

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide for a manager's amendment.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 2020

To provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRASSLEY (for
himself and Mr. BAUCUS)

Viz:

1 On page 82, between lines 20 and 21, insert the fol-
2 lowing:

3 **SEC. 224. EXTENSION OF FULL CREDIT FOR QUALIFIED**
4 **ELECTRIC VEHICLES.**

5 (a) IN GENERAL.—Section 30(b) (relating to limita-
6 tions) is amended by striking paragraph (2) and by redес-
7 ignating paragraph (3) as paragraph (2).

8 (b) EFFECTIVE DATE.—The amendments made by
9 subsection (a) shall apply to taxable years beginning after
10 December 31, 2005.

1 On page 107, between lines 4 and 5, insert the fol-
2 lowing:

3 **SEC. 307. ENCOURAGEMENT OF CONTRIBUTIONS OF CAP-**
4 **ITAL GAIN REAL PROPERTY MADE FOR CON-**
5 **SERVATION PURPOSES.**

6 (a) IN GENERAL.—

7 (1) INDIVIDUALS.—Paragraph (1) of subsection
8 170(b) (relating to percentage limitations) is amend-
9 ed by redesignating subparagraphs (E) and (F) as
10 subparagraphs (F) and (G), respectively, and by in-
11 serting after subparagraph (D) the following new
12 subparagraph:

13 “(E) CONTRIBUTIONS OF QUALIFIED CON-
14 SERVATION CONTRIBUTIONS.—

15 “(i) IN GENERAL.—Any qualified con-
16 servation contribution (as defined in sub-
17 section (h)(1)) to an organization described
18 in subparagraph (A) shall be allowed to
19 the extent the aggregate of such contribu-
20 tions does not exceed the excess of 50 per-
21 cent of the taxpayer’s contribution base
22 over the amount of all other charitable
23 contributions allowable under this para-
24 graph.

1 “(ii) CARRYOVER.—If the aggregate
2 amount of contributions described in clause
3 (i) exceeds the limitation of clause (i), such
4 excess shall be treated (in a manner con-
5 sistent with the rules of subsection (d)(1))
6 as a charitable contribution to which clause
7 (i) applies in each of the 15 succeeding
8 years in order of time.

9 “(iii) COORDINATION WITH OTHER
10 SUBPARAGRAPHS.—For purposes of apply-
11 ing this subsection and subsection (d)(1),
12 contributions described in clause (i) shall
13 not be treated as described in subpara-
14 graph (A), (B), (C), or (D).

15 “(iv) QUALIFIED FARMER OR RANCH-
16 ER.—

17 “(I) IN GENERAL.—If the indi-
18 vidual is a qualified farmer or rancher
19 for the taxable year in which the con-
20 tribution is made, clause (i) shall be
21 applied by substituting ‘100 percent’
22 for ‘50 percent’.

23 “(II) DEFINITION.—For pur-
24 poses of subclause (I), the term ‘quali-
25 fied farmer or rancher’ means a tax-

1 payer whose gross income from the
2 trade or business of farming (within
3 the meaning of section 2032A(e)(5))
4 is greater than 50 percent of the tax-
5 payer’s gross income for the taxable
6 year.”.

7 (2) CORPORATIONS.—Paragraph (2) of section
8 170(b) is amended to read as follows:

9 “(2) CORPORATIONS.—In the case of a corpora-
10 tion—

11 “(A) IN GENERAL.—The total deductions
12 under subsection (a) for any taxable year (other
13 than for contributions to which subparagraph
14 (B) applies) shall not exceed 10 percent of the
15 taxpayer’s taxable income.

16 “(B) QUALIFIED CONSERVATION CON-
17 TRIBUTIONS BY CERTAIN CORPORATE FARMERS
18 AND RANCHERS.—

19 “(i) IN GENERAL.—Any qualified con-
20 servation contribution (as defined in sub-
21 section (h)(1)) made—

22 “(I) by a corporation which, for
23 the taxable year during which the con-
24 tribution is made, is a qualified farm-
25 er or rancher (as defined in paragraph

1 (1)(E)(iv)(II)) and the stock of which
2 is not readily tradable on an estab-
3 lished securities market at any time
4 during such year, and

5 “(II) to an organization de-
6 scribed in paragraph (1)(A),

7 shall be allowed to the extent the aggregate
8 of such contributions does not exceed the
9 excess of the taxpayer’s taxable income
10 over the amount of charitable contributions
11 allowable under subparagraph (A).

12 “(ii) CARRYOVER.—If the aggregate
13 amount of contributions described in clause
14 (i) exceeds the limitation of clause (i), such
15 excess shall be treated (in a manner con-
16 sistent with the rules of subsection (d)(2))
17 as a charitable contribution to which clause
18 (i) applies in each of the 15 succeeding
19 years in order of time.

20 “(C) TAXABLE INCOME.—For purposes of
21 this paragraph, taxable income shall be com-
22 puted without regard to—

23 “(i) this section,

24 “(ii) part VIII (except section 248),

1 “(iii) any net operating loss
2 carryback to the taxable year under sec-
3 tion 172,

4 “(iv) section 199, and

5 “(v) any capital loss carryback to the
6 taxable year under section 1212(a)(1).”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) The second sentence of clause (i) of section
9 170(b)(1)(C) is amended by striking “subparagraph
10 (D)” and inserting “subparagraph (D) or (E)”.

11 (2) Clause (i) of section 170(b)(1)(D) is amend-
12 ed by striking “subparagraph (A)” and inserting
13 “subparagraphs (A) or (E)”.

14 (3) Paragraph (2) of section 170(d) is amended
15 by striking “subsection (b)(2)” each place it appears
16 and inserting “subsection (b)(2)(A)”.

17 (4) Section 545(b)(2) is amended by striking
18 “and (D)” and inserting “(D), and (E)”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to contributions made in taxable
21 years beginning after December 31, 2005, and before Jan-
22 uary 1, 2008.

