23 ipant in such common trust fund by reason of such  
24 exchange.

25 “(2) *BASIS RULES.*—

1           “(A) *REGULATED INVESTMENT COMPANY.*—  
2           *The basis of any asset received by a regulated in-*  
3           *vestment company in a transfer referred to in*  
4           *paragraph (1)(A) shall be the same as it would*  
5           *be in the hands of the common trust fund.*

6           “(B) *PARTICIPANTS.*—*The basis of the stock*  
7           *which is received in an exchange referred to in*  
8           *paragraph (1)(B) shall be the same as that of the*  
9           *property exchanged. If stock in more than one*  
10           *regulated investment company is received in*  
11           *such exchange, the basis determined under the*  
12           *preceding sentence shall be allocated among the*  
13           *stock in each such company on the basis of re-*  
14           *spective fair market values.*

15           “(3) *TREATMENT OF ASSUMPTIONS OF*  
16           *LIABILITY.*—

17           “(A) *IN GENERAL.*—*In determining whether*  
18           *the transfer referred to in paragraph (1)(A) is in*  
19           *exchange solely for stock in one or more regu-*  
20           *lated investment companies, the assumption by*  
21           *any such company of a liability of the common*  
22           *trust fund, and the fact that any property trans-*  
23           *ferred by the common trust fund is subject to a*  
24           *liability, shall be disregarded.*

1                   “(B) *SPECIAL RULE WHERE ASSUMED*  
2                   *LIABILITIES EXCEED BASIS.*—

3                   “(i) *IN GENERAL.*—*If, in any transfer*  
4                   *referred to in paragraph (1)(A), the as-*  
5                   *sumed liabilities exceed the aggregate ad-*  
6                   *justed bases (in the hands of the common*  
7                   *trust fund) of the assets transferred to the*  
8                   *regulated investment company or*  
9                   *companies—*

10                   “(I) *notwithstanding paragraph*  
11                   *(1), gain shall be recognized to the*  
12                   *common trust fund on such transfer in*  
13                   *an amount equal to such excess,*

14                   “(II) *the basis of the assets re-*  
15                   *ceived by the regulated investment*  
16                   *company or companies in such trans-*  
17                   *fer shall be increased by the amount so*  
18                   *recognized, and*

19                   “(III) *any adjustment to the basis*  
20                   *of a participant’s interest in the com-*  
21                   *mon trust fund as a result of the gain*  
22                   *so recognized shall be treated as occur-*  
23                   *ring immediately before the exchange*  
24                   *referred to in paragraph (1)(B).*

1            *If the transfer referred to in paragraph*  
2            *(1)(A) is to two or more regulated invest-*  
3            *ment companies, the basis increase under*  
4            *subclause (II) shall be allocated among such*  
5            *companies on the basis of the respective fair*  
6            *market values of the assets received by each*  
7            *of such companies.*

8            *“(i) ASSUMED LIABILITIES.—For pur-*  
9            *poses of clause (i), the term ‘assumed liabil-*  
10           *ities’ means the aggregate of—*

11           *“(I) any liability of the common*  
12           *trust fund assumed by any regulated*  
13           *investment company in connection*  
14           *with the transfer referred to in para-*  
15           *graph (1)(A), and*

16           *“(II) any liability to which prop-*  
17           *erty so transferred is subject.*

18           *“(4) COMMON TRUST FUND MUST MEET DIVER-*  
19           *SIFICATION RULES.—This subsection shall not apply*  
20           *to any common trust fund which would not meet the*  
21           *requirements of section 368(a)(2)(F)(ii) if it were a*  
22           *corporation. For purposes of the preceding sentence,*  
23           *Government securities shall not be treated as securi-*  
24           *ties of an issuer in applying the 25-percent and 50-*  
25           *percent test and such securities shall not be excluded*

1       for purposes of determining total assets under clause  
2       (iv) of section 368(a)(2)(F).”.

3       (b) *EFFECTIVE DATE.*—The amendment made by sub-  
4       section (a) shall apply to transfers after December 31, 1995.

5       **SEC. 1806. QUALIFIED STATE TUITION PROGRAMS.**

6       (a) *IN GENERAL.*—Subchapter F of chapter 1 (relating  
7       to exempt organizations) is amended by adding at the end  
8       the following new part:

9               **“PART VIII—QUALIFIED STATE TUITION**  
10               **PROGRAMS**

                  “Sec. 529. Qualified State tuition programs.

11       **“SEC. 529. QUALIFIED STATE TUITION PROGRAMS.**

12               “(a) *GENERAL RULE.*—A qualified State tuition pro-  
13       gram shall be exempt from taxation under this subtitle. Not-  
14       withstanding the preceding sentence, such program shall be  
15       subject to the taxes imposed by section 511 (relating to im-  
16       position of tax on unrelated business income of charitable  
17       organizations).

