

**SUMMARY OF REVENUE PROVISIONS
OF H.R. 2014
("TAXPAYER RELIEF ACT OF 1997")**

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of the

JOINT COMMITTEE ON TAXATION

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INTRODUCTION

This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a brief summary of the revenue provisions of H.R. 2014 ("Taxpayer Relief Act of 1997") ("the bill"). The Congress approved the conference report for H.R. 2014 on July 30, 1997 (H. Rept. 105-220).

This summary is prepared for the use of the Member of Congress and the public. The official legislative history of the conference agreement is the conference report.

A separate staff document (JCX-39-97) provides the estimated budget effects of the revenue provisions of H.R. 2014.

¹ This document may be cited as follows: Summary of Revenue Provisions of H.R. 2014 ("Taxpayer Relief Act of 1997") (JCX-40-97), August 1, 1997.

**SUMMARY OF REVENUE PROVISIONS
OF THE CONFERENCE AGREEMENT ON H.R. 2014
("TAXPAYER RELIEF ACT OF 1997")**

**TITLE I.--CHILD TAX CREDIT;
HEALTH CARE FOR CHILDREN**

Child tax credit

Size of credit.--The bill provides a \$500 (\$400 for taxable year 1998) credit for each qualifying child of a taxpayer under the age of 17. A qualifying child is defined as an individual for whom the taxpayer can claim a dependency exemption and who is a son or daughter of the taxpayer (or descendent of either), a stepson or stepdaughter of the taxpayer or an eligible foster child of the taxpayer.

Phaseout of credit.--For taxpayers with modified adjusted gross income (AGI) in excess of certain thresholds, the otherwise allowable child credit is phased out at a rate of \$50 for each \$1,000 of modified AGI (or fraction thereof) in excess of the threshold. For married taxpayers filing joint returns, the threshold is \$110,000. For taxpayers filing single or head of household returns, the threshold is \$75,000. For married taxpayers filing separate returns, the threshold is \$55,000. These thresholds are not indexed for inflation.

Maximum allowable child credit.--In general, in the case of a taxpayer with qualifying children, the amount of the child credit equals \$500 times the number of qualifying children.

In the case of a taxpayer with one or two qualifying children, a portion of the child credit may be treated as a supplemental child credit amount. This amount equals the difference between (1) \$500 times the number of qualifying children up to the taxpayer's income tax liability (net of applicable credits other than the earned income credit) over the taxpayer's tentative minimum tax liability (determined without regard to the alternative minimum foreign tax credit) and (2) the sum of the taxpayer's regular tax liability (net of applicable credits other than the earned income credit) and the employee share of FICA (and one-half of the taxpayer's SECA tax liability, if applicable) reduced by any earned income credit amount. In no case will the total amount of the allowable child credit exceed the amount that would result from its calculation as a nonrefundable personal credit.

In the case of a taxpayer with three or more qualifying children, the maximum amount of the child credit for each taxable year cannot exceed the greater of: (1) the taxpayer's regular tax liability (net of applicable credits other than the earned income credit) over the taxpayer's tentative minimum tax liability (determined without regard to the alternative minimum foreign tax credit), or (2) an amount equal to the excess of the sum of the taxpayer's regular tax liability (net of applicable credits other than the earned income credit) and the employee share of FICA (and one-half of the taxpayer's SECA tax liability, if applicable) reduced by the earned income credit. To the extent that the amount determined under (1) is greater than the amount determined under (2), the difference is treated as a supplemental child credit amount.

Refundable child care credit amount. --In the case of a taxpayer with three or more qualifying children, if the amount of the allowable child credit as computed under the computation described above exceeds the taxpayer's regular tax liability before the computation, then the excess is a refundable tax credit.

Effective date. --Generally, the child tax credit is effective for taxable years beginning after December 31, 1997.

Expand definition of high-risk individuals with respect to tax-exempt state-sponsored organizations providing health coverage

Present law provides tax-exempt status to any membership organization that is established by a State exclusively to provide coverage for medical care on a nonprofit basis to certain high-risk individuals, provided certain criteria are satisfied. The bill expands the definition of high-risk individuals to include the spouse or any child of an individual who meets the present-law definition of a high-risk individual, subject to certain requirements. The provision is effective for taxable years beginning after December 31, 1997.

TITLE II.--EDUCATION TAX INCENTIVES

HOPE tax credit and Lifetime Learning tax credit for higher education tuition expenses

HOPE credit.--Individual taxpayers are allowed to claim a nonrefundable HOPE credit against Federal income taxes up to \$1,500 per student for qualified tuition and fees paid during the year on behalf of a student (i.e., the taxpayer, the taxpayer's spouse, or a dependent) who is enrolled in a post-secondary degree or certificate program at an eligible institution on at least a half-time basis. The credit rate is 100 percent on the first \$1,000 of qualified tuition and fees and 50 percent on the next \$1,000 of qualified tuition and fees. The HOPE credit is available only for the first two years of a student's post-secondary education. For taxable years beginning after 2001, the \$1,500 maximum HOPE credit amount will be indexed for inflation. The HOPE credit amount that a taxpayer may otherwise claim is phased out for taxpayers with modified AGI between \$40,000 and \$50,000 (\$80,000 and \$100,000 for joint returns).

The HOPE credit is computed on a per-student basis (i.e., a HOPE credit may be computed separately for each eligible student in a taxpayer's family). If a parent claims a child as a dependent, then only the parent may claim the HOPE credit with respect to such child, and any qualified expenses paid by the child are deemed to be paid by the parent.

For a taxable year, a taxpayer may elect with respect to an eligible student the HOPE credit, the 20-percent Lifetime Learning credit (as provided for by the bill), or the exclusion from gross income for certain distributions from an education IRA (also as provided for by the bill).

The HOPE credit is available for expenses paid after December 31, 1997, for education furnished in academic periods beginning after such date.

Lifetime Learning credit.--The bill provides that individual taxpayers are allowed to claim a nonrefundable Lifetime Learning credit against Federal income taxes equal to 20 percent of qualified tuition and fees paid during the taxable year on behalf of the taxpayer, the taxpayer's spouse, and any dependent. The student must be enrolled at an eligible educational institution but need not be enrolled on at least a half-time basis. Instead, the student is eligible for the Lifetime Learning credit so long as he or she is taking undergraduate or graduate-level classes to acquire or improve job skills (assuming that the other requirements for the credit are satisfied). For expenses paid before January 1, 2003, up to \$5,000 of qualified tuition and fees per taxpayer return will be eligible for the Lifetime Learning credit (i.e., the maximum credit per taxpayer return will be \$1,000). For expenses paid after December 31, 2002, up to \$10,000 of qualified tuition and fees per taxpayer return will be eligible for the Lifetime Learning credit (i.e., the maximum credit per taxpayer return will be \$2,000). The Lifetime Learning credit amount that a taxpayer may otherwise claim is phased out over the same income phase-out range that applies for purposes of the HOPE credit.

The Lifetime Learning credit is computed on a per-taxpayer return basis (i.e., the credit does not vary based on the number of students in a taxpayer's family). However, in contrast to the

HOPE credit, the Lifetime Learning credit may be claimed for an unlimited number of taxable years. If a parent claims a child as a dependent, then only the parent may claim the Lifetime Learning credit with respect to such child, and any qualified tuition and fees paid by the child are deemed to be paid by the parent.

The Lifetime Learning credit is available for expenses paid after June 30, 1998, for education furnished in academic periods beginning after such date.

Deduction for student loan interest

Under the bill, certain individuals who have paid interest on qualified education loans may claim an above-the-line deduction for such interest expenses, up to a maximum deduction of \$2,500 per year. The maximum deduction is phased in over 4 years, with a \$1,000 maximum deduction in 1998, \$1,500 in 1999, \$2,000 in 2000, and \$2,500 in 2001. The maximum deduction amount is not indexed for inflation. In addition, the deduction is phased out ratably for individual taxpayers with modified AGI of \$40,000-\$55,000 (\$60,000-\$75,000 for joint returns); such income ranges will be indexed for inflation occurring after the year 2002, rounded down to the closest multiple of \$5,000.

The deduction is allowed only with respect to interest paid on a qualified education loan during the first 60 months in which interest payments are required. A qualified education loan generally is defined as any indebtedness incurred to pay for the qualified higher education expenses of the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer. Qualified higher education expenses generally include tuition, fees, room and board, and related expenses, reduced by certain educational benefits that are excludable from gross income (e.g., amounts excluded under section 135, excludable distributions from an education IRA, section 117 scholarship or fellowship grants, and section 127 employer-provided educational assistance). Such expenses must be paid or incurred within a reasonable period before or after the indebtedness is incurred, and must be attributable to a period when the student is at least a half-time student.

Any person in a trade or business or any governmental agency that receives \$600 or more in qualified education loan interest from an individual during a calendar year must provide an information report on such interest to the IRS and to the payor.

The provision is effective for interest payments due and paid after December 31, 1997, on any qualified education loan.

Tax treatment of qualified State tuition programs and education IRAs; exclusion for certain distributions from education IRAs used to pay qualified higher education expenses

Qualified State tuition programs.--The bill expands present-law section 529--which provides tax-exempt status and deferral of tax on earnings of qualified State tuition programs--to include State programs under which individuals prepay (or save) not only for post-secondary tuition,

fees, books, and supplies, but also for future room and board expenses of a designated beneficiary. The bill also expands the definition of eligible educational institutions for purposes of present-law section 529 and the definition of the term "member of the family" for purposes of allowing tax-free rollovers of credits or account balances in qualified State tuition programs. The bill also includes provisions clarifying the estate and gift tax treatment of contributions to qualified State tuition programs or education IRAs (described below).

Under the bill, to the extent that a distribution from a qualified State tuition program is used to pay for qualified tuition and fees at an eligible post-secondary institution, then the student (or his or her parent) may be able to claim the HOPE credit or Lifetime Learning credit provided for by the bill with respect to such tuition and fees (depending on whether the income limitations and other requirements of the HOPE credit or Lifetime Learning credit are satisfied). The modifications to section 529 generally are effective after December 31, 1997.

Education IRAs. --The bill provides that taxpayers may establish education IRAs, meaning trusts or custodial accounts created exclusively for the purpose of paying qualified higher education expenses of a named beneficiary. Annual contributions to education IRAs may not exceed \$500 per beneficiary, and may not be made after the designated beneficiary reaches age 18. The contribution limit is phased out for certain high-income contributors. No contribution may be made by any person to an education IRA during any year in which any contributions are made by anyone to a qualified State tuition program on behalf of the same beneficiary.

Until a distribution is made from an education IRA, earnings on contributions to the account are not subject to tax. In addition, the bill provides that distributions from an education IRA are excludable from gross income to the extent that the distribution does not exceed qualified higher education expenses incurred by the beneficiary during the year the distribution is made, regardless of whether the student is enrolled in classes on a full-time, half-time, or less than half-time basis. However, certain room and board expenses are qualified higher education expenses only if the student incurring such expenses is enrolled at an eligible educational institution on at least a half-time basis. The earnings portion of a education IRA distribution not used to pay qualified higher education expenses is includible in the gross income of the distributee and generally is subject to an additional 10-percent tax penalty. However, prior to the beneficiary reaching age 30, the bill allows tax-free (and penalty-free) rollovers of account balances from an education IRA benefiting one family member to an education IRA benefiting another family member. The provisions governing education IRAs apply to taxable years beginning after December 31, 1997.

Treatment of cancellation of certain student loans

The bill provides that an individual's gross income does not include forgiveness of loans made by tax-exempt educational organizations if the proceeds of such loans are used to pay costs of attendance at an educational institution or to refinance outstanding student loans and the student is not employed by the lender organization. The exclusion applies only if the forgiveness is contingent on the student's working for a certain period of time in certain professions for any

of a broad class of employers. In addition, the student's work must fulfill a public service requirement. The provision applies to discharges of indebtedness after the date of enactment.