1 **SEC. 308. ENHANCED DEDUCTION FOR CHARITABLE CON-**
2 **TRIBUTION OF LITERARY, MUSICAL, ARTIS-**
3 **TIC, AND SCHOLARLY COMPOSITIONS.**

4 (a) IN GENERAL.—Subsection (e) of section 170 (re-
5 lating to certain contributions of ordinary income and cap-
6 ital gain property), as amended by this section 33 of this
7 Act, is amended by adding at the end the following new
8 paragraph:

9 “(18) SPECIAL RULE FOR CERTAIN CONTRIBU-
10 TIONS OF LITERARY, MUSICAL, ARTISTIC, OR SCHOL-
11 ARLY COMPOSITIONS.—

12 “(A) IN GENERAL.—In the case of a quali-
13 fied artistic charitable contribution—

14 “(i) the amount of such contribution
15 taken into account under this section shall
16 be the fair market value of the property
17 contributed (determined at the time of
18 such contribution), and

19 “(ii) no reduction in the amount of
20 such contribution shall be made under
21 paragraph (1).

22 “(B) QUALIFIED ARTISTIC CHARITABLE
23 CONTRIBUTION.—For purposes of this para-
24 graph, the term ‘qualified artistic charitable
25 contribution’ means a charitable contribution of
26 any literary, musical, artistic, or scholarly com-

1 position, or similar property, or the copyright
2 thereon (or both), but only if—

3 “(i) such property was created by the
4 personal efforts of the taxpayer making
5 such contribution no less than 18 months
6 prior to such contribution,

7 “(ii) the taxpayer—

8 “(I) has received a qualified ap-
9 praisal of the fair market value of
10 such property in accordance with the
11 regulations under this section, and

12 “(II) attaches to the taxpayer’s
13 income tax return for the taxable year
14 in which such contribution was made
15 a copy of such appraisal,

16 “(iii) the donee is an organization de-
17 scribed in subsection (b)(1)(A),

18 “(iv) the use of such property by the
19 donee is related to the purpose or function
20 constituting the basis for the donee’s ex-
21 emption under section 501 (or, in the case
22 of a governmental unit, to any purpose or
23 function described under section 501(e)),

24 “(v) the taxpayer receives from the
25 donee a written statement representing

1 that the donee's use of the property will be
2 in accordance with the provisions of clause
3 (iv), and

4 “(vi) the written appraisal referred to
5 in clause (ii) includes evidence of the ex-
6 tent (if any) to which property created by
7 the personal efforts of the taxpayer and of
8 the same type as the donated property is
9 or has been—

10 “(I) owned, maintained, and dis-
11 played by organizations described in
12 subsection (b)(1)(A), and

13 “(II) sold to or exchanged by
14 persons other than the taxpayer,
15 donee, or any related person (as de-
16 fined in section 465(b)(3)(C)).

17 “(C) MAXIMUM DOLLAR LIMITATION; NO
18 CARRYOVER OF INCREASED DEDUCTION.—The
19 increase in the deduction under this section by
20 reason of this paragraph for any taxable year—

21 “(i) shall not exceed the artistic ad-
22 justed gross income of the taxpayer for
23 such taxable year, and

24 “(ii) shall not be taken into account in
25 determining the amount which may be car-

1 ried from such taxable year under sub-
2 section (d).

3 “(D) ARTISTIC ADJUSTED GROSS IN-
4 COME.—For purposes of this paragraph, the
5 term ‘artistic adjusted gross income’ means
6 that portion of the adjusted gross income of the
7 taxpayer for the taxable year attributable to—

8 “(i) income from the sale or use of
9 property created by the personal efforts of
10 the taxpayer which is of the same type as
11 the donated property, and

12 “(ii) income from teaching, lecturing,
13 performing, or similar activity with respect
14 to property described in clause (i).

15 “(E) PARAGRAPH NOT TO APPLY TO CER-
16 TAIN CONTRIBUTIONS.—Subparagraph (A) shall
17 not apply to any charitable contribution of any
18 letter, memorandum, or similar property which
19 was written, prepared, or produced by or for an
20 individual while the individual is an officer or
21 employee of any person (including any govern-
22 ment agency or instrumentality) unless such
23 letter, memorandum, or similar property is en-
24 tirely personal.

1 “(F) COPYRIGHT TREATED AS SEPARATE
2 PROPERTY FOR PARTIAL INTEREST RULE.—In
3 the case of a qualified artistic charitable con-
4 tribution, the tangible literary, musical, artistic,
5 or scholarly composition, or similar property
6 and the copyright on such work shall be treated
7 as separate properties for purposes of this para-
8 graph and subsection (f)(3).

9 “(G) TERMINATION.—This paragraph
10 shall not apply to contributions made after De-
11 cember 31, 2007.”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to contributions made after De-
14 cember 31, 2005.

15 **SEC. 309. MILEAGE REIMBURSEMENTS TO CHARITABLE**
16 **VOLUNTEERS EXCLUDED FROM GROSS IN-**
17 **COME.**

18 (a) IN GENERAL.—Part III of subchapter B of chap-
19 ter 1 is amended by inserting after section 139A the fol-
20 lowing new section:

21 **“SEC. 139B. MILEAGE REIMBURSEMENTS TO CHARITABLE**
22 **VOLUNTEERS.**

23 “(a) IN GENERAL.—Gross income of an individual
24 does not include amounts received, from an organization
25 described in section 170(c), as reimbursement of operating

1 expenses with respect to use of a passenger automobile
2 for the benefit of such organization. The preceding sen-
3 tence shall apply only to the extent that the expenses
4 which are reimbursed would be deductible under this chap-
5 ter if section 274(d) were applied—

6 “(1) by using the standard business mileage
7 rate established under such section, and

8 “(2) as if the individual were an employee of an
9 organization not described in section 170(c).

10 “(b) APPLICATION TO VOLUNTEER SERVICES
11 ONLY.—Subsection (a) shall not apply with respect to any
12 expenses relating to the performance of services for com-
13 pensation.

14 “(c) NO DOUBLE BENEFIT.—A taxpayer may not
15 claim a deduction or credit under any other provision of
16 this title with respect to the expenses under subsection (a).

17 “(d) EXEMPTION FROM REPORTING REQUIRE-
18 MENTS.—Section 6041 shall not apply with respect to re-
19 imbursements excluded from income under subsection (a).