18               “(b) *QUALIFIED STATE TUITION PROGRAM.*—For pur-  
19       poses of this section—

20                       “(1) *IN GENERAL.*—The term ‘qualified State  
21       tuition program’ means a program established and  
22       maintained by a State or agency or instrumentality  
23       thereof—

24                               “(A) under which a person—

1           “(i) may purchase tuition credits or  
2           certificates on behalf of a designated bene-  
3           ficiary which entitle the beneficiary to the  
4           waiver or payment of qualified higher edu-  
5           cation expenses of the beneficiary, or

6           “(ii) may make contributions to an ac-  
7           count which is established for the sole pur-  
8           pose of meeting the qualified higher edu-  
9           cation expenses of the designated beneficiary  
10          of the account, and

11          “(B) which meets the other requirements of  
12          this subsection.

13          “(2) CASH CONTRIBUTIONS.—A program shall  
14          not be treated as a qualified State tuition program  
15          unless it provides that purchases or contributions  
16          may only be made in cash.

17          “(3) REFUNDS.—A program shall not be treated  
18          as a qualified State tuition program unless it imposes  
19          a more than de minimis penalty on any refund of  
20          earnings from the account which are not—

21          “(A) used for qualified higher education ex-  
22          penses of the designated beneficiary,

23          “(B) made on account of the death or dis-  
24          ability of the designated beneficiary, or

1           “(C) *made on account of a scholarship re-*  
2           *ceived by the designated beneficiary to the extent*  
3           *the amount of the refund does not exceed the*  
4           *amount of the scholarship used for qualified*  
5           *higher education expenses.*

6           “(4) *SEPARATE ACCOUNTING.—A program shall*  
7           *not be treated as a qualified State tuition program*  
8           *unless it provides separate accounting for each des-*  
9           *ignated beneficiary.*

10          “(5) *NO INVESTMENT DIRECTION.—A program*  
11          *shall not be treated as a qualified State tuition pro-*  
12          *gram unless it provides that any contributor to, or*  
13          *designated beneficiary under, such program may not*  
14          *direct the investment of any contributions to the pro-*  
15          *gram (or any earnings thereon).*

16          “(6) *NO PLEDGING OF INTEREST AS SECURITY.—*  
17          *A program shall not be treated as a qualified State*  
18          *tuition program if it allows any interest in the pro-*  
19          *gram or any portion thereof to be used as security for*  
20          *a loan.*

21          “(c) *TAX TREATMENT OF DESIGNATED BENE-*  
22          *FICIARIES AND CONTRIBUTORS.—*

23                 “(1) *IN GENERAL.—Except as otherwise provided*  
24                 *in this subsection, no amount shall be includible in*  
25                 *gross income of—*

1           “(A) a designated beneficiary under a  
2           qualified State tuition program, or

3           “(B) a contributor to such program on be-  
4           half of a designated beneficiary,  
5           with respect to any contribution to, or earnings  
6           under, such program.

7           “(2) DISTRIBUTIONS.—

8           “(A) IN GENERAL.—Any distribution under  
9           a qualified State tuition program shall be in-  
10          cludible in the gross income of the distributee in  
11          the same manner as provided under section 72  
12          to the extent not excluded from gross income  
13          under any other provision of this chapter.

14          “(B) IN-KIND DISTRIBUTIONS.—The fur-  
15          nishing of education to a designated beneficiary  
16          under a qualified State tuition program shall be  
17          treated as a distribution to the beneficiary.

18          “(C) CHANGE IN BENEFICIARIES.—

19                 “(i) ROLLOVERS.—Subparagraph (A)  
20                 shall not apply to that portion of any dis-  
21                 tribution which, within 60 days of such dis-  
22                 tribution, is transferred to the credit of an-  
23                 other designated beneficiary under a quali-  
24                 fied State tuition program who is a member  
25                 of the same family as the designated bene-

1           *fiary with respect to which the distribu-*  
2           *tion was made.*

3           “(ii) *CHANGE IN DESIGNATED BENE-*  
4           *FICIARIES.—Any change in the designated*  
5           *beneficiary of an interest in a qualified*  
6           *State tuition program shall not be treated*  
7           *as a distribution for purposes of subpara-*  
8           *graph (A) if the new beneficiary is a mem-*  
9           *ber of the same family as the old bene-*  
10           *fiary.*

11           “(D) *OPERATING RULES.—For purposes of*  
12           *applying section 72—*

13           “(i) *all qualified State tuition pro-*  
14           *grams of which an individual is a des-*  
15           *ignated beneficiary shall be treated as one*  
16           *program,*

17           “(ii) *all distributions during a taxable*  
18           *year shall be treated as one distribution,*  
19           *and*

20           “(iii) *the value of the contract, income*  
21           *on the contract, and investment in the con-*  
22           *tract shall be computed as of the close of the*  
23           *calendar year in which the taxable year be-*  
24           *gins.*

1           “(3) *GIFT TAX TREATMENT.*—Any contribution  
2           on behalf of a designated beneficiary to a qualified  
3           State tuition program shall be treated as a qualified  
4           transfer for purposes of section 2503(e).