Penalty-free withdrawals from IRAs for higher education expenses

The bill permits penalty-free withdrawals from individual retirement arrangements (IRAs) for qualified higher education expenses (including those related to graduate level courses) of the taxpayer, the taxpayer's spouse, or any child, or grandchild of the individual or the individual's spouse. This provision is effective for distributions made after December 31, 1997, which respect to expenses paid after such date for education furnished in academic periods beginning after such date.

Employer-provided educational assistance

The bill extends the exclusion from gross income for employer-provided educational assistance for undergraduate education through May 31, 2000.

Modification of \$150 million limit on qualified 501(c)(3) bonds other than hospital bonds

The bill repeals the \$150 million limit for bonds issued after the date of enactment to finance capital expenditures incurred after the date of enactment. The provision is effective for bonds issued after the date of enactment to finance capital expenditures incurred after such date.

Enhanced deduction for corporate contributions of computer technology and equipment

The bill permits C corporations that donate computer technology and equipment that is not more than two years old for educational purposes in any of grades K-12 to claim an augmented charitable contribution deduction. The provision is effective for contributions made in taxable years beginning after 1997 and before January 1, 2001.

Expansion of arbitrage rebate exception for certain bonds

The bill provides that up to \$5 million dollars of bonds used to finance public school capital expenditures incurred after December 31, 1997, are excluded from application of the present-law \$5 million limit. Thus, small issuers will continue to benefit from the small issue exception from arbitrage rebate if they issue no more than \$10 million in governmental bonds per calendar year and no more than \$5 million of the bonds is used to finance expenditures other than for public school capital expenditures. The provision is effective for bonds issued after December 31, 1997.

Tax credit for holders of qualified zone academy bonds

Under the bill, certain financial institutions that hold "qualified zone academy bonds" are entitled to a nonrefundable tax credit in an amount equal to a credit rate (set by the Treasury

Department) multiplied by the face amount of the bond. "Qualified zone academy bonds" are any bond issued by a State or local government, provided that (1) 95 percent of the proceeds are used for the purpose of renovating, providing equipment to, developing course materials for use at, or training teachers and other school personnel in a "qualified zone academy" and (2) private entities have promised to contribute to the qualified zone academy certain property or services with a value equal to at least 10 percent of the bond proceeds. A school is a "qualified zone academy" if (1) the school is a public school that provides education and training below the college level, (2) the school operates a special academic program in cooperation with businesses to enhance the academic curriculum and increase graduation and employment rates, and (3) either (a) the school is located in an empowerment zone or enterprise community (including empowerment zones designated or authorized to be designated under the bill), or (b) it is reasonably expected that at least 35 percent of the students at the school will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

A total of \$400 million of "qualified zone academy bonds" may be issued in each of 1998 and 1999. The \$800 million aggregate bond cap will be allocated to the States according to their respective populations of individuals below the poverty line. Each State, in turn, will allocate the credit to qualified zone academies within such State.

The provision is effective for bonds issued after 1997.

TITLE III.--SAVINGS AND INVESTMENT INCENTIVES

Individual retirement arrangements

The bill increases the income ranges over which the \$2,000 IRA deduction limit is phased out for individuals who are active participants in an employer-sponsored retirement plan. Under the bill, in 1998, the phase out ranges are increased to \$50,000 - \$60,000 of AGI for married couples and to \$30,000 - \$40,000 of AGI for single taxpayers. The income limits are increased each year thereafter until they are double the present-law limits; i.e., until the phase-out range is \$80,000 to \$100,000 for married taxpayers and \$50,000 to \$60,000 for single taxpayers.

The bill permits deductible contributions for spouses of individuals who are in an employer-sponsored retirement plan. The deduction is phased out for taxpayers with AGI between \$150,000 and \$160,000.

The bill creates a new, tax-free nondeductible IRA called the "Roth IRA" for individuals with AGI between \$95,000 - \$110,000 and married couples with AGI between \$150,000 - \$160,000. Distributions from a Roth IRA are tax free if made more than 5 years after a Roth IRA has been established and if the distribution is (1) made after age 59-1/2, death, or disability, or (2) for first-time homebuyer expenses (up to \$10,000). No more than \$2,000 per year can be made to all an individual's IRAs.

The bill permits IRAs to invest in certain gold coins and bullion.

The bill permits penalty-free withdrawals from IRAs for first-time homebuyer expenses (up to \$10,000) and higher education expenses.

Capital gains provisions

The bill reduces the maximum capital gains rate for individuals to 20 percent (10 percent for taxpayers in the 15-percent bracket), effective May 7, 1997. Real estate depreciation recapture generally will be taxed at a maximum rate of 25 percent. The present maximum 28-percent rate will be retained for collectibles and, effective July 29, 1997, for assets held between 1 year and 18 months. Beginning in 2001, assets held for 5 years will get favorable rates (8 percent for 15-percent bracket taxpayers in 2001 and 18 percent for others in 2006).

A \$250,000 exclusion for the sale of a principal residence (\$500,000 in the case of a joint return) is provided, effective May 7, 1997.

The bill allows the tax-free rollover of gain from certain small business stock to other small business stock, effective on date of enactment.

TITLE IV.--ALTERNATIVE MINIMUM TAX PROVISIONS

Repeal alternative minimum tax for small businesses and repeal the depreciation adjustment

For taxable years beginning after 1997, the bill repeals the corporate alternative minimum tax for small businesses (i.e., those with average gross receipts of less than \$5 million). The exemption would continue to apply as long as the corporation has average gross receipts of less than \$7.5 million.

In addition, for property placed in service after 1998, the bill conforms the depreciable lives used for purposes of the alternative minimum tax to the depreciable lives used for purposes of the present-law regular tax.

Repeal AMT installment method adjustment for farmers

The bill repeals the installment sales adjustment applicable to the alternative minimum tax, generally for sales after 1987. Thus, qualified farmers are eligible to use the installment sales method of accounting for both regular tax and alternative minimum tax purposes.

TITLE V.--ESTATE, GIFT, AND GENERATION-SKIPPING TAX PROVISIONS

Increase in estate and gift tax unified credit

The present-law unified credit is increased as follows: the effective exemption is \$625,000 for decedents dying and gifts made in 1998; \$650,000 in 1999; \$675,000 in 2000 and 2001; \$700,000 in 2002 and 2003; \$850,000 in 2004; \$950,000 in 2005; and \$1 million in 2006 and thereafter. These amounts are not indexed for inflation.

Indexing of certain other estate and gift tax provisions

After 1998, the \$10,000 annual exclusion for gifts, the \$750,000 ceiling on special use valuation, the \$1,000,000 generation-skipping transfer tax exemption, and the \$1,000,000 ceiling on the value of a closely-held business eligible for the special low interest rate are indexed annually for inflation.

Estate tax exclusion for qualified family-owned businesses

For estate tax purposes, an executor may elect to exclude the value of certain qualified "family-owned business interests" if such interests comprise more than 50 percent of a decedent's estate and certain other requirements are met. The exclusion for family-owned business interests may be taken only to the extent that the exclusion for family-owned business interests, plus the amount effectively exempted by the unified credit, does not exceed \$1.3 million.

Reduction in estate tax for certain land subject to permanent conservation easement

An executor may elect to exclude from the taxable estate 40 percent of the value of any land subject to a qualified conservation easement that meets the following requirements: (1) the land is located within 25 miles of a metropolitan area or a national park or wilderness area, or within 10 miles of an Urban National Forest; (2) the land has been owned by the decedent or a member of the decedent's family at all times during the three-year period ending on the date of the decedent's death; and (3) a qualified conservation contribution of a qualified real property interest was granted by the decedent or a member of his or her family. The maximum exclusion for land subject to a qualified conservation easement is limited to \$100,000 in 1998, \$200,000 in 1999, \$300,000 in 2000, \$400,000 in 2001, and \$500,000 in 2002 and thereafter. The exclusion for land subject to a qualified conservation easement may be taken in addition to the maximum exclusion for qualified family-owned business interests (i.e., there is no coordination between the two provisions). Debt-financed property is eligible for this provision to the extent of the net equity in the property.

Installment payments of estate tax attributable to closely held businesses

For estate taxes that are deferred under section 6166, the tax attributable to the first \$1,000,000 in taxable value of the closely held business (i.e., the first \$1,000,000 in value in

excess of the effective exemption provided by the unified credit and any other exclusions) is subject to interest at a rate of two percent. The remainder of such taxes is subject to interest at a rate equal to 45 percent of the rate applicable to underpayments of tax, and all taxes paid under section 6166 are made nondeductible. Taxpayers currently deferring taxes under section 6166 may make a one-time election to receive similar treatment.

Estate tax recapture from cash leases of specially-valued property

The cash lease of specially-valued real property by a lineal descendant of the decedent to a member of the lineal descendant's family, who continues to operate the farm or closely held business, does not cause the qualified use of such property to cease for purposes of imposing the additional estate tax under section 2032A(c).

Clarify eligibility for extension of time for payment of estate tax

Taxpayers are given access to the courts to resolve disputes over an estate's eligibility for the section 6166 election by authorizing the U.S. Tax Court to provide declaratory judgments regarding initial or continuing eligibility for deferral under section 6166.

Gifts may not be revalued for estate tax purposes after expiration of statute of limitations

A gift for which the three-year statute of limitations period has passed cannot be revalued for purposes of determining the applicable estate tax bracket and available unified credit.

Repeal of throwback rules applicable to certain domestic trusts

Amounts distributed by certain domestic trusts are exempted from the throwback rules. The throwback rules continue to apply with respect to (1) foreign trusts, (2) domestic trusts that were once treated as foreign trusts (except as provided in Treasury regulations), and (3) domestic trusts created before March 1, 1984, that would be treated as multiple trusts under section 643(f) of the Code. In addition, precontribution gain on property sold by certain domestic trusts no longer is subject to section 644 (i.e., taxed at the contributor's marginal tax rates).

Modification of generation-skipping transfer tax for transfers to individuals with deceased parents

The current law "predeceased parent exception" is extended to transfers to collateral heirs, provided that the decedent has no living lineal descendants at the time of the transfer, and to taxable terminations and taxable distributions, provided that the parent of the relevant beneficiary was dead at the earliest time that the transfer (from which the beneficiary's interest in the property was established) was subject to estate or gift tax.

TITLE VI.--EXTENSION OF CERTAIN EXPIRING TAX PROVISIONS

Research tax credit

The bill extends the research tax credit (which provides a 20 percent tax credit for qualified research expenses in excess of a taxpayer's research credit base amount) for 13 months--i.e., generally for the period June 1, 1997, through June 30, 1998.

Contributions of stock to private foundations

The special rule contained in section 170(e)(5) that permits a fair-market value deduction for contributions of qualified appreciated stock to private foundations is extended for the period June 1, 1997, through June 30, 1998.

Work opportunity tax credit

The bill provides a 9-month extension of the work opportunity tax credit. It also provides a credit percentage of 25 percent for employment of less than 400 hours of employment and 40 percent for employment of 400 or more hours, reduces the period employees must be employed to qualify for the credit, and makes other changes. The bill is generally effective for wages paid to qualified individuals who begin work for an employer after September 30, 1997, and before July 1, 1998.

Orphan drug tax credit

The orphan drug tax credit provides a 50-percent tax credit for qualified clinical testing expenses incurred in testing certain drugs for rare diseases or conditions. The bill permanently extends the orphan drug tax credit, effective for expenses paid or incurred after May 31, 1997.