20 “(e) TERMINATION.—This section shall not apply to
21 taxable years beginning after December 31, 2007.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 for part III of subchapter B of chapter 1 is amended by
24 inserting after the item relating to section 139 the fol-
25 lowing new item:

“Sec. 139A. Mileage reimbursements to charitable volunteers”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2005.

4 **SEC. 310. ALTERNATIVE PERCENTAGE LIMITATION FOR**
5 **CORPORATE CHARITABLE CONTRIBUTIONS**
6 **TO THE MATHEMATICS AND SCIENCE PART-**
7 **nership PROGRAM.**

8 (a) IN GENERAL.—Section 170(b) (related to per-
9 centage limitations) is amended by adding at the end the
10 following new paragraph:

11 “(3) SPECIAL RULE FOR CORPORATE CON-
12 TRIBUTIONS TO THE MATHEMATICS AND SCIENCE
13 PARTNERSHIP PROGRAM.—

14 “(A) IN GENERAL.—In the case of a cor-
15 poration which makes an eligible mathematics
16 and science contribution—

17 “(i) the limitation under paragraph
18 (2) shall apply separately with respect to
19 all such contributions and all other chari-
20 table contributions, and

21 “(ii) paragraph (2) shall be applied
22 with respect to all eligible mathematics and
23 science contributions by substituting ‘15
24 percent’ for ‘10 percent’.

1 “(B) ELIGIBLE MATHEMATICS AND
2 SCIENCE CONTRIBUTION.—

3 “(i) IN GENERAL.—For purposes of
4 this paragraph, the term ‘eligible mathe-
5 matics and science contribution’ means a
6 charitable contribution (other than a con-
7 tribution of used equipment) to a qualified
8 partnership for the purpose of an activity
9 described in section 2202(c) of the Ele-
10 mentary and Secondary Education Act of
11 1965..

12 “(ii) QUALIFIED PARTNERSHIP.—The
13 term ‘qualified partnership’ means an eligi-
14 ble partnership (within the meaning of sec-
15 tion 2201(b)(1) of the Elementary and
16 Secondary Education Act of 1965), but
17 only to the extent that such partnership
18 does not include a person other than a per-
19 son described in paragraph (1)(A).

20 “(C) TERMINATION.—This paragraph shall
21 not apply to any contributions made in taxable
22 years beginning after December 31, 2006.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply to contributions made in taxable
25 years beginning after December 31, 2005.

1 On page 149, line 7, strike “\$100” and insert
2 “\$250”.

3 Beginning on page 150, line 4, strike all through
4 page 151, line 2 and insert the following:

5 **SEC. 318. MODIFICATION OF RECORDKEEPING REQUIRE-**
6 **MENTS FOR CERTAIN CHARITABLE CON-**
7 **TRIBUTIONS.**

8 (a) RECORDKEEPING REQUIREMENT.—Subsection
9 (f) of section 170, as amended by section 317 of this Act,
10 is amended by adding at the end the following new para-
11 graph:

12 “(16) RECORDKEEPING.—No deduction shall be
13 allowed under subsection (a) for any contribution of
14 a cash, check, or other monetary gift unless the
15 donor maintains as a record of such contribution—

16 “(A) a cancelled check, or

17 “(B) a receipt or a letter or other written
18 communication from the donee showing the
19 name of the donee organization, the date of the
20 contribution, and the amount of the contribu-
21 tion.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to contributions made in taxable

1 years beginning after the date of the enactment of this
2 Act.

3 On page 172, after line 21, add the following:

4 **SEC. 322. EXPANSION OF THE BASE OF TAX ON PRIVATE**
5 **FOUNDATION NET INVESTMENT INCOME.**

6 (a) GROSS INVESTMENT INCOME.—

7 (1) IN GENERAL.—Paragraph (2) of section
8 4940(c) (relating to gross investment income) is
9 amended by adding at the end the following new
10 sentence: “Such term shall also include income from
11 sources similar to those in the preceding sentence.”.

12 (2) CONFORMING AMENDMENT.—Subsection (e)
13 of section 509 (relating to gross investment income)
14 is amended by adding at the end the following new
15 sentence: “Such term shall also include income from
16 sources similar to those in the preceding sentence.”.

17 (b) CAPITAL GAIN NET INCOME.—Paragraph (4) of
18 section 4940(c) (relating to capital gains and losses) is
19 amended—

20 (1) in subparagraph (A), by striking “used for
21 the production of interest, dividends, rents, and roy-
22 alties” and inserting “used for the production of
23 gross investment income (as defined in paragraph
24 (2))”, and

1 (2) in subparagraph (C), by inserting “or
2 carrybacks” after “carryovers”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 the date of the enactment of this Act.

6 **SEC. 323. DEFINITION OF CONVENTION OR ASSOCIATION**
7 **OF CHURCHES.**

8 Section 7701 (relating to definitions) is amended by
9 redesignating subsection(o) as subsection (p) and by in-
10 sserting after subsection (n) the following new subsection:

11 “(o) CONVENTION OR ASSOCIATION OF CHURCH-
12 ES.—For purposes of this title, any organization which is
13 otherwise a convention or association of churches shall not
14 fail to so qualify merely because the membership of such
15 organization includes individuals as well as churches or be-
16 cause individuals have voting rights in such organiza-
17 tion.”.

18 **SEC. 324. NOTIFICATION REQUIREMENT FOR ENTITIES NOT**
19 **CURRENTLY REQUIRED TO FILE.**

20 (a) IN GENERAL.—Section 6033 (relating to returns
21 by exempt organizations), as amended by section 346 of
22 this Act, is amended by redesignating subsection (j) as
23 subsection (k) and by inserting after subsection (i) the fol-
24 lowing new subsection:

1 “(j) ADDITIONAL NOTIFICATION REQUIREMENTS.—

2 Any organization the gross receipts of which in any tax-

3 able year result in such organization being referred to in

4 subsection (a)(3)(A)(ii) or (a)(3)(B)—

5 “(1) shall furnish annually, at such time and in

6 such manner as the Secretary may by forms or regu-

7 lations prescribe, information setting forth—

8 “(A) the legal name of the organization,

9 “(B) any name under which such organiza-

10 tion operates or does business,

11 “(C) the organization’s mailing address

12 and Internet web site address (if any),

13 “(D) the organization’s taxpayer identifica-

14 tion number,

15 “(E) the name and address of a principal

16 officer, and

17 “(F) evidence of the continuing basis for

18 the organization’s exemption from the filing re-

19 quirements under subsection (a)(1), and

20 “(2) upon the termination of the existence of

21 the organization, shall furnish notice of such termi-

22 nation.”.