5           “(d) *REPORTING REQUIREMENTS.*—

6           “(1) *IN GENERAL.*—If—

7                   “(A) a designated beneficiary is furnished  
8                   education under a qualified State tuition pro-  
9                   gram during any calendar year, or

10                   “(B) there is a distribution to any individ-  
11                   ual with respect to an interest in such program  
12                   during any calendar year,

13           each officer or employee having control of the quali-  
14           fied State tuition program or their designee shall  
15           make such reports as the Secretary may require re-  
16           garding such education or distribution to the Sec-  
17           retary and to the designated beneficiary or the indi-  
18           vidual to whom the distribution was made. Any such  
19           report shall include such information as the Secretary  
20           may prescribe.

21           “(2) *TIMING OF REPORTS.*—Any report required  
22           by this subsection—

23                   “(A) shall be filed at such time and in such  
24                   matter as the Secretary prescribes, and

1           “(B) shall be furnished to individuals not  
2 later than January 31 of the calendar year fol-  
3 lowing the calendar year to which such report re-  
4 lates.

5           “(e) OTHER DEFINITIONS AND SPECIAL RULES.—For  
6 purposes of this section—

7           “(1) DESIGNATED BENEFICIARY.—The term ‘des-  
8 ignated beneficiary’ means—

9           “(A) the individual designated at the com-  
10 mencement of participation in the qualified  
11 State tuition program as the beneficiary of  
12 amounts paid (or to be paid) to the program,

13           “(B) in the case of a change in beneficiaries  
14 described in subsection (c)(2)(C)(i), the individ-  
15 ual who is the new beneficiary, and

16           “(C) in the case of an interest in a qualified  
17 State tuition program purchased by a State or  
18 local government or an organization described in  
19 section 501(c)(3) and exempt from taxation  
20 under section 501(a) as part of a scholarship  
21 program operated by such government or organi-  
22 zation, the individual receiving such interest as  
23 a scholarship.

1           “(2) *MEMBER OF FAMILY.*—The term ‘member of  
2           family’ has the same meaning given such term as sec-  
3           tion 2032A(e)(2).

4           “(3) *QUALIFIED HIGHER EDUCATION EX-*  
5           *PENSES.*—The term ‘qualified higher education ex-  
6           penses’ means tuition, fees, books, supplies, and  
7           equipment required for the enrollment or attendance  
8           of a designated beneficiary at an eligible education  
9           institution (as defined in section 135(c)(3)).

10           “(4) *APPLICATION OF SECTION 514.*—An interest  
11           in a qualified State tuition program shall not be  
12           treated as debt for purposes of section 514.”

13           (b) *EFFECTIVE DATES.*—

14           (1) *IN GENERAL.*—The amendments made by  
15           this section shall apply to taxable years ending after  
16           the date of the enactment of this Act.

17           (2) *TRANSITION RULE.*—If—

18           (A) a State or agency or instrumentality  
19           thereof maintains, on the date of the enactment  
20           of this Act, a program under which persons may  
21           purchase tuition credits or certificates on behalf  
22           of, or make contributions for education expenses  
23           of, a designated beneficiary, and

1           (B) such program meets the requirements of  
2 a qualified State tuition program before the later  
3 of—

4           (i) the date which is 1 year after such  
5 date of enactment, or

6           (ii) the first day of the first calendar  
7 quarter after the close of the first regular  
8 session of the State legislature that begins  
9 after such date of enactment,

10 the amendments made by this section shall apply  
11 to contributions (and earnings allocable thereto)  
12 made before the later of such dates without re-  
13 gard to whether any requirements of such  
14 amendments are met with respect to such con-  
15 tributions and earnings. For purposes of sub-  
16 paragraph (B)(ii), if a State has a 2-year legis-  
17 lative session, each year of such session shall be  
18 deemed to be a separate regular session of the  
19 State legislature.