TITLE VII.—DISTRICT OF COLUMBIA TAX INCENTIVES

Designation of D.C. Enterprise Zone

The bill designates certain economically depressed census tracts within the District of Columbia as the "D.C. Enterprise Zone," within which businesses and individual residents are eligible for special tax incentives. The census tracts that compose the D.C. Enterprise Zone for purposes of the wage credit, expensing, and tax-exempt financing incentives include all census tracts that presently are part of the D.C. enterprise community and census tracts within the District of Columbia where the poverty rate is not less than 20 percent. The D.C. Enterprise Zone designation generally will remain in effect for five years for the period from January 1, 1998, through December 31, 2002.

Empowerment zone wage credit, expensing, and tax-exempt financing

The following tax incentives that are available under present law in empowerment zones generally will be available in the D.C. Enterprise Zone: (1) a 20-percent wage credit for the first \$15,000 of wages paid to D.C. residents who work in the D.C. Enterprise Zone; (2) an additional \$20,000 of expensing under Code section 179 for qualified zone property; and (3) special tax-exempt financing for certain zone facilities.

Zero-percent capital gains rate

The bill provides a zero-percent capital gains rate for capital gains from the sale of certain qualified D.C. Zone assets held for more than five years. For purposes of the zero-percent capital gains rate, the D.C. Enterprise Zone is defined to include all census tracts within the District of Columbia where the poverty rate is not less than 10 percent.

First-time homebuyer tax credit

The bill allows first-time homebuyers of a principal residence in the District a tax credit of up to \$5,000 of the amount of the purchase price, except that the credit phases out for individual taxpayers with adjusted gross income between \$70,000 and \$90,000 (\$110,000-\$130,000 for joint filers). The credit is available with respect to property purchased after the date of enactment and before January 1, 2001.

TITLE VIII.--WELFARE-TO-WORK TAX CREDIT

The bill provides to employers a tax credit on the first \$20,000 of eligible wages paid to qualified long-term family assistance (AFDC or its successor program) recipients during the first two years of employment. The credit is 35 percent of the first \$10,000 of eligible wages in the first year of employment and 50 percent of the first \$10,000 of eligible wages in the second year of employment. The maximum credit is \$8,500 per qualified employee. The provision is effective for wages paid or incurred to a qualified individual who begins work for an employer on or after January 1, 1998 and before May 1, 1999.

TITLE IX.--MISCELLANEOUS PROVISIONS

Excise tax provisions

Repeal excise tax on diesel fuel used in recreational motorboats. --The bill repeals the 24.3-cents-per-gallon excise tax on diesel fuel used in recreational motorboats. Currently, imposition of this tax is suspended through December 31, 1997.

Continued application of tax on imported recycled halon-1211. --The bill repeals the present-law exemption from the excise tax on ozone-depleting chemicals for imported recycled halon-1211.

Transfer 4.3-cents-per-gallon General Fund highway fuels tax to Highway Trust Fund. --The bill provides for transfer of the 4.3-cents-per-gallon General Fund excise taxes on gasoline, diesel fuel, special motor fuels, and kerosene to the Highway Trust Fund, effective after September 30, 1997. Provisions are included to ensure that this transfer has no effect on direct spending under the Budget Act. Certain tax deposit rules are modified for 1998.

Tax certain alternative fuels based on energy equivalency to gasoline. --The bill adjusts the excise tax rate on propane, methanol derived from natural gas, and liquefied natural gas to reflect the relative Btu content of these fuels to gasoline. The provision is effective on October 1, 1997.

Certain gasoline "chain retailers" treated as wholesale distributors. --The bill extends eligibility to file excise tax refund claims on behalf of certain exempt gasoline users to retailers selling the fuel from 10 or more commonly controlled outlets. This provides comparable treatment to these retail dealers to that currently provided to wholesale distributors. The provision is effective after September 30, 1997.

Exemption of electric and other clean-fuel vehicles from luxury automobile classification. --The bill modifies the threshold above which the luxury excise tax on automobiles will apply for each of two identified classes of automobiles. First, for an automobile that is not a clean-burning fuel vehicle to which retrofit parts and components are installed to make the vehicle a clean-burning vehicle, the threshold would be \$30,000, as adjusted for inflation under present law, plus an amount equal to the increment to the retail value of the automobile attributable to the retrofit parts and components installed. In the case of a passenger vehicle designed to be propelled primarily by electricity and built by an original equipment manufacturer, the threshold applicable for any year is modified to equal 150 percent of \$30,000, with the result increased for inflation occurring after 1990.

Reduce rate of alcohol excise tax on certain hard ciders. --The bill adjusts the tax rate on apple cider having an alcohol content of less than 7 percent to 22.6 cents per gallon for those persons who produce more than 100,000 gallons of "hard cider" during a calendar year.

Study feasibility of moving collection point for distilled spirits excise tax. --The \$13.50 per proof gallon distilled spirits excise tax is imposed when these beverages are removed from a distillery (or imported). The bill directs the Secretary of the Treasury to study and report to Congress on compliance and budgetary effects of various options for changing the point where this tax is imposed. The study is due by March 31, 1998.

Codify rules on use of semi-generic names on wine labels. --The bill codifies the current Treasury regulatory list of semi-generic wine names (i.e., names having geographic significance) that may be used by U.S. wine producers and the conditions in which those names may be used for wines not originating in the historical area to which the name relates.

Uniform rate of excise tax on vaccines. --The bill replaces the present-law excise taxes on vaccines, that differ by vaccine, with a single rate tax of \$0.75 per dose on any listed vaccine component. In addition, the bill adds three new taxable vaccines to the present-law taxable vaccines: (1) HIB (hemophilus influenza type B); (2) Hepatitis B; and (3) varicella (chickenpox).

Disaster relief provisions

Authority to postpone certain tax-related deadlines on account of Presidentially declared disasters. --The bill provides Treasury with the authority to postpone certain tax-related deadlines by reason of a Presidentially declared disaster.

Use of certain appraisals to establish amount of disaster loss. --The bill provides that Treasury may issue guidance providing that an appraisal for the purpose of obtaining a Federal loan or Federal loan guarantee as the result of a Presidentially declared disaster may be used to establish the amount of the disaster loss.

Treatment of livestock sold on account of weather-related conditions. --Present law allows taxpayers, in certain circumstances, to defer gain recognized on the sale of livestock sold on account of drought. The bill expands these present-law exceptions to livestock sold on account of flood or other weather-related conditions. The provisions are effective for sales and exchanges after 1996.

Mortgage bond financing for residences located in Presidentially declared disaster areas. --Qualified mortgage bonds are private activity tax-exempt bonds issued by States and local governments acting as conduits to provide mortgage loans to first-time home buyers who satisfy specified income limits and who purchase homes that cost less than statutory maximums. The bill allows the waivers of first-time homebuyer requirement, the income limits, and the purchase price limits for loans to finance homes in certain Presidentially declared disaster areas. The waiver applies only during the two-year period following the date of disaster declaration. The provision applies to loans financed with bonds issued after December 31, 1996 and before January 1, 1999.

Abatement of interest by reason of Presidentially declared disaster.--The bill requires the IRS to abate interest for individual taxpayers in Presidentially declared disaster areas under specified circumstances for disasters in 1997.

Employment tax provisions

The bill clarifies the standards to be used in determining whether securities brokers are employees for Federal tax purposes. The bill provides that certain termination payments received by former insurance salesmen are not subject to SECA taxes. The bill imposes a moratorium on the issuance of IRS regulations relating to the definition of limited partner for SECA tax purposes until July 1, 1998.

The bill establishes a demonstration project for combined Federal/State employment tax reporting.

Small business provisions

EFTPS.--The bill delays the imposition of penalties for certain failures to make payments electronically through EFTPS through June 30, 1998.

Home office deduction: clarification of definition of principal place of business.--The bill enhances the ability of taxpayers who work at home to claim deductions for home office expenses by expanding the definition of "principal place of business" to include a home office that is used by the taxpayer to conduct administrative or management activities of the business, provided that there is no other fixed location where the taxpayer conducts substantial administrative or management activities of the business. As under present law, deductions will be allowed for a home office only if the office is exclusively used on a regular basis as a place of business and, in the case of an employee, only if such exclusive use is for the convenience of the employer.

The provision applies to taxable years beginning after December 31, 1998.

Increase in self-employed health deduction.--The bill increases the deduction for health insurance of self-employed individuals as follows: the deduction is 40 percent in 1997, 45 percent in 1998 and 1999, 50 percent in 2000 and 2001, 60 percent in 2002, 80 percent in 2003 through 2005, 90 percent in 2006, and 100 percent in 2007 and thereafter.

Other provisions

Shrinkage estimates for inventory accounting.--A method of keeping inventories will not be considered unsound, or to fail to clearly reflect income, solely because it includes an adjustment for the shrinkage estimated to occur through year-end, based on inventories taken other than at year-end. It is expected that safe harbor methods of estimating inventory shrinkage will be established by regulation. A safe harbor method specific to retail trade is described in the

Conference Report. The provision is effective for taxable years ending after the date of enactment.

Treatment of workmen's compensation liability under rules for certain personal injury liability assignments.--The bill extends the exclusion for qualified assignments under Code section 130 to amounts assigned for assuming a liability to pay compensation under any workmen's compensation act. The provision is effective for workmen's compensation claims filed after the date of enactment.

Tax-exempt status for certain State workmen's compensation act companies.--The bill clarifies the tax-exempt status of any organization that is created by State law, and organized and operated exclusively to provide workmen's compensation insurance and related coverage that is incidental to workmen's compensation insurance, and that meets certain additional requirements, including a requirement that the State must either extend its full faith and credit to the initial debt of the organization or provide the initial operating capital of such organization, and also including a requirement that the assets of the organization must revert to the State upon dissolution or State law must not permit the dissolution of the organization. The provision is effective for taxable years beginning after December 31, 1997. No inference is intended that organizations described in the provision are not tax-exempt under present law.

Election for 1987 partnerships to continue exception from treatment of publicly traded partnerships as corporations.--Under the bill, in the case of an existing 1987 publicly traded partnership that elects under the provision to be subject to a tax on gross income from the active conduct of a trade or business, the rule of present law treating a publicly traded partnership as a corporation does not apply. The tax is 3.5 percent of the partnership's gross income from the active conduct of a trade or business. The provision is effective for taxable years beginning after December 31, 1997.

Exclusion from UBIT for certain corporate sponsorship payments.--The bill provides an exclusion from the unrelated business income tax (UBIT) for qualified sponsorship payments received by tax-exempt organizations (and State colleges and universities). "Qualified sponsorship payments" are defined as any payment made by a person engaged in a trade or business with respect to which the person will receive no substantial return benefit other than the use or acknowledgment of the name or logo (or product lines) of the person's trade or business in connection with the organization's activities. Such a use or acknowledgment does not include advertising of such person's products or services--meaning qualitative or comparative language, price information or other indications of savings or value, or an endorsement or other inducement to purchase, sell, or use such products or services. The safe-harbor exclusion provided by the bill for "qualified sponsorship payments" does not apply to payments that entitle the payor to the use or acknowledgment of the payor's trade or business name or logo (or product lines) in tax-exempt organization periodicals (or to payments made in connection with certain convention or trade show activities), which continue to be governed by present-law rules to determine whether the payment is subject to the UBIT.

The provision applies to qualified sponsorship payments solicited or received after December 31, 1997.

Timeshare associations. --The bill permits timeshare associations to be taxed similarly to homeowner's associations, except the tax rate on their association income is 32 percent, effective for taxable years beginning after December 31, 1996.

Exception from real estate reporting requirements for certain sales of principal residences. --Generally, sales of personal residences with a gross sales price of \$500,000 or less (\$250,000 or less in the case of a seller who is not married) are excluded from the real estate transaction reporting requirement, provided the seller represents that any gain on the sale will be exempt from Federal income tax.