23 (b) LOSS OF EXEMPT STATUS FOR FAILURE TO

24 FILE RETURN OR NOTICE.—Section 6033 (relating to re-

25 turns by exempt organizations), as amended by subsection

1 (a), is amended by redesignating subsection (k) as sub-
2 section (l) and by inserting after subsection (j) the fol-
3 lowing new subsection:

4 “(k) LOSS OF EXEMPT STATUS FOR FAILURE TO
5 FILE RETURN OR NOTICE.—

6 “(1) IN GENERAL.—If an organization de-
7 scribed in subsection (a)(1) or (i) fails to file an an-
8 nual return or notice required under either sub-
9 section for 3 consecutive years, such organization’s
10 status as an organization exempt from tax under
11 section 501(a) shall be considered revoked on and
12 after the date set by the Secretary for the filing of
13 the third annual return or notice. The Secretary
14 shall publish and maintain a list of any organization
15 the status of which is so revoked.

16 “(2) APPLICATION NECESSARY FOR REINSTATE-
17 MENT.—Any organization the tax-exempt status of
18 which is revoked under paragraph (1) must apply in
19 order to obtain reinstatement of such status regard-
20 less of whether such organization was originally re-
21 quired to make such an application.

22 “(3) RETROACTIVE REINSTATEMENT IF REA-
23 SONABLE CAUSE SHOWN FOR FAILURE.—If upon ap-
24 plication for reinstatement of status as an organiza-
25 tion exempt from tax under section 501(a), an orga-

1 nization described in paragraph (1) can show to the
2 satisfaction of the Secretary evidence of reasonable
3 cause for the failure described in such paragraph,
4 the organization's exempt status may, in the discre-
5 tion of the Secretary, be reinstated effective from
6 the date of the revocation under such paragraph.”.

7 (c) NO DECLARATORY JUDGMENT RELIEF.—Section
8 7428(b) (relating to limitations) is amended by adding at
9 the end the following new paragraph:

10 “(4) NONAPPLICATION FOR CERTAIN REVOCA-
11 TIONS.—No action may be brought under this sec-
12 tion with respect to any revocation of status de-
13 scribed in section 6033(k)(1).”.

14 (d) NO INSPECTION REQUIREMENT.—Section
15 6104(b) (relating to inspection of annual information re-
16 turns) is amended by inserting “(other than subsection (j)
17 thereof)” after “6033”.

18 (e) NO DISCLOSURE REQUIREMENT.—Section
19 6104(d)(3) (relating to exceptions from disclosure require-
20 ments) is amended by redesignating subparagraph (B) as
21 subparagraph (C) and by inserting after subparagraph (A)
22 the following new subparagraph:

23 “(B) NONDISCLOSURE OF ANNUAL NO-
24 TICES.—Paragraph (1) shall not require the

1 disclosure of any notice required under section
2 6033(j).”.

3 (f) NO MONETARY PENALTY FOR FAILURE TO NO-
4 TIFY.—Section 6652(c)(1) (relating to annual returns
5 under section 6033 or 6012(a)(6)) is amended by adding
6 at the end the following new subparagraph:

7 “(E) NO PENALTY FOR CERTAIN ANNUAL
8 NOTICES.—This paragraph shall not apply with
9 respect to any notice required under section
10 6033(j).”.

11 (g) SECRETARIAL OUTREACH REQUIREMENTS.—

12 (1) NOTICE REQUIREMENT.—The Secretary of
13 the Treasury shall notify in a timely manner every
14 organization described in section 6033(j) of the In-
15 ternal Revenue Code of 1986 (as added by this sec-
16 tion) of the requirement under such section 6033(j)
17 and of the penalty established under section
18 6033(k)—

19 (A) by mail, in the case of any organiza-
20 tion the identity and address of which is in-
21 cluded in the list of exempt organizations main-
22 tained by the Secretary, and

23 (B) by Internet or other means of out-
24 reach, in the case of any other organization.

1 (2) LOSS OF STATUS PENALTY FOR FAILURE TO
2 FILE RETURN.—The Secretary of the Treasury shall
3 publicize in a timely manner in appropriate forms
4 and instructions and through other appropriate
5 means, the penalty established under section
6 6033(k) of such Code for the failure to file a return
7 under section 6033(a)(1) of such Code.

8 (h) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to notices and returns with respect
10 to annual periods beginning after 2005

11 **SEC. 325. DISCLOSURE TO STATE OFFICIALS OF PROPOSED**
12 **ACTIONS RELATED TO EXEMPT ORGANIZA-**
13 **TIONS.**

14 (a) IN GENERAL.—Subsection (c) of section 6104 is
15 amended by striking paragraph (2) and inserting the fol-
16 lowing new paragraphs:

17 “(2) DISCLOSURE OF PROPOSED ACTIONS RE-
18 LATED TO CHARITABLE ORGANIZATIONS.—

19 “(A) SPECIFIC NOTIFICATIONS.—In the
20 case of an organization to which paragraph (1)
21 applies, the Secretary may disclose to the ap-
22 propriate State officer—

23 “(i) a notice of proposed refusal to
24 recognize such organization as an organi-
25 zation described in section 501(c)(3) or a

1 notice of proposed revocation of such orga-
2 nization's recognition as an organization
3 exempt from taxation,

4 “(ii) the issuance of a letter of pro-
5 posed deficiency of tax imposed under sec-
6 tion 507 or chapter 41 or 42, and

7 “(iii) the names, addresses, and tax-
8 payer identification numbers of organiza-
9 tions which have applied for recognition as
10 organizations described in section
11 501(c)(3).

12 “(B) ADDITIONAL DISCLOSURES.—Returns
13 and return information of organizations with
14 respect to which information is disclosed under
15 subparagraph (A) may be made available for in-
16 spection by or disclosed to an appropriate State
17 officer.