## 20 **TITLE II—PAYMENT OF WAGES**

### 21 **SECTION 1. SHORT TITLE.**

22           This Act may be cited as the “Employee Commuting  
23 Flexibility Act of 1996”.

1 **SEC. 2. PROPER COMPENSATION FOR USE OF EMPLOYER**  
2 **VEHICLES.**

3 Section 4(a) of the Portal-to-Portal Act of 1947 (29  
4 U.S.C. 254(a)) is amended by adding at the end the fol-  
5 lowing: “For purposes of this subsection, the use of an  
6 employer’s vehicle for travel by an employee and activities  
7 performed by an employee which are incidental to the use  
8 of such vehicle for commuting shall not be considered part  
9 of the employee’s principal activities if the use of such ve-  
10 hicle for travel is within the normal commuting area for  
11 the employer’s business or establishment and the use of  
12 the employer’s vehicle is subject to an agreement on the  
13 part of the employer and the employee or representative  
14 of such employee.”.

15 **SEC. 3. EFFECTIVE DATE.**

16 The amendment made by section 1 shall take effect  
17 on the date of the enactment of this Act and shall apply  
18 in determining the application of section 4 of the Portal-  
19 to-Portal Act of 1947 to an employee in any civil action  
20 brought before such date of enactment but pending on  
21 such date.

22 **SEC. 4. MINIMUM WAGE INCREASE.**

23 (a) **SHORT TITLE.**—This section may be cited as the  
24 “Minimum Wage Increase Act of 1996”.

1 (b) AMENDMENT.—Paragraph (1) of section 6(a) of  
2 the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a))  
3 is amended to read as follows:

4 “(1) except as otherwise provided in this sec-  
5 tion, not less than \$4.25 an hour during the period  
6 ending on June 30, 1996, not less than \$4.75 an  
7 hour during the year beginning on July 1, 1996, and  
8 not less than \$5.15 an hour after the expiration of  
9 such year;”.

10 **SEC. 5. FAIR LABOR STANDARDS ACT AMENDMENTS.**

11 (a) COMPUTER PROFESSIONALS.—Section 13(a) of  
12 the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a))  
13 is amended by striking the period at the end of paragraph  
14 (16) and inserting “; or” and by adding after that para-  
15 graph the following:

16 “(17) any employee who is a computer systems  
17 analyst, computer programmer, software engineer,  
18 or other similarly skilled worker, whose primary duty  
19 is—

20 “(A) the application of systems analysis  
21 techniques and procedures, including consulting  
22 with users, to determine hardware, software, or  
23 system functional specifications;

24 “(B) the design, development, documenta-  
25 tion, analysis, creation, testing, or modification

1 of computer systems or programs, including  
2 prototypes, based on and related to user or sys-  
3 tem design specifications;

4 “(C) the design, documentation, testing,  
5 creation, or modification of computer programs  
6 related to machine operating systems; or

7 “(D) a combination of duties described in  
8 subparagraphs (A), (B), and (C) the perform-  
9 ance of which requires the same level of skills,  
10 and

11 who, in the case of an employee who is compensated  
12 on an hourly basis, is compensated at a rate of not  
13 less than \$27.63 an hour.”.

14 (b) TIP CREDIT.—The next to last sentence of sec-  
15 tion 3(m) of the Fair Labor Standards Act of 1938 (29  
16 U.S.C. 203(m)) is amended to read as follows: “In deter-  
17 mining the wage an employer is required to pay a tipped  
18 employee, the amount paid such employee by the employ-  
19 ee’s employer shall be an amount equal to—

20 “(1) the cash wage paid such employee which  
21 for purposes of such determination shall be not less  
22 than the cash wage required to be paid such an em-  
23 ployee on the date of the enactment of this para-  
24 graph; and

1           “(2) an additional amount on account of the  
2 tips received by such employee which amount is  
3 equal to the difference between the wage specified in  
4 paragraph (1) and the cash wage in effect under sec-  
5 tion 6(a)(1).

6 The additional amount on account of tips may not exceed  
7 the value of the tips actually received by an employee.”.

8           (c) OPPORTUNITY WAGE.—Section 6 of the Fair  
9 Labor Standards Act of 1938 (29 U.S.C. 206) is amended  
10 by adding at the end the following:

11           “(g)(1) In lieu of the rate prescribed by subsection  
12 (a)(1), any employer may pay any employee of such em-  
13 ployer, during the first 90 consecutive calendar days after  
14 such employee is initially employed by such employer, a  
15 wage which is not less than \$4.25 an hour.

16           “(2) No employer may take any action to displace  
17 employees (including partial displacements such as reduc-  
18 tion in hours, wages, or employment benefits) for purposes  
19 of hiring individuals at the wage authorized in paragraph  
20 (1).

21           “(3) Any employer who violates this subsection shall  
22 be considered to have violated section 15(a)(3).

1       “(4) This subsection shall only apply to an employee  
2 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.*