Increased deduction for business meals for individuals operating under Department of Transportation hours of service limitation. --The deductible percentage of the cost of food and beverages consumed while away from home by an individual during, or incident to, a period of duty subject to the hours of service limitations of the Department of Transportation is gradually increased from 50 to 80 percent. The percentage allowable increases in 5-percent increments every other year beginning in 1998.

Deductibility of meals provided for the convenience of the employer. --The bill clarifies the tax treatment of meals provided for the convenience of the employer.

Increase in standard mileage rate for purposes of computing charitable deduction. --The bill increases from 12 cents per mile to 14 cents per mile the standard mileage rate used for purposes of computing the charitable deduction, effective for taxable years beginning after December 31, 1997.

Expensing of environmental remediation costs ("brownfields"). --The bill allows taxpayers to elect to treat certain environmental remediation expenditures that would otherwise be chargeable to capital account as deductible in the year paid or incurred. The expenditure must be incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site. A "qualified contaminated site" generally is any property that (1) is held for use in a trade or business, for the production of income, or as inventory; (2) is certified by the appropriate State environmental agency to be located within a targeted area; and (3) contains (or potentially contains) a hazardous substance (so-called "brownfields"). Targeted areas include: (1) empowerment zones and enterprise communities as designated under present law and under the bill (including any supplemental empowerment zone designated on December 21, 1994); (2) sites announced before February 1997, as being subject to one of the 76 Environmental Protection Agency (EPA) Brownfields Pilots; (3) any population census tract with a poverty rate of 20 percent or more; and (4) certain industrial and commercial areas that are adjacent to tracts described in (3) above. The provision applies to eligible expenditures incurred in taxable years ending after date of enactment and before January 1, 2001.

Modify limits on depreciation of luxury automobiles for certain clean-burning fuel and electric vehicles. --The bill modifies the present-law limitation on depreciation in the case of qualified clean-burning fuel vehicles and certain electric vehicles. With respect to qualified clean-burning fuel vehicles, the bill generally has the effect of only subjecting the cost of the vehicle before modification to the present-law limitations. In the case of a passenger vehicle designed to be propelled primarily by electricity and built by an original equipment manufacturer, the present-law base-year limitation amounts are tripled.

Modification of advance refunding rules for certain tax-exempt bonds issued by the Virgin Islands. --Under the bill, one additional advance refunding would be allowed for governmental bonds issued by the Virgin Islands that were advance refunded before June 9, 1997, if the Virgin Islands debt provisions are changed to repeal the current priority first lien requirement.

Deferral of gain on certain sales of farm product refiners and processors. --The bill extends the deferral provided under section 1042 to the sale of stock of a qualified refiner or processor to an eligible farmer's cooperative. The provision is effective for sales after December 31, 1997.

Above-the-line deduction for certain expenses. --The bill provides that employee business expenses relating to service as an official of a State or local government (or political subdivision thereof) are deductible in computing AGI, provided the official is compensated in whole or in part on a fee basis. The provision is effective with respect to expenses paid or incurred in taxable years beginning after December 31, 1986.

Survivor benefits of public safety officers killed in the line of duty. --The bill provides an exclusion from gross income for certain survivor benefits paid on account of the death of a public safety officer killed in the line of duty. The provision is effective for amounts received in taxable years beginning after December 31, 1996, with respect to individuals dying after that date.

Temporary suspension of income limitations on percentage depletion for production from marginal wells. --The bill suspends the 100-percent-of-net-income property limitation with respect to oil and gas produced from marginal properties during taxable years beginning after December 31, 1997, and before January 1, 2000.

Purchasing of receivables by tax-exempt hospital cooperative service organizations. --The bill clarifies that, for purposes of section 501(e), billing and collection services include the purchase of patron accounts receivable on a recourse basis. The provision is effective for taxable years beginning after December 31, 1996.

Designation of additional empowerment zones, modification of empowerment zone and enterprise community criteria

a. Two additional empowerment zones with same tax incentives as previously designated empowerment zones

Under the bill, the Secretary of HUD is authorized to designate two additional empowerment zones located in urban areas (thereby increasing to eight the total number of empowerment zones located in urban areas) with respect to which generally apply the same tax incentives (i.e., the wage credit, additional expensing, and special tax-exempt financing) as are available within the empowerment zones authorized by the Omnibus Budget Reconciliation Act of 1993 (OBRA 1993). The wage credit available in the two new urban empowerment zones is modified slightly to provide that the percentage of wages taken into account for purposes of determining the wage credit is 20 percent for 2000-2004, 15 percent for 2005, 10 percent for 2006, and 5 percent for 2007. No wage credit is available in the two new urban empowerment zones after 2007. The two additional empowerment zones are subject to the same eligibility criteria that applies to the original six urban empowerment zones. The two empowerment zones must be designated within 180 days after the date of enactment. However, the designations will not take effect before January 1, 2000, and generally will remain in effect for 10 years.

b. Designation of additional empowerment zones

The bill authorizes the Secretaries of HUD and Agriculture to designate an additional 20 empowerment zones (no more than 15 in urban areas and no more than five in rural areas). With respect to these additional empowerment zones, the present-law eligibility criteria are expanded slightly.

Within the 20 additional empowerment zones, qualified "enterprise zone businesses" are eligible to receive up to \$20,000 of additional section 179 expensing and to utilize special tax-exempt financing benefits. The "brownfields" tax incentive provided under the bill also is available within all designated empowerment zones. Businesses within the 20 additional empowerment zones are not, however, eligible to receive the present-law wage credit available within the 11 other designated empowerment zones.

The 20 additional empowerment zones are required to be designated before 1999, and the designations generally will remain in effect for 10 years.

c. Modification of definition of enterprise zone business

The bill provides that an entity may qualify as an "enterprise zone business" if (in addition to the other present-law criteria) at least 50 percent of the total gross income of such entity is derived from the active conduct of a qualified business within an empowerment zone or enterprise community. In addition, the bill makes certain other modifications to the definition of an "enterprise zone business." This modified "enterprise zone business" definition applies to all

previously designated empowerment zones and enterprise communities, the two urban empowerment zones designated under the bill, as well as to the 20 additional empowerment zones authorized to be designated pursuant to the bill. The modifications to the definition of "enterprise zone business" are effective for taxable years beginning on or after the date of enactment.

d. Tax-exempt financing rules

The bill allows "new empowerment zone facility bonds" to be issued for qualified enterprise zone businesses in the 20 additional empowerment zones. These bonds are not subject to the State private activity bond volume caps or the special limits on issue size applicable to qualified enterprise zone facility bonds under present law. The maximum amount of these bonds that can be issued is limited to \$60 million per rural zone, \$130 million per urban zone with a population of less than 100,000, and \$230 million per urban zone with a population of 100,000 or more.

The bill also makes certain modifications to the special tax-exempt bond financing available under present-law rules in empowerment zones and enterprise communities. The changes to the tax-exempt financing rules are effective for qualified enterprise zone facility bonds and the new empowerment zone facility bonds issued after the date of enactment.

e. Special rules for Alaska and Hawaii

The bill modifies the present-law empowerment zone and enterprise community designation criteria so any zones or communities designated in the States of Alaska or Hawaii will not be subject to the general size limitations, nor will such zones or communities be subject to the general poverty-rate criteria. Instead, nominated areas in either State will be eligible for designation as an empowerment zone or enterprise community if, for each census tract or block group within such area, at least 20 percent of the families have incomes which are 50 percent or less of the State-wide median family income. Such zones and communities will be subject to the population limitations under present-law section 1392(a)(1). The provision is effective on the date of enactment.

Income averaging for farmers.--An individual taxpayer generally is allowed to elect to compute his or her current year regular tax liability by averaging, over the prior three-year period, all or a portion of his or her taxable income from the trade or business of farming. The provision applies to taxable years beginning after December 31, 1997, and before January 1, 2001.

Elective carryback of existing net operating losses of the National Railroad Passenger Corporation (Amtrak).--Amtrak is allowed a tax refund based on the carryback of its net operating losses against the tax attributes of its predecessor railroads. The availability of the provision is conditioned on Amtrak (1) agreeing to make payments of one percent (1%) of the amount it receives to each of the non-Amtrak States to offset certain transportation related expenditures and (2) using the balance for certain qualified expenses. The maximum refund

payable to Amtrak under this provision is limited to \$2,323,000,000. One half of the refund is treated as a payment of estimated tax by Amtrak for each of the first two taxable years ending after the date of enactment. However, no refund will be made as a result of this provision earlier than the date of enactment of Federal legislation which authorizes reforms of Amtrak.

Extension of system of generalized preferences (GSP)

The bill extends the Generalized System of Preferences ("GSP") through June 30, 1998. Under GSP (Trade Act of 1974), the President has the authority to provide duty-free treatment on imports of eligible articles from designated beneficiary developing countries. The President's authority to grant GSP benefits expired on May 31, 1997. Under the bill, refunds of any duty paid between May 31, 1997 and the date of enactment are provided upon request of the importer.

TITLE X.--REVENUE-INCREASE PROVISIONS

Financial product provisions

Require recognition of gain on certain appreciated positions in personal property. --The bill requires recognition of gain (but not loss) upon a constructive sale of any appreciated position in stock, a partnership interest or certain debt instruments. A constructive sale occurs when a taxpayer enters into a short sale, an offsetting notional principal contract or certain other transactions. The provision is generally effective for constructive sales entered into after June 8, 1997.

Election of mark-to-market for securities traders. --The bill allows securities traders and commodities traders and dealers to elect mark-to-market accounting similar to that currently required for securities dealers. The election applies to taxable years ending after the date of enactment.

Limitation on exception for investment companies under section 351. --The bill expands the definition of an "investment company" for purposes of the exception for such companies from the general rules allowing tax-free contributions of property to corporations and partnerships. Under the conference agreement, an investment company includes a company more than 80 percent of the assets of which consist of securities and other high-quality investment assets. The provision is effective for transfers after June 8, 1997, with an exception for transfers pursuant to certain binding contracts in effect on that date.

Treatment of certain transactions as exchange. --The bill provides that redemptions of debt issued by natural persons and debt issued before July 2, 1982, is treated as an exchange and, accordingly, any gain or loss on that redemption would be capital gain or loss effective for debt issued or purchased after June 8, 1997. In addition, the bill treats gain or loss from the cancellation, lapse, expiration, or other termination more than after 30 days after enactment of a right or obligation which is (or on acquisition would be) a capital asset in the hands of the taxpayer to all types of property as a capital gain or loss. Lastly, the bill provides that a taxpayer that enters into a short sale of property (and, to the extent provided in Treasury regulations, any option with respect to property, any offsetting notional principal contract with respect to property, any futures or forward contract to deliver property, or with respect to any similar transaction or position) that becomes substantially worthless after the date of enactment shall recognize gain as if the short sale (or other property) were closed (or sold) when the property becomes substantially worthless.

Determination of original issue discount where pooled debt obligations subject to acceleration. --The bill requires a reasonable assumption for interest income accruals with respect to a pool of debt instruments the payments on which may be affected by reason of prepayments. Thus, if a taxpayer holds a pool of credit card receivables that require interest to be paid if the borrowers do not pay their accounts by a specified date, the taxpayer would be required to accrue interest on such pool based upon a reasonable assumption regarding the timing of the payments

of the accounts in the pool. Similar rules apply under present law with respect to the accrual of original issue discount with respect to REMICs. The provision is effective for taxable years beginning after the date of enactment.

Deny interest deduction on certain debt instruments.--The bill denies interest deductions on certain corporate instruments payable in stock of the issuer or a related party, including instruments a substantial portion of the principal or interest on which is mandatorily (or at the option of the issuer or a related party) payable or convertible into such stock, or determined by reference to the value of such stock, or that are part of an arrangement designed to result in such payment of the instrument with or by reference to such stock.