18 “(C) PROCEDURES FOR DISCLOSURE.—In-
19 formation may be inspected or disclosed under
20 subparagraph (A) or (B) only—

21 “(i) upon written request by an ap-
22 propriate State officer, and

23 “(ii) for the purpose of, and only to
24 the extent necessary in, the administration

1 of State laws regulating such organiza-
2 tions.

3 Such information may only be inspected by or
4 disclosed to representatives of the appropriate
5 State officer designated as the individuals who
6 are to inspect or to receive the returns or re-
7 turn information under this paragraph on be-
8 half of such officer. Such representatives shall
9 not include any contractor or agent.

10 “(D) DISCLOSURES OTHER THAN BY RE-
11 QUEST.—The Secretary may make available for
12 inspection or disclose returns and return infor-
13 mation of an organization to which paragraph
14 (1) applies to an appropriate State officer of
15 any State if the Secretary determines that such
16 inspection or disclosure may facilitate the reso-
17 lution of Federal or State issues relating to the
18 tax-exempt status of such organization.

19 “(3) DISCLOSURE WITH RESPECT TO CERTAIN
20 OTHER EXEMPT ORGANIZATIONS.—Upon written re-
21 quest by an appropriate State officer, the Secretary
22 may make available for inspection or disclosure re-
23 turns and return information of an organization de-
24 scribed in paragraph (2), (4), (6), (7), (8), (10), or
25 (13) of section 501(c) for the purpose of, and to the

1 extent necessary in, the administration of State laws
2 regulating the solicitation or administration of the
3 charitable funds or charitable assets of such organi-
4 zations. Such information may be inspected only by
5 or disclosed only to representatives of the appro-
6 priate State officer designated as the individuals who
7 are to inspect or to receive the returns or return in-
8 formation under this paragraph on behalf of such of-
9 ficer. Such representatives shall not include any con-
10 tractor or agent.

11 “(4) USE IN CIVIL JUDICIAL AND ADMINISTRA-
12 TIVE PROCEEDINGS.—Returns and return informa-
13 tion disclosed pursuant to this subsection may be
14 disclosed in civil administrative and civil judicial pro-
15 ceedings pertaining to the enforcement of State laws
16 regulating such organizations in a manner pre-
17 scribed by the Secretary similar to that for tax ad-
18 ministration proceedings under section 6103(h)(4).

19 “(5) NO DISCLOSURE IF IMPAIRMENT.—Re-
20 turns and return information shall not be disclosed
21 under this subsection, or in any proceeding described
22 in paragraph (4), to the extent that the Secretary
23 determines that such disclosure would seriously im-
24 pair Federal tax administration.

1 “(6) DEFINITIONS.—For purposes of this sub-
2 section—

3 “(A) RETURN AND RETURN INFORMA-
4 TION.—The terms ‘return’ and ‘return informa-
5 tion’ have the respective meanings given to such
6 terms by section 6103(b).

7 “(B) APPROPRIATE STATE OFFICER.—The
8 term ‘appropriate State officer’ means—

9 “(i) the State attorney general,

10 “(ii) the State tax officer,

11 “(iii) in the case of an organization to
12 which paragraph (1) applies, any other
13 State official charged with overseeing orga-
14 nizations of the type described in section
15 501(c)(3), and

16 “(iv) in the case of an organization to
17 which paragraph (3) applies, the head of
18 an agency designated by the State attorney
19 general as having primary responsibility
20 for overseeing the solicitation of funds for
21 charitable purposes.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Subparagraph (A) of section 6103(p)(3) is
24 amended by inserting “an section 6104(c)” after
25 “section” in the first sentence.

1 (2) Paragraph (4) of section 6103(p) is amend-
2 ed—

3 (A) in the matter preceding subparagraph
4 (A), by inserting “, or any appropriate State of-
5 ficer (as defined in section 6104(c)),” before
6 “or any other person”,

7 (B) in subparagraph (F)(i), by inserting
8 “or any appropriate State officer (as defined in
9 section 6104(c)),” before “or any other per-
10 son”, and

11 (C) in the matter following subparagraph
12 (F), by inserting “, an appropriate State officer
13 (as defined in section 6104(c)),” after “includ-
14 ing an agency” each place it appear.

15 (3) The heading for paragraph (1) of section
16 6104(c) is amended by inserting “FOR CHARITABLE
17 ORGANIZATIONS” after “RULE”.

18 (4) Paragraph (2) of section 7213(a) is amend-
19 ed by inserting “or under section 6104(c)” after
20 “6103”.

21 (5) Paragraph (2) of section 7213A(a) is
22 amended by inserting “or 6104(c)” after “6103”.

23 (6) Paragraph (2) of section 7431(a) is amend-
24 ed by inserting “(including any disclosure in viola-
25 tion of section 6014(c))” after “6103”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date of the enactment
3 of this Act but shall not apply to requests made before
4 such date.

5 On page 174, line 4, strike “121st day” and insert
6 “181st day”.

7 On page 174, line 6, strike “121st day” and insert
8 “181st day”.

9 On page 174, line 10, strike “121st day” and insert
10 “181st day”.

11 On page 174, line 12, strike “121st day” and insert
12 “181st day”.

13 On page 176, line 25, strike “5” and insert “the ap-
14 plicable percentage”.

15 On page 177, line 1, strike “percent”.

16 On page 178, line 2, strike “5 percent” and insert
17 “the applicable percentage”.

1 On page 178, between lines 4 and 5, insert the fol-
2 lowing:

3 “(4) APPLICABLE PERCENTAGE.—For purposes
4 of paragraphs (1) and (3), the applicable percentage
5 is—

6 “(A) 3 percent for the first taxable year
7 beginning after the date of the enactment of
8 this section,

9 “(B) 4 percent for the second taxable year
10 beginning after such date, and

11 “(C) 5 percent for any taxable year begin-
12 ning after the second taxable year beginning
13 after such date.

14 On page 178, strike lines 9 through 15 and insert
15 the following:

16 “(A) any amount paid by the sponsoring
17 organization from a donor advised fund—

18 “(i) to any organization described in
19 section 170(b)(1)(A) (other than any orga-
20 nization described in section 509(a)(3)) or
21 any sponsoring organization if such
22 amount is for maintenance in a donor ad-
23 vised fund), and

1 “(ii) notwithstanding clause (i), to
2 any organization described section
3 170(f)(17)(B)(ii), but only to the extent
4 not prohibited by regulations, and

5 On page 179, strike lines 1 through 3 and insert the
6 following:

7 “(2) DISTRIBUTIONS TO SPONSORING ORGANI-
8 ZATIONS.—

9 “(A) IN GENERAL.—Except as provided in
10 subparagraph (B), such term shall include any
11 distribution to a sponsoring organization.

12 “(B) ORGANIZATION LEVEL DISTRIBUTI-
13 ONS.—For purposes of subsection (c)(1)(B),
14 such term shall not include any distribution to
15 a sponsoring organization unless such distribu-
16 tion is designated for use in connection with a
17 charitable program of such organization.

18 On page 185, line 9, strike “section 4967(g)(2)(C)”
19 and insert “section 4967(g)(2)(A)(iii)”.

20 On page 186, strike lines 7 through 14 and insert
21 the following:

1 “(c) TAXABLE DISTRIBUTION.—For purposes of this
2 subsection—

3 “(1) IN GENERAL.—The term ‘taxable distribu-
4 tion’ means any distribution from a donor advised
5 fund to any person other than the sponsoring orga-
6 nization’s non donor advised funds or accounts or
7 organizations described in section 170(b)(1)(A)
8 (other than any organization described in section
9 509(a)(3) or any sponsoring organization if such
10 amount is for maintenance in a donor advised fund).

11 “(2) EXCEPTION.—Notwithstanding paragraph
12 (1), such term shall not include any distribution
13 from a donor advised fund to any organization de-
14 scribed section 170(f)(17)(B)(ii) to the extent such
15 distribution is not prohibited under regulations.

16 On page 189, line 17, strike “121st day” and insert
17 “181st day”.

18 On page 190, line 22, strike “4967(g)(2)(C)” and in-
19 sert “4967(g)(2)(A)(iii)”.

20 On page 192, lines 18 and 19, strike “provided by
21 the sponsoring organization in connection with” and insert
22 “from”.

1 Beginning on page 193, line 17 strike all through
2 page 196, line 4 and insert the following:

3 **SEC. 333. TREATMENT OF CHARITABLE CONTRIBUTION DE-**
4 **DUCTIONS TO DONOR ADVISED FUNDS.**

5 (a) INCOME.—Section 170(f) (relating to disallow-
6 ance of deduction in certain cases and special rules), as
7 amended by section 318 of this Act, is amended by adding
8 at the end the following new paragraph:

9 “(17) CONTRIBUTIONS TO DONOR ADVISED
10 FUNDS.—

11 “(A) IN GENERAL.—A deduction otherwise
12 allowed under subsection (a) for any contribu-
13 tion to a sponsoring organization (as defined in
14 section 4967(g)(1)) to be maintained in any
15 donor advised fund (as defined in section
16 4967(g)(2)) of such organization shall only be
17 allowed if—

18 “(i) such sponsoring organization is
19 not described in paragraph (3), (4), or (5)
20 of subsection (c) or section 509(a)(3), and

21 “(ii) the taxpayer obtains a contem-
22 poraneous written acknowledgment (deter-
23 mined under rules similar to the rules of
24 paragraph (8)(C) from the sponsoring or-
25 ganization that such organization has ex-

1 clusive legal control over the assets con-
2 tributed.

3 “(B) CONTRIBUTIONS TO TYPE I OR TYPE
4 II SUPPORTING ORGANIZATIONS.—

5 “(i) IN GENERAL.—Notwithstanding
6 subparagraph (A)(i), a contribution to a
7 sponsoring organization (as so defined) de-
8 scribed in clause (ii) to be maintained in
9 any donor advised fund (as so defined) of
10 such organization shall be allowed to the
11 extent not prohibited by regulations.

12 “(ii) ORGANIZATION DESCRIBED.—An
13 organization is described in this clause if
14 the organization meets the requirements of
15 subparagraphs (A) and (C) of section
16 509(a)(3) and is—

17 “(I) operated, supervised, or con-
18 trolled by one or more organizations
19 described in paragraph (1) or (2) of
20 section 509(a), or

21 “(II) supervised or controlled in
22 connection with one or more such or-
23 ganizations.”.

24 (b) ESTATE.—Section 2055(e) is amended by adding
25 at the end the following new paragraph:

1 “(5) CONTRIBUTIONS TO DONOR ADVISED
2 FUNDS.—

3 “(A) IN GENERAL.—A deduction otherwise
4 allowed under subsection (a) for any contribu-
5 tion to a sponsoring organization (as defined in
6 section 4967(g)(1)) to be maintained in any
7 donor advised fund (as defined in section
8 4967(g)(2)) of such organization shall only be
9 allowed if—

10 “(i) such sponsoring organization is
11 not described in paragraph (3) or(4) of
12 subsection (a) or section 509(a)(3), and

13 “(ii) the taxpayer obtains a contem-
14 poraneous written acknowledgment (deter-
15 mined under rules similar to the rules of
16 section 170(f)(8)(C)) from the sponsoring
17 organization that such organization has ex-
18 clusive legal control over the assets con-
19 tributed.

20 “(B) CONTRIBUTIONS TO TYPE I OR TYPE
21 II SUPPORTING ORGANIZATIONS.—

22 “(i) IN GENERAL.—Notwithstanding
23 subparagraph (A)(i), a contribution to a
24 sponsoring organization (as so defined) de-
25 scribed in clause (ii) to be maintained in

1 any donor advised fund (as so defined) of
2 such organization shall be allowed to the
3 extent not prohibited by regulations.

4 “(ii) ORGANIZATION DESCRIBED.—An
5 organization is described in this clause if
6 the organization meets the requirements of
7 subparagraphs (A) and (C) of section
8 509(a)(3) and is—

9 “(I) operated, supervised, or con-
10 trolled by one or more organizations
11 described in paragraph (1) or (2) of
12 section 509(a), or

13 “(II) supervised or controlled in
14 connection with one or more such or-
15 ganizations.”.