The bill is effective for instruments issued after June 8, 1997, but will not apply to such instruments (1) issued pursuant to a written agreement which was binding on such date and at all times thereafter, (2) described in a ruling request submitted to the Internal Revenue Service on or before such date, or (3) described in a public announcement or filing with the Securities and Exchange Commission on or before such date.

Corporate organizations and reorganizations

Require gain recognition for certain extraordinary dividends.--Under the bill, a corporate shareholder recognizes gain immediately with respect to any redemption treated as a dividend when the nontaxed portion of the dividend exceeds the basis of the shares surrendered, if the redemption is treated as a dividend due to options being counted as stock ownership. In addition, the provision requires immediate gain recognition whenever the basis of stock with respect to which any extraordinary dividend was received is reduced below zero.

The bill generally is effective for distributions after May 3, 1995, unless made pursuant to the terms of a written binding contract in effect on May 3, 1995 and at all times thereafter before such distribution, or a tender offer outstanding on May 3, 1995. In certain types of cases, September 13, 1995 is substituted for May 3, 1995.

Require gain recognition on certain distributions of controlled corporation stock.--The bill restricts certain otherwise tax-free "spin-off" transactions after April 16, 1997, under section 355 of the Code, in which a distributing corporation distributes stock of a controlled corporation to shareholders. Corporate level gain is recognized on a spin-off which is part of a plan or series of related transactions in which there is an acquisition of 50-percent or more of the vote or value of stock of either the distributing corporation or the controlled corporation. The gain is recognized immediately before the distribution, in the amount that the distributing corporation would have recognized had the stock of the controlled corporation been sold for fair market value on the date of the distribution. No adjustment to the basis of the stock or assets of either corporation is allowed by reason of the recognition of the gain.

In addition, distributions within an affiliated group of corporations, in connection with such an acquisition transaction, are not treated as tax-free spin-offs. The Treasury Department also

has additional regulatory authority to adjust the basis of stock in intra-group spin-off distributions generally.

For certain transfers of property to a corporation as part of a spin-off after the date of enactment, the present law requirement that shareholders of the contributing corporation own 80 percent of the voting power and 80 percent of each other class of stock after the distribution is modified to a requirement of greater-than-50 percent of the vote and value of the stock.

The bill is generally effective for distributions after April 16, 1997.

The bill will not apply to a distribution after April 16, 1997 that is part of an acquisition that would otherwise cause gain recognition to the distributing or controlled corporation under the bill if such acquisition is: (1) made pursuant to a written agreement which was binding on April 16, 1997 and at all times thereafter; (2) described in a ruling request submitted to the Internal Revenue Service on or before such date; or (3) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission ("SEC") required solely by reason of the acquisition or transfer. Any written agreement, ruling request, or public announcement or SEC filing is not within the scope of these transition provisions unless it identifies the acquiror of the distributing corporation or of any controlled corporation, whichever is applicable.

Reform tax treatment of certain corporate stock transfers. --The bill modifies certain rules that apply if one corporation purchases stock of a related corporation and the transaction is treated as a distribution. A special rule applies to transactions involving acquisitions by foreign corporations, limiting the earnings and profits of the acquiring foreign corporation that are taken into account.

The bill is effective for distributions or acquisitions after June 8, 1997 except that the provision will not apply to any such distribution or acquisition (1) made pursuant to a written agreement which was binding on such date and at all times thereafter, (2) described in a ruling request submitted to the Internal Revenue Service on or before such date, or (3) described in a public announcement or filing with the Securities and Exchange Commission on or before such date.

Modify holding period for dividends-received deduction. --The bill modifies the present-law 46-day holding period for the dividends-received deduction (or 91-day period for certain dividends on preferred stock) to require that the holding period be met with respect to each dividend received. Present law restrictions against diminishing risk of loss likewise apply to each dividend under the bill.

The bill is generally effective for dividends paid or accrued after the 30th day after the date of enactment. However, the bill will not apply to certain dividends received within two years of the date of enactment if the dividend is paid with respect to stock held on June 8, 1997, and all

times thereafter until the dividend is received, and certain other requirements are continuously met with respect to identified risk-reduction positions.

Other corporate provisions

Corporate tax shelter registration.--The bill requires that certain confidential corporate tax shelters register with the Treasury and makes parallel changes to the substantial understatement penalty.

Treat certain preferred stock as "boot".--The bill requires certain preferred stock that is received in otherwise tax-free transactions to be treated as taxable "boot". Thus, when a taxpayer exchanges property for this preferred stock in a transaction that otherwise qualifies as tax-free, gain but not loss is recognized.

The bill is effective for transactions after June 8, 1997, but will not apply to such transactions (1) made pursuant to a written agreement which was binding on such date and at all times thereafter, (2) described in a ruling request submitted to the Internal Revenue Service on or before such date, or (3) described in a public announcement or filing with the Securities and Exchange Commission on or before such date.

Administrative provisions

Payments to attorneys.--The bill requires the reporting to the IRS of certain payments made to attorneys.

Payments to corporations performing services for Federal agencies.--The bill lowers the information reporting threshold with respect to information reporting on persons receiving contract payments from certain Federal agencies.

Veterans Administration disclosure.--The bill provides for the continuation of authorization for the disclosure of tax return information for purposes of the administration of certain veterans programs.

Continuous levy.--The bill establishes continuous levy by the IRS and limits the exemptions from levy.

Consistency rule for beneficiaries of trusts and estates.--The bill requires a beneficiary of an estate or trust to file its return in a manner that is consistent with the information received from the estate or trust, unless the beneficiary identifies the inconsistency.

Excise tax provisions

Extend and modify the Airport and Airway Trust Fund excise taxes.--The present-law Airport and Airway Trust Fund excise taxes (commercial passenger ticket, commercial cargo

shipping invoice, and noncommercial aviation fuels) are extended for 10 years, through September 30, 2007.

The commercial passenger taxes are modified, as follows:

(1) The present 10-percent ad valorem tax rate is replaced with a combination ad valorem and flight segment dollar rate tax. The revised rates are --

October 1, 1997 - September 30, 1998
9% of fare plus \$1 per domestic
flight segment

October 1, 1998 - September 30, 1999
8% of fare plus \$2 per domestic
flight segment

October 1, 1999 - December 31, 1999
7.5% of fare plus \$2.25 per domestic
flight segment

After December 31, 1999, the ad valorem rate remains at 7.5 percent, but the domestic flight segment rate will increase to \$2.50 (calendar year 2000), \$2.75 (calendar year 2001), and \$3 (calendar year 2002). After 2002, the \$3 rate is indexed to the consumer price index.

(2) The present \$6 per passenger international departure tax is increased to \$12 per passenger and that rate is extended to international arrivals as well. (The \$6 rate is retained for the international portion of certain domestic flights between the continental United States and Alaska or Hawaii.) The new rates are indexed to the consumer price index after 1998.

(3) A special rule is provided reducing the tax rate for flight segments to or from certain small, rural airports to 7.5 percent, with no domestic flight segment tax being imposed on those flight segments.

Additionally, clarification is provided that the ad valorem portion of the tax (at the 7.5 percent rate) applies to payments to airlines for frequent flyer and similar awards from banks and credit card companies, merchants, frequent flyer program partners (e.g., other airlines, hotels, or rental car companies), and other businesses.

Air carriers are made secondarily liable for payment of the Airport and Airway Trust Fund excise taxes.

Certain tax deposits rules are modified for 1997 and 1998.

These provisions generally apply to transportation beginning after September 30, 1997.

Extend diesel fuel excise tax rules to kerosene.--The bill provides that kerosene generally will be taxed the same as diesel fuel. Thus, when kerosene is removed from pipeline terminals, it either will be taxed (at 24.4 cents per gallon) or dyed (if destined for nontaxable use). Exceptions are provided allowing undyed kerosene to be sold without tax for certain aviation and feedstock uses. Additionally, ultimate vendors are allowed to claim expedited refunds for undyed kerosene sold for use in space heaters. To ensure availability of dyed kerosene, eligibility of terminals to store untaxed fuel is conditioned on offering dyed fuel to customers. The provision is effective after June 30, 1998.

Reinstate Leaking Underground Storage Trust Fund excise tax.--The bill reinstates an expired 0.1-cent-per-gallon excise tax on gasoline, diesel fuel, special motor fuels, aviation fuels, and inland waterway fuels for a 7-1/2 year period beginning on October 1, 1997, through March 31, 2005. Revenues from this tax will be deposited in the Leaking Underground Storage Tank Trust Fund to finance cleanup of damage resulting from underground petroleum storage tanks.

Application of communications excise tax to prepaid telephone cards.--The bill clarifies that any amounts paid to communications service providers (in cash or in kind) for the right to award or otherwise distribute free or reduced-rate telephone service (i.e., local or toll telephone service) are treated as amounts paid for taxable communication services, subject to the 3-percent ad valorem tax rate.

Modify treatment of tires under the heavy vehicle retail excise tax.--The bill substitutes a credit for tire tax paid for a current tax deduction in calculating the 12-percent retail excise on heavy highway vehicles. The provision is effective after December 31, 1997.

Increase tobacco excise taxes.--H.R. 2015 (the spending provision of budget reconciliation) includes two scheduled increases in the Federal excise tax on cigarettes and other tobacco products. For small cigarettes, these increases are 10 cents per pack effective January 1, 2000, and an additional 5 cents per pack, effective January 1, 2002. Proportional increases are provided for other currently taxable tobacco products, and "roll-your-own" tobacco is taxed at the same rate as pipe tobacco.

The bill provides that amounts equal to these tax increases are to be credited against payments required under future Federal legislation implementing the June 20, 1997 proposed tobacco industry settlement.

Provisions relating to exempt organizations

Extend UBIT rules to second-tier subsidiaries and amend control test.--The bill modifies section 512(b)(13) (which treats otherwise excluded rent, royalty, annuity, and interest income as unrelated business taxable income if such income is received from certain controlled subsidiaries of a tax-exempt organization) The bill provides that "control" for this purpose generally means ownership by vote or value of more than 50 percent of the ownership interests in the entity. In addition, the bill applies the constructive ownership rules of section 318 for purposes section

512(b)(13). The provision generally applies to taxable years beginning after the date of enactment. However, the provision does not apply to payments made during the first two taxable years beginning on or after the date of enactment if such payments are made pursuant to a binding written contract in effect on June 8, 1997, and at all times thereafter before such payment.

Repeal grandfather rule with respect to pension business of certain insurers.--The bill repeals the grandfather rules applicable to that portion of the business of the Teachers Insurance Annuity Association-College Retirement Equities Fund which is attributable to pension business and to that portion of the business of Mutual of America which is attributable to pension business. Special rules relating to the change in method of accounting and the basis of assets apply, and reserve weakening after June 8, 1997, is treated as occurring in 1998. The provision applies for taxable years beginning after December 31, 1997.

Foreign provisions

Inclusion of income from notional principal contracts and stock lending transactions under subpart F.--The bill adds to the definition of foreign personal holding company income for subpart F purposes net income from all types of notional principal contracts and payments in lieu of dividends derived from equity securities lending transactions. The bill provides an expanded dealer exception from the definition of foreign personal holding company income.

Restrict like-kind exchange rules for certain personal property.--No gain or loss is recognized if property held for productive use in a trade or business or for investment is exchanged for property of a "like-kind" which is to be held for productive use in a trade or business or for investment. In general, any kind of real estate is treated as of a like-kind with other real property as long as the properties are both located either within or both outside the United States.

The bill provides that personal property predominantly used within the United States and personal property predominantly used outside the United States are not "like-kind" properties. The provision is effective for exchanges after June 8, 1997, unless the exchange is pursuant to a binding contract in effect on such date and all times thereafter.

Impose holding period requirement for claiming foreign tax credits with respect to dividends.--The bill disallows the foreign tax credits normally available with respect to a dividend from a foreign corporation or regulated investment company if the shareholder has not held the stock for 16 days in the case of common stock and 46 days in the case of preferred stock.

Limitation on treaty benefits for payments to hybrid entities.--The bill limits the availability of a reduced rate of withholding tax under an income tax treaty in the case of income derived through a hybrid entity in order to prevent tax avoidance.

Interest on underpayment reduced by foreign tax credit carryback. --The bill provides that, if an underpayment for a taxable year is reduced or eliminated by a foreign tax credit carryback from a subsequent taxable year, such carryback does not affect the computation of interest on the underpayment for the period ending with the filing date for such subsequent taxable year in which the foreign taxes were paid or accrued.

Determination of period of limitations relating to foreign tax credits. --The bill provides that, in the case of a claim relating to an overpayment attributable to foreign tax credits, the limitations period is determined by reference to the year in which the foreign taxes were paid or accrued.

Repeal special exception to foreign tax credit limitation for alternative minimum tax purposes. --Under present law, the combination of the taxpayer's net operating loss carryover and foreign tax credits cannot reduce the taxpayer's alternative minimum tax liability by more than 90 percent of the amount determined without these items. The Omnibus Budget Reconciliation Act of 1989 ("1989 Act") provided a special exception to the limitation on the use of the foreign tax credit against the tentative minimum tax. The bill repeals this special exception for taxable years beginning after the date of enactment.

Pension and employee benefit revenue-increase provisions

The bill contains several revenue-increase provisions relating to pension and employee benefits. These provisions: (1) increase the amount of benefits that may be cashed out of a retirement plan from \$3,500 to \$5,000; (2) repeal the 15-percent excise tax applicable to excess plan distributions and excess retirement plan accumulations; (3) increase the penalty tax on prohibited transactions from 10-percent to 15-percent; (4) revise the basis recovery rules related to retirement plan payments; and (5) permit employees to elect cash compensation in lieu of nontaxable parking benefits.

Other revenue-increase provisions

Phase out suspense accounts for certain large farm corporations. --The bill repeals the present-law ability of a family farm corporation to establish a suspense account when it is required to change from the cash method to an accrual method of accounting. Thus, any family farm corporation required to change to an accrual method of accounting would restore the section 481 adjustment applicable to the change in gross income ratably over a 10-year period beginning with the year of change.

In addition, any taxpayer with an existing suspense account is required to restore the account into income ratably over a 20-year period beginning in the first taxable year beginning after June 8, 1997. The amount required to be restored to income for a taxable year pursuant to the 20-year spread period shall not exceed the net operating loss of the corporation for the year (in the case of a corporation with a net operating loss) or 50 percent of the net income of the taxpayer for the

year (for corporations with taxable income). The bill repeals the present-law requirement that a corporation restores a portion of its suspense account as its gross receipts decreases.

Modify net operating loss ("NOL") carryback and carryforward rules. --The bill limits the NOL carryback period to two years (from three years) and extends the NOL carryforward period to 20 years (from 15 years). The 3-year carryback is retained for NOLs attributable to casualty losses of individuals and NOLs of farmers and small businesses attributable to losses incurred in Presidentially declared disaster areas. The provision is effective for NOLs arising in taxable years beginning after the date of enactment.

Expand the limitations on deductibility of premiums and interest with respect to life insurance, endowment and annuity contracts. --Under the bill, the present-law premium deduction limitation with respect to life insurance contracts is modified to provide that no deduction is permitted for premiums paid on any life insurance, annuity or endowment contract, if the taxpayer is directly or indirectly a beneficiary under the contract. Also, generally, no deduction is allowed for interest paid or accrued on any indebtedness with respect to life insurance policy, or endowment or annuity contract, covering the life of any individual. In addition, in the case of a taxpayer other than a natural person, no deduction is allowed for the portion of the taxpayer's interest expense that is allocable to unborrowed policy cash surrender values with respect to any life insurance policy or annuity or endowment contract issued after June 8, 1997. The provisions apply generally with respect to contracts issued after June 8, 1997.

Allocation of basis of properties distributed to a partner by a partnership. --The bill modifies the basis allocation rules for distributee partners, so that the basis of distributed property is allocated generally in proportion to the fair market values of the property. The provision applies to partnership distributions after the date of enactment.

Treatment of inventory items of a partnership. --The bill eliminates the requirement that inventory be substantially appreciated in order to give rise to ordinary income under the rules relating to sales and exchanges of partnership interests. The provision is effective for sales and exchanges, and distributions after the date of enactment, with an exception for written binding contracts in effect on June 8, 1997.

Treatment of appreciated property contributed to a partnership. --The bill extends from 5 years to 7 years the period in which a partner recognizes pre-contribution gain with respect to property contributed to a partnership. The provision is effective for property contributed to a partnership after June 8, 1997. An exception is provided for property contributed to a partnership pursuant to a written binding contract in effect on June 8, 1997.

Earned income credit compliance provisions

a. Deny EIC eligibility for prior acts of recklessness or fraud

Under the bill, a taxpayer who fraudulently claims the earned income credit (EIC) is ineligible to claim the EIC for a subsequent period of 10 years. In addition, a taxpayer who erroneously claims the EIC due to reckless or intentional disregard of rules or regulations is ineligible to claim the EIC for a subsequent period of two years. These sanctions are in addition to any other penalty imposed under present law. The determination of fraud or of reckless or intentional disregard of rules or regulations are made in a deficiency proceeding (which provides for judicial review). The provision is effective for taxable years beginning after December 31, 1996.

b. Recertification required when taxpayer found to be ineligible for EIC in past

Under the bill, a taxpayer who has been denied the EIC as a result of deficiency procedures is ineligible to claim the EIC in subsequent years unless evidence of eligibility for the credit is provided by the taxpayer. To demonstrate current eligibility, the taxpayer is required to meet evidentiary requirements established by the Secretary of the Treasury. Failure to provide this information when claiming the EIC is treated as a mathematical or clerical error. If a taxpayer is recertified as eligible for the credit, the taxpayer is not required to provide this information in the future unless the IRS again denies the EIC as a result of a deficiency procedure. Ineligibility for the EIC under the provision is subject to review by the courts. The provision is effective for taxable years beginning after December 31, 1996.

c. Due diligence requirements for paid preparers

Under the bill, return preparers are required to fulfill certain due diligence requirements with respect to returns they prepare claiming the EIC. The penalty for failure to meet these requirements is \$100. This penalty is in addition to any other penalty imposed under present law. The provision is effective for taxable years beginning after December 31, 1996.

d. Modify the definition of AGI used to phaseout the EIC

Under present law, the EIC is phased out above certain income levels. For individuals with earned income (or AGI, if greater) in excess of the beginning of the phaseout range, the maximum credit amount is reduced by the phaseout rate multiplied by the amount of earned income (or AGI, if greater) in excess of the beginning of the phaseout range. The definition of AGI used for the phase out of the earned income credit disregards certain losses. The losses disregarded are: (1) net capital losses (if greater than zero); (2) net losses from trusts and estates; (3) net losses from nonbusiness rents and royalties; and (4) 50 percent of the net losses from business, computed separately with respect to sole proprietorships (other than in farming), sole proprietorships in farming, and other businesses.

The bill modifies the definition of AGI used for phasing out the credit by adding two items of nontaxable income and changing the percentage of certain losses disregarded. The two items added are: (1) tax-exempt interest, and (2) nontaxable distributions from pensions, annuities, and individual retirement arrangements (but only if not rolled over into similar vehicles during the applicable rollover period). The bill also increases the amount of net losses from businesses, computed separately with respect to sole proprietorships (other than farming), sole proprietorships in farming, and other businesses disregarded from 50 percent to 75 percent. The provision is effective for taxable years beginning after December 31, 1997.

Eligibility for income forecast method.--The bill limits the types of property to which the income forecast method may be applied. Under the bill, the income forecast method is available to motion picture films, television films and taped shows, books, patents, master sound recordings, copyrights, and other such property as designated by the Secretary of the Treasury.

In addition, consumer durables subject to rent-to-own contracts are provided a three-year recovery period and a four-year class life for MACRS purposes (and would not be eligible for the income forecast method). Such property generally is described in Rev. Proc. 95-38, 1995-34 I.R.B. 25.

The provisions generally are effective for property placed in service after the date of enactment.

Modify the exception to the related party rule of section 1033 for individuals to only provide an exception for de minimis amounts.--Under section 1033, gain realized by a taxpayer from certain involuntary conversions of property is deferred to the extent the taxpayer purchases property similar or related in service or use to the converted property within a specified replacement period of time. Corporations are not entitled to defer gain under section 1033 if the replacement property or stock is purchased from a related person.

The bill expands the present-law denial of the application of section 1033 to any other taxpayer (including an individual) that acquires replacement property from a related party unless the taxpayer has aggregate realized gain of \$100,000 or less for the taxable year with respect to converted property with aggregate realized gains. The provision applies to involuntary conversions occurring after June 8, 1997.

Repeal of installment sale accounting for certain manufacturers.--The bill repeals a provisions that permits the use of the installment method of accounting for certain sales by manufacturers to dealers effective for taxable years beginning one year after the date of enactment.

Extension of Federal unemployment surtax.--The bill extends the temporary surtax rate through December 31, 2007. It also increases the limit from 0.25 percent to 0.50 percent of covered wages on the Federal Unemployment Account (FUA) in the Unemployment Trust Fund. The provision is effective for labor performed on or after January 1, 1999.

Additional requirements for charitable remainder trusts. --Under the bill, a trust cannot be a charitable remainder annuity trust if the annuity for any year is greater than 50 percent of the initial fair market value of the trust's assets or be a charitable remainder unitrust if the percentage of assets that are required to be distributed at least annually is greater than 50 percent effective for transfers to a trust made after June 18, 1997. In addition, the bill requires that the value of the charitable remainder with respect to any transfer to a qualified charitable remainder annuity trust or charitable remainder unitrust be at least 10 percent of the net fair market value of such property transferred in trust on the date of the contribution to the trust, effective for transfers to a trust made after June 28, 1997. The bill contains special rules which deal with revocations and reformations of trusts created after that date that do not meet the 10-percent requirement. In addition, the 10-percent requirement does not apply to trusts created by will or other testamentary instrument if the settler dies before January 1, 1999 and the will or other testamentary instrument is not changed after June 28, 1997, or the settlor is under a mental disability on that date. Finally, the bill provides that additional contributions made after July 28, 1997, to a charitable remainder unitrust created before July 29, 1997, that does not meet the 10-percent requirement with respect to the additional contribution, is treated, under Treasury regulations as if those contributions were made to a new trust that does not affect the status of the original unitrust as a charitable remainder trust.

Modify general business credit carryback and carryforward rules. --The bill reduces the carryback period for the general business credit to one year (from three years) and extends the carryforward period to 20 years (from 15 years). The provision is effective for credits arising in taxable years beginning after December 31, 1997.

Using Federal case registry of child support orders for tax enforcement purposes. --The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 mandated the creation of a Federal Case Registry of Child Support Orders (the FCR) by October 1, 1998. Although HHS has not yet issued final regulations, the FCR is required to include the names, and the State case identification numbers of individuals who are owed or who owe child support or for whom paternity is being established. It may also include the social security numbers (SSNs) of these individuals.

Not later than October 1, 1999, the Secretary of the Treasury will have access to the Federal Case Registry of Child Support Orders. Also, by October 1, 1999, the data elements on the State Case Registry will include the SSNs of children covered by cases in the Registry, and the States will provide the SSNs of these children to the FCR.

The provision is effective on October 1, 1999.