16 (c) GIFT.—Section 2522(c) is amended by adding at
17 the end the following new paragraph:

18 “(13) CONTRIBUTIONS TO DONOR ADVISED
19 FUNDS.—

20 “(A) IN GENERAL.—A deduction otherwise
21 allowed under subsection (a) for any contribu-
22 tion to a sponsoring organization (as defined in
23 section 4967(g)(1)) to be maintained in any
24 donor advised fund (as defined in section

1 4967(g)(2)) of such organization shall only be
2 allowed if—

3 “(i) such sponsoring organization is
4 not described in paragraph (3) or (4) of
5 subsection (a) or section 509(a)(3), and

6 “(ii) the taxpayer obtains a contem-
7 poraneous written acknowledgment (deter-
8 mined under rules similar to the rules of
9 section 170(f)(8)(C)) from the sponsoring
10 organization that such organization has ex-
11 clusive legal control over the assets con-
12 tributed.

13 “(B) CONTRIBUTIONS TO TYPE I OR TYPE
14 II SUPPORTING ORGANIZATIONS.—

15 “(i) IN GENERAL.—Notwithstanding
16 subparagraph (A)(i), a contribution to a
17 sponsoring organization (as so defined) de-
18 scribed in clause (ii) to be maintained in
19 any donor advised fund (as so defined) of
20 such organization shall be allowed to the
21 extent not prohibited by regulations.

22 “(ii) ORGANIZATION DESCRIBED.—An
23 organization is described in this clause if
24 the organization meets the requirements of

1 subparagraphs (A) and (C) of section
2 509(a)(3) and is—

3 “(I) operated, supervised, or con-
4 trolled by one or more organizations
5 described in paragraph (1) or (2) of
6 section 509(a), or

7 “(II) supervised or controlled in
8 connection with one or more such or-
9 ganizations.”.

10 (d) REGULATIONS.—The regulations prescribed
11 under sections 170(f)(17)(B)(i), 2055(e)(5)(B)(i),
12 2522(e)(13)(B)(i), 4967(e)(i)(A)(ii), and 4968(c)(2) of
13 the Internal Revenue Code of 1986 shall deny a deduction
14 for contributions to sponsoring organizations (as defined
15 in section 4967(g)(1) of such Code) which are described
16 in section 170(f)(17)(B)(ii) of such Code and shall apply
17 excise taxes to distributions from donor advised funds (as
18 defined in section 4967(g)(2) of such Code) and spon-
19 soring organizations (as so defined) to organizations so
20 described in cases where the donor of the contributions
21 or the donor or donor advisor of the amounts distributed
22 directly or indirectly controls a supported organization (as
23 defined in section 509(f)(3) of such Code) of such organi-
24 zation.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to contributions made after the
3 date which is 180 days after the date of the enactment
4 of this Act.

5 On page 205, line 16, strike “5 percent” and insert
6 “the applicable percentage”.

7 On page 206, between lines 11 and 12, insert the fol-
8 lowing:

9 “(3) APPLICABLE PERCENTAGE.—For purposes
10 of paragraph (1)(A)(ii), the applicable percentage
11 is—

12 “(A) 3 percent for the first taxable year
13 beginning after the date of the enactment of
14 this section,

15 “(B) 4 percent for the second taxable year
16 beginning after such date, and

17 “(C) 5 percent for any taxable year begin-
18 ning after the second taxable year beginning
19 after such date.

20 On page 206, strike lines 18 through 22 and insert
21 the following:

1 “(2) ADMINISTRATIVE AND OPERATING EX-
2 PENSES.—Reasonable and necessary administrative
3 expenses of a type III supporting organization shall
4 be treated as a qualifying distribution to a supported
5 organization.

6 On page 214, line 6, strike “any”.

7 On page 216, strike line 24 and insert the following:

8 “(5) SPECIAL RULE FOR CERTAIN HOLDINGS
9 OF TYPE III SUPPORTING ORGANIZATIONS.—For
10 purposes of this subsection, the term ‘excess busi-
11 ness holdings’ shall not include any holdings of a
12 type III supporting organization (as defined in sec-
13 tion 4959(h)(2)) in any business enterprise if the
14 holdings are held for the benefit of the community
15 pursuant to the direction of a State attorney general
16 or a State official with jurisdiction over the type III
17 supporting organization.

18 “(6) PRESENT HOLDINGS.—For purposes of

19 On page 219, strike lines 5 through 9 and insert the
20 following:

21 (a) REQUIREMENT TO FILE RETURN.—Subpara-
22 graph (B) of section 6033(a)(3), as redesignated by sec-

1 tion 311, is amended by inserting “(other than an organi-
2 zation described in section 509(a)(3))” after “paragraph
3 (1)”.

4 Beginning on page 225, line 9, strike all through
5 page 230, line 21 and insert the following:

6 **SEC. 402. MODIFICATION TO S CORPORATION PASSIVE IN-**
7 **VESTMENT INCOME RULES.**

8 (a) INCREASED PERCENTAGE LIMIT.—Paragraph (2)
9 of section 1375(a) is amended by striking “25 percent”
10 and inserting “60 percent”.

11 (b) REPEAL OF EXCESSIVE PASSIVE INCOME AS A
12 TERMINATION EVENT.—

13 (1) IN GENERAL.—Section 1362(d) is amended
14 by striking paragraph (3).

15 (2) CONFORMING AMENDMENT.—Subsection (b)
16 of section 1375 is amended by striking paragraphs
17 (3) and (4) and inserting the following new para-
18 graph:

19 “(3) PASSIVE INVESTMENT INCOME DE-
20 FINED.—

21 “(A) Except as otherwise provided in this
22 paragraph, the term ‘passive investment in-
23 come’ means gross receipts derived from royal-
24 ties, rents, dividends, interest, and annuities.

1 “(B) EXCEPTION FOR INTEREST ON
2 NOTES FROM SALES OF INVENTORY.—The term
3 ‘passive investment income’ shall not include in-
4 terest on any obligation acquired in the ordi-
5 nary course of the corporation’s trade or busi-
6 ness from its sale of property described in sec-
7 tion 1221(a)(1).

8 “(C) TREATMENT OF CERTAIN LENDING
9 OR FINANCE COMPANIES.—If the S corporation
10 meets the requirements of section 542(c)(6) for
11 the taxable year, the term ‘passive investment
12 income’ shall not include gross receipts for the
13 taxable year which are derived directly from the
14 active and regular conduct of a lending or fi-
15 nance business (as defined in section
16 542(d)(1)).