Expanded SSA records for tax enforcement. --Under the Family Support Act of 1988, States must require each parent to furnish their social security number (SSN) for birth records. Parents can apply directly to the Social Security Administration (SSA) for an SSN for their child; or, in most states, they may apply for the child's SSN when obtaining a birth certificate. On an

individual's SSN application, the SSA currently requires the mother's maiden name but not her SSN.

SSA is required to obtain social security numbers (SSNs) of both parents on minor children's applications for SSNs. The SSA will provide this information to the IRS as part of the Data Master File ("DM-1 file"). The conferees anticipate that the IRS will use the information to identify questionable claims for the earned income credit, the dependent exemption, and other tax benefits, before tax refunds are paid out.

The provision is effective 180 days after the date of enactment.

Treatment of amounts received under the work requirements of the Personal Responsibility and Work Opportunity Act of 1996.--The bill provides that workfare payments are not wages for purposes of the earned income credit. There is no inference intended with respect to whether workfare payments otherwise qualify as wages for purposes of income and employment taxes or as wages for purposes of an employer's eligibility for the work opportunity tax credit and the welfare-to-work tax credit. Also, there is no inference intended with respect to whether workfare payments are wages for purposes of the earned income credit before enactment of this provision.

Modification of estimated tax requirements.--Under present law, an individual with an AGI of more than \$150,000 as shown on the return for the preceding taxable year generally does not have an underpayment of estimated tax if he or she makes timely estimated tax payments at least equal to: (1) 110 percent of the tax shown on the return of the individual for the preceding year (the "110 percent of last year's liability safe harbor") or (2) 90 percent of the tax shown on the return for the current year.

The bill changes the 110 percent of last year's liability safe harbor to be a 100 percent of last year's liability safe harbor for taxable years beginning in 1998, a 105 percent of last year's liability safe harbor for taxable years beginning in 1999, 2000, and 2001, and a 112 percent of last year's liability safe harbor for taxable years beginning in 2002. In addition, no estimated tax penalties will be imposed under section 6654 or 6655 for any period before January 1, 1998, for any payment the due date of which is before January 16, 1998, with respect to an underpayment to the extent the underpayment is created or increased by a provision of the Act.

TITLE XI.--FOREIGN TAX PROVISIONS

Simplify foreign tax credit limitation for individuals

The bill exempts individuals with no more than \$300 (\$600 in the case of married persons filing jointly) of creditable foreign taxes, and no foreign source income other than passive income, from the foreign tax credit limitation rules.

Simplify translation of foreign taxes

The bill generally provides for accrual-basis taxpayers to translate foreign taxes at the average exchange rate for the taxable year to which such taxes relate. The bill also provides that, in cases where the foreign taxes actually are paid more than two years after such accrual, taxes eligible for the direct foreign tax credit are taken into account for the year to which they relate and taxes eligible for the indirect foreign tax credit are taken into account for the year in which paid; in all such cases the taxes subsequently paid are translated at the exchange rate for the time of payment.

Election to use simplified foreign tax credit limitation for alternative minimum tax purposes

The bill permits taxpayers to elect to use as their AMT foreign tax credit limitation fraction the ratio of foreign source regular taxable income to entire alternative minimum taxable income, rather than the ratio of foreign source alternative minimum taxable income to entire alternative minimum taxable income.

Simplify treatment of personal transactions in foreign currency

The bill applies nonrecognition treatment to any exchange gain that results from an individual's acquisition of foreign currency and disposition of it in a personal transaction, provided that such gain does not exceed \$200.

Simplify foreign tax credit limitation for dividends from 10/50 companies

Under the bill, dividends paid by a so-called 10/50 company out of earnings and profits for taxable years beginning after 2002 will be subject to look-through treatment for foreign tax credit limitation purposes (i.e., such dividends are characterized based on the character of the underlying income of the company). In the case of dividends paid by 10/50 companies out of earnings and profits for taxable years beginning before 2003, a single foreign tax credit limitation generally will apply to such dividends received by the taxpayer from all 10/50 companies (other than any 10/50 company that qualifies as a passive foreign investment company). The provision is effective for taxable years beginning after December 31, 2002.

General provisions affecting treatment of controlled foreign corporations

The bill makes several modifications to the treatment of controlled foreign corporations and lower-tier controlled foreign corporations. In addition, the bill extends the application of the indirect foreign tax credit to taxes paid or accrued by fourth- through sixth-tier controlled foreign corporations.

Modification of passive foreign investment company provisions to eliminate overlap with subpart F, to allow mark-to-market election, and to require measurement based on value for PFIC asset test

Under the bill, a shareholder that is subject to the subpart F rules with respect to stock of a passive foreign investment company that is also a controlled foreign corporation is not subject also to the passive foreign investment company provisions with respect to the same stock. The bill also allows a shareholder of a passive foreign investment company to make a mark-to-market election with respect to the stock of the passive foreign investment company, provided that such stock is marketable. Finally, the bill requires that the measurement of assets for purposes of the PFIC asset test be based on value in the case of publicly-traded corporations.

Simplify formation and operation of international joint ventures

The bill repeals the excise tax that applies to transfers of appreciated property by U.S. persons to certain foreign entities. The bill also requires enhanced information reporting by U.S. persons with respect to their interests in foreign partnerships.

Modification of reporting threshold for stock ownership of a foreign corporation

The bill increases the stock ownership threshold that results in an information reporting obligation with respect to a foreign corporation from 5 percent to 10 percent.

Transition rule for certain trusts

The bill grants regulatory authority to allow nongrantor trusts that had been treated as U.S. trusts prior to the enactment of the Small Business Job Protection Act of 1996 to elect to continue to be treated as U.S. trusts.

Simplify stock and securities trading safe harbor

The bill modifies the "safe harbor" from U.S. net income taxation for foreign persons that trade in stocks or securities for their own accounts. The bill eliminates the safe harbor's requirement for both partnerships and foreign corporations that the entity's principal office not be within the United States.

Clarification of determination of foreign taxes deemed paid

The bill clarifies that, for purposes of the indirect foreign tax credit, a foreign corporation's foreign tax pool does not include any taxes that are attributable to dividends distributed by the foreign corporation in prior taxable years.

Clarification of foreign tax credit limitation for financial services income

The bill clarifies that the exclusion from passive income for income that is treated as high-taxed income does not apply for purposes of the separate foreign tax credit limitation applicable to financial services income.

Eligibility of licenses of computer software for foreign sales corporation benefits

The bill provides that computer software licensed for reproduction abroad is not excluded from the definition of export property for purposes of the foreign sales corporation provisions. Accordingly, computer software that is exported with a right to reproduce is eligible for the benefits of the foreign sales corporation provisions.

Increase dollar limitation on section 911 exclusion

Under the bill, the \$70,000 limitation on the exclusion for foreign earned income is increased to \$80,000, in increments of \$2,000 each year beginning in 1998, and is indexed for inflation beginning in 2008.

Treatment of certain securities positions under the subpart F investment in U.S. property rules

The bill provides two additional exceptions from the definition of U.S. property for purposes of the subpart F rules. These exceptions cover collateral or margin deposit and repurchase agreement transactions entered into by a securities or commodities dealer in the ordinary course of its business.

Exception from foreign personal holding company income under subpart F for active financing income

The bill provides a temporary exception from foreign personal holding company income for subpart F purposes for certain income that is derived in the active conduct of an insurance, banking, financing or similar business. Such exception is applicable only for taxable years beginning in 1998.

Treat service income of nonresident alien individuals earned on foreign ships as foreign source income and disregard U.S. presence of such individuals

The bill generally treats income of a nonresident alien individual, who is present in the United States as a member of the regular crew of a foreign vessel, from the performance of personal services in connection with the international operation of a ship as income from foreign sources exempt from U.S. income and withholding tax. The bill further provides that any day that such an individual is present in the U.S. as a crew member is disregarded for purposes of determining whether the individual is treated as a U.S. resident for tax purposes, unless the individual otherwise engages in trade or business in the United States on such day.

TITLE XII.--SIMPLIFICATION PROVISIONS RELATING TO INDIVIDUALS AND BUSINESSES

Individual simplification provisions

Increased standard deduction for dependent children.--The bill increases the standard deduction for a taxpayer with respect to whom a dependency exemption is allowed on another taxpayer's return to the lesser of (1) the standard deduction for individual taxpayers or (2) the greater of: (a) \$500 (indexed for inflation as under present law), or (b) the individual's earned income plus \$250, effective for taxable years beginning after December 31, 1997. The \$250 amount is indexed for inflation after 1998. In addition, the bill increases the AMT exemption amount for a child under age 14 to the lesser of (1) \$33,750 or (2) the sum of the child's earned income plus \$5,000, effective for taxable years beginning after December 31, 1997. The \$5,000 amount is indexed for inflation after 1998.

Estimated tax for individuals.--The bill increases the de minimis threshold for estimated tax payments from \$500 to \$1000 for individuals.

Rural mail carriers.--The bill simplifies the treatment of certain reimbursed expenses of rural letter carriers' vehicles.

Travel expenses of certain Federal employees.--The bill simplifies the tax treatment of travel expenses of Federal employees participating in a Federal criminal investigation.

Payment of taxes by credit card.--The bill permits the payment of taxes by commercially acceptable means (such as credit cards). The bill prohibits the payment of any credit card fees by the Treasury.

Business simplification provisions

Modifications to look-back method for long-term contracts.--The bill provides two safe harbors such that a taxpayer may elect not to apply the look-back method for de minimis changes in estimated income from a long-term contract. In addition, the bill provides that for purposes of the look-back method, only one rate of interest is to apply for each accrual period.

The provisions apply to contracts completed in taxable years ending after the date of enactment.

Minimum tax treatment of certain property and casualty insurance companies.--The bill provides that a property and casualty insurance company that elects for regular tax purposes to be taxed only on taxable investment income determines its adjusted current earnings under the alternative minimum tax without regard to any amount not taken into account in determining its gross investment income. The provision is effective for taxable years beginning after December 31, 1997.

Treatment of construction allowances provided to lessees. --The bill provides that the gross income of a lessee does not include amounts received in cash (or treated as a rent reduction) from a lessor under a short-term lease of retail space for the purpose of the lessee's construction or improvement of qualified long-term real property for use in the lessee's trade or business at such retail space.

In addition, the lessor must treat the amounts expended on the construction allowance as nonresidential real property owner by the lessor. Reporting requirements are provided to ensure that both the lessor and lessee treat such amounts as nonresidential real property. The provision applies to leases entered into after the date of enactment.

Partnership simplification provisions

Simplified flow-through for electing large partnerships. --The bill modifies the tax treatment of an electing large partnership (generally, any partnership that elects under the provision, if the number of partners in the preceding taxable year is 100 or more) and its partners. The provision provides that each partner takes into account separately the partner's distributive share of certain items of partnership income, gain, loss, deduction and credit. The provisions generally apply to partnership taxable years beginning after December 31, 1997.

Simplified audit procedures for electing large partnerships. --The bill creates a new audit system for electing large partnerships (generally, any partnership that elects under the reporting provisions, if the number of partners in the preceding taxable year is 100 or more). Partnership adjustments generally flow through to the partners for the year in which the adjustment takes effect. In lieu of flowing an adjustment through to its partners, the partnership may elect to pay an imputed underpayment. The provision applies to partnership taxable years beginning after December 31, 1997.

Due date for furnishing information to partners of electing large partnerships. --The bill provides that an electing large partnership must furnish information returns to partners by the first March 15 following the close of the partnership's taxable year. Electing large partnerships are those partnerships subject to the simplified reporting and audit rules (generally, any partnership that elects under the reporting provision, if the number of partners in the preceding taxable year is 100 or more). The provision is effective for partnership taxable years beginning after December 31, 1997.

Partnership returns required on magnetic media. --The bill provides generally that any partnership is required to provide the tax return of the partnership (Form 1065), as well as copies of the schedule sent to each partner (Form K-1), to the Internal Revenue Service on magnetic media. An exception is provided for partnerships with 100 or fewer partners. The provision is effective for partnership taxable years beginning after December 31, 1997.

Treatment of partnership items of individual retirement arrangements. --The bill modifies the filing threshold for an IRA with an interest in a partnership that is subject to the partnership-level

audit rules. A fiduciary of an IRA that receives taxable income from such a partnership of less than \$1,000 (before the \$1,000 specific deduction) is not required to file an income tax return if the IRA does not have any other income from an unrelated trade or business. The provision applies to taxable years beginning after December 31, 1997.

Other partnership audit rules. --The conference agreement contains provisions to simplify the partnership audit rules enacted in the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA).

Closing of partnership taxable year with respect to deceased partner. --The bill provides that the taxable year of a partnership closes with respect to a partner whose entire interest in the partnership terminates, whether by death, liquidation or otherwise. The provision is effective for partnership taxable years beginning after December 31, 1997.

REIT simplification

The bill modifies the following provisions relating to the requirements for qualification as, and the taxation of, a REIT, effective for taxable years beginning after the date of enactment:

Alternative penalties for failure to request information from shareholders. --The bill replaces the rule that disqualifies a REIT for any year in which the REIT failed to comply with regulations to ascertain its ownership, with an intermediate penalty of \$25,000 (\$50,000 for intentional violations) failing to do so. In addition, a REIT that complied with the regulations for ascertaining its ownership, and which did not know, or have reason to know, that it was so closely held as to be classified as a personal holding company, would not be treated as a personal holding company.

De minimis rule for tenant service income. --The bill permits a REIT to render a *de minimis* amount of impermissible services to tenants, or in connection with the management of property, and still treat amounts received with respect to that property as rent. The value of the impermissible services could not exceed one percent of the gross income from the property.

Attribution rules applicable to tenant ownership and independent contractors. -- The bill modifies the rules relating to attribution to partnerships for purposes of defining qualified rent and independent contractor, so that attribution would occur only when a partner owns a 25 percent or greater interest in the partnership.

Credit for tax paid by REIT on retained capital gains. -- The bill permits a REIT to elect to retain and pay income tax on net long-term capital gains it received during the tax year, just as a RIC is permitted under present law.

Repeal of 30-percent gross income requirement. --The bill repeals the rule that requires less than 30 percent of a REIT's gross income be derived from gain from the sale or other disposition

of stock or securities held for less than one year, certain real property held less than four years, and property that is sold or disposed of in a prohibited transaction.

Modification of earnings and profits for determining whether REIT has earnings and profits from non-REIT year. -- The bill changes the ordering rule for purposes of the requirement that newly-electing REITs distribute earnings and profits that were accumulated in non-REIT years so that distributions of accumulated earnings and profits generally would be treated as made from the entity's earliest accumulated earnings and profits, rather than the most recently accumulated earnings and profits.

Treatment of foreclosure property. -- The bill lengthens the original grace period for foreclosure property to three taxable year and permits extension of the grace period for an additional three years by filing a request to the IRS. A REIT could revoke an election to treat property as foreclosure property for any taxable year. Further, the bill conforms the definition of independent contractor for purposes of the foreclosure property rule to the definition of independent contractor for purposes of the general rules.

Payments under hedging instruments. -- The bill treats income from all hedges that reduce the interest rate risk of REIT liabilities, not just from interest rate swaps and caps, as qualifying income.

Excess noncash income. -- The bill (1) expands the class of excess noncash items to include income from the cancellation of indebtedness and (2) extends the treatment of original issue discount and coupon interest as excess noncash items to REITs that use an accrual method of taxation.

Prohibited transaction safe harbor. -- The bill excludes from the prohibited sales rules property that was involuntarily converted.

Shared appreciation mortgages. -- The bill provides that interest received on a shared appreciation mortgage is not subject to the tax on prohibited transactions where the property subject to the mortgage is sold within 4 years of the REIT's acquisition of the mortgage pursuant to a bankruptcy plan of the mortgagor unless the REIT acquired the mortgage knew or had reason to know that the property subject to the mortgage would be sold in a bankruptcy proceeding.

Wholly-owned REIT subsidiaries. -- The bill permits any corporation wholly-owned by a REIT to be treated as a qualified subsidiary, regardless of whether the corporation had always been owned by the REIT. Where the REIT acquired an existing corporation, the bill treats any such corporation as being liquidated as of the time of acquisition by the REIT and then reincorporated (thus, any of the subsidiary's pre-REIT built-in gain would be subject to tax). In addition, any pre-REIT earnings and profits of the subsidiary must be distributed before the end of the REIT's taxable year.

Repeal of 30-percent requirement of regulated investment companies

The bill repeals the requirement that a regulated investment company ("RIC") must derive less than 30 percent of its gross income from the sale or disposition of certain investments (including stock, securities, options, futures, and forward contracts) held less than three months (the "short-short test") (sec. 851(b)(3)) effective for taxable years beginning after the date of enactment.

Taxpayer protections

The bill provides several additional protections for taxpayers, such as providing a reasonable cause exception for additional penalties where one does not now exist, clarifying several aspects of the statute of limitations, and repealing the authority to disclose whether a prospective juror has been audited.

TITLE XIII.--ESTATE, GIFT, AND TRUST SIMPLIFICATION

The bill contains a number of simplification provisions relating to Federal estate, gift and trust taxes that are intended to simplify administration of the Internal Revenue Code. These provisions: (1) eliminate gift tax filing requirements for gifts to charities; (2) clarify waivers of certain rights of recovery; (3) provide that certain trusts created before the enactment of the Omnibus Budget Reconciliation Act of 1990 are treated as satisfying the withholding requirement if the governing instruments require that all trustees be U.S. citizens or domestic corporations; (4) provide that any debt obligation, the income from which would be eligible for the exemption for short-term OID under section 871(g)(1)(B)(i) if such income were received by the decedent on the date of his death, is treated as property located outside of the United States in determining the U.S. estate tax liability of a nonresident not a U.S. citizen; (5) conform the treatment of estates and trusts by (a) providing an irrevocable election to treat a qualified revocable trust as part of the decedent's estate for Federal income tax purposes, (b) extending the application of the 65-day rule applicable under current law to trusts to distributions by estates, and (c) extending the separate share rule to estates; (6) treat an estate and a beneficiary of that estate as related persons for purposes of sections 267 and 1239, except in the case of a sale or exchange in satisfaction of a pecuniary bequest; (7) allow the trustee of a pre-need funeral trust to elect special tax treatment for such a trust; (8) clarify the treatment of certain transfers made through a revocable trust within three years of death; (9) clarify that the marital deduction is available with respect to a nonparticipant spouse's interest in an annuity attributable to community property laws where he or she predeceases the participant spouse; (10) provide the Treasury Department with regulatory authority to treat as trusts legal arrangements that have substantially the same effect as a trust; (11) provide an opportunity to correct certain failures in an election to specially value certain real property used in farming or other closely held businesses; and (12) waive the requirement of a U.S. trustee for qualified domestic trusts.

TITLE XIV.--EXCISE TAX AND OTHER SIMPLIFICATION PROVISIONS

Excise tax simplification

The bill includes a package of excise tax simplification provisions.

(1) Certain de minimis exceptions to the taxes on heavy highway vehicles and luxury automobiles for after-market additions are increased from \$200 to \$1000.

(2) Various changes are made to the excise taxes on distilled spirits, wine, and beer to conform the treatment of the three beverages under various present-law rules or to conform the Code to changes in the administration of those taxes enacted in recent years.

(3) The Internal Revenue Service is provided expanded authority to exempt taxpayers from registration requirements of the Code.

(4) The excise tax on arrows is replaced by a tax on four component parts of arrows.

(5) The rules governing when modified trucks are "remanufactured" and thus subject to the retail tax on heavy highway vehicles are clarified.

(6) Clarification is provided that skydiving flights are taxed as noncommercial aviation subject to a fuels tax (rather than to the commercial passenger ticket tax).

(7) A provision eliminating double taxation of certain aviation fuel is provided.

(8) Certain "deadwood" provisions are deleted from the Code.

Tax-exempt bond provisions

Repeal of \$100,000 limitation on unspent proceeds under 1-year exception from rebate.-- Under the bill, the \$100,000 limit on proceeds that may remain unspent after six months for certain governmental and qualified 501(c)(3) bonds otherwise exempt from the rebate requirement is deleted. Thus, if at least 95 percent of the proceeds of these bonds is spent within six months after their issuance, and the remainder is spent within one year, the six-month exception is deemed to be satisfied. The provision applies to bonds issued after the date of enactment.

Exception from rebate for earnings on bona fide debt service fund under construction bond rules.-- The bill exempts earnings on bond proceeds invested in bona fide debt service funds from the arbitrage rebate requirement and the penalty requirement of the 24-month exception if the spending requirements of that exception are otherwise satisfied. The provision applies to bonds issued after the date of enactment.

Repeal of debt service-based limitation on investment in certain nonpurpose investments.-- The bill repeals the 150-percent of debt service yield restriction. The provision applies to bonds issued after the date of enactment.

Repeal of expired provisions relating to student loan bonds.--Present law includes two special exceptions to the arbitrage rebate and pooled financing temporary period rules for certain qualified student loan bonds. These exceptions applied only to bonds issued before January 1, 1989. These special exceptions are deleted as "deadwood."

Tax Court Provisions

The bill clarifies several aspects of the procedures utilized in the Tax Court, and establishes jurisdiction for the Tax Court to determine employment status.

Other Provisions

Due date for first quarter estimated tax payments by private foundations.--The bill provides that a calendar-year foundation's first-quarter estimated tax payment is due on May 15th (which is the same day that its annual return, Form 990-PF, for the preceding year is due). The provision applies to taxable years beginning after the date of enactment.

Withholding of Puerto Rico taxes for Federal employees.--The bill provides the authority for the withholding of Commonwealth income taxes from the wages of Federal employees.

Certain notices disregarded.--The bill provides that certain notices are to be disregarded under the provision increasing the interest rate on large corporate underpayments.

TITLE XV.--PENSION AND EMPLOYEE BENEFIT PROVISIONS

The bill contains a variety of miscellaneous provisions relating to pensions and other benefits. Several provisions apply to State and local governmental plans including an exemption from the discrimination rules, a portability provision which permits employees participating in governmental plans to purchase additional service credit for their retirement benefit, and provision which provides for an income exclusion for disability payments to public safety employees.

The bill contains certain rules relating to ESOPs of S corporations, including the repeal of the application of the unrelated business taxable income rules to S corporation income. The bill contains a provision which removes a cap on the funding limitation applicable to certain defined benefit plans, and includes a requirement that cash or deferred arrangements provide diversification of investments (the Boxer amendment). The bill increases the 150-percent of current liability full funding limit.

In addition, the bill provides tax sanctions with respect to the requirements of The Newborns' and Mothers' Health Protection Act of 1996 and The Mental Health Parity Act of 1996.

The bill also contains pension simplification provisions which address a variety of plan administration issues including the use of new technologies in retirement plans, the elimination of paperwork burdens on plans, a modification to the antiassignment and alienation rules, and a simplification of the rollover rules applicable to qualified retirement plans.

TITLE XVI.—TECHNICAL CORRECTION PROVISIONS

The bill contains technical, clerical, and conforming amendments to the Small Business Job Protection Act of 1996, the Health Insurance Portability and Accountability Act of 1996, the Taxpayer Bill of Rights 2, and other recently enacted legislation.

TITLE XVII.--LIMITED TAX BENEFITS SUBJECT TO THE LINE ITEM VETO ACT

The bill identifies 79 provisions in the bill that are subject to the President's cancellation authority under the Line Item Veto Act.