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

1 “(E) EXCEPTION FOR BANKS, ETC.—In
2 the case of a bank (as defined in section 581),
3 a bank holding company (within the meaning of
4 section 2(a) of the Bank Holding Company Act
5 of 1956 (12 U.S.C. 1841(a))), or a financial
6 holding company (within the meaning of section
7 2(p) of such Act), the term ‘passive investment
8 income’ shall not include—

9 “(i) interest income earned by such
10 bank or company, or

11 “(ii) dividends on assets required to
12 be held by such bank or company, includ-
13 ing stock in the Federal Reserve Bank, the
14 Federal Home Loan Bank, or the Federal
15 Agricultural Mortgage Bank or participa-
16 tion certificates issued by a Federal Inter-
17 mediate Credit Bank.

18 “(F) COORDINATION WITH SECTION
19 1374.—The amount of passive investment in-
20 come shall be determined by not taking into ac-
21 count any recognized built-in gain or loss of the
22 S corporation for any taxable year in the rec-
23 ognition period. Terms used in the preceding
24 sentence shall have the same respective mean-
25 ings as when used in section 1374.”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) Subparagraph (J) of section 26(b)(2) is
3 amended by striking “25 percent” and inserting “60
4 percent”.

5 (2) Clause (i) of section 1042(c)(4)(A) is
6 amended by striking “section 1362(d)(3)(C)” and
7 inserting “section 1375(b)(3)”.

8 (3) Subparagraph (B) of section 1362(f)(1) is
9 amended by striking “or (3)”.

10 (4) Clause (i) of section 1375(b)(1)(A) is
11 amended by striking “25 percent” and inserting “60
12 percent”.

13 (5) Subsection (d) of section 1375 is amended
14 by striking “subchapter C” both places it appears
15 and inserting “accumulated”.

16 (6) The heading for section 1375 is amended by
17 striking “**25 PERCENT**” and inserting “**60 PER-**
18 **CENT**”.

19 (7) The item relating to section 1375 in the
20 table of sections for part III of subchapter S of
21 chapter 1 is amended by striking “25 percent” and
22 inserting “60 percent”.

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 2005.

1 On page 235, in between lines 13 and 14, insert the
2 following:

3 **SEC. 405. MODIFICATION OF BOND RULE.**

4 In the case of bonds issued after the date of the en-
5 actment of this Act and before August 31, 2009—

6 (1) the requirement of paragraph (1) of section
7 648 of the Deficit Reduction Act of 1984 (98 Stat.
8 941) shall be treated as met with respect to the se-
9 curities or obligations referred to in such section if
10 such securities or obligations are held in a fund the
11 annual distributions from which cannot exceed 7
12 percent of the average fair market value of the as-
13 sets held in such fund except to the extent distribu-
14 tions are necessary to pay debt service on the bond
15 issue,

16 (2) paragraph (3) of such section shall be ap-
17 plied by substituting “distributions from” for “the
18 investment earnings of” both places it appears, and

19 (3) Paragraph (4) of such section shall be ap-
20 plied by substituting “March 1, 1985” for “October
21 9, 1969”.

1 **SEC. 406. TREATMENT OF CERTAIN STOCK OPTION PLANS**
2 **UNDER NONQUALIFIED DEFERRED COM-**
3 **PENSATION RULES.**

4 (a) IN GENERAL.—The Secretary of the Treasury
5 shall modify the regulations under section 409A of the In-
6 ternal Revenue Code of 1986 to extend to applicable for-
7 eign option plans the exception under such section for in-
8 centive stock options under section 422 of such Code and
9 options granted under an employee stock purchase plan
10 meeting the requirements of section 423 of such Code.
11 Such extension shall be subject to such terms and condi-
12 tions as may be prescribed in such regulations.

13 (b) APPLICABLE FOREIGN OPTION PLANS.—For
14 purposes of subsection (a)—

15 (1) IN GENERAL.—The term “applicable foreign
16 option plan” means a plan providing for the
17 issuance of employee stock options—

18 (A) which is established under the laws of
19 a foreign jurisdiction, and

20 (B) which, under such laws or the terms of
21 the plan (or both), is subject to requirements
22 substantially similar to the requirements under
23 section 422 or 423 of such Code.

24 (2) SUBSTANTIALLY SIMILAR.—A plan shall not
25 be treated as subject to substantially similar require-
26 ments under paragraph (1)(B) unless—

1 (A) the plan is required to cover substan-
2 tially all employees,

3 (B) in the case of an option under an em-
4 ployee stock purchase plan, the plan is required
5 to provide an option price which is not less than
6 the amount specified in section 423(b)(6) of
7 such Code, except that such section shall be ap-
8 plied by substituting “80 percent” for “85 per-
9 cent” each place it appears,

10 (C) the plan is required to provide cov-
11 erage of individuals who, but for the exception
12 of the application of section 409A of such Code
13 by reason of this section, would be subject to
14 tax under such section with respect to the plan,
15 and

16 (D) the plan meets such other require-
17 ments as the Secretary of the Treasury pre-
18 scribes in the regulations under subsection (a).

19 **SEC. 407. SENSE OF THE SENATE REGARDING THE DEDICA-**
20 **TION OF EXCESS FUNDS .**

21 It is the sense of the Senate that any increases in
22 revenues to the Treasury as a result of this Act and the
23 amendments made by this Act that exceed the amounts
24 specified in the reconciliation instructions shall be dedi-
25 cated to the Low-Income Home Energy Assistance Pro-

1 gram, in an amount not to exceed the amount which is
2 \$2,900,000,000 more than the funding levels established
3 for such Program for fiscal year 2005.

4 Beginning on page 236, line 17, strike all through
5 page 239, line 6 and insert the following:

6 **SEC. 502. MODIFICATION OF EFFECTIVE DATE OF EXCEP-**
7 **TION FROM SUSPENSION RULES FOR CER-**
8 **TAIN LISTED AND REPORTABLE TRANS-**
9 **ACTIONS.**

10 (a) EFFECTIVE DATE MODIFICATION.—

11 (1) IN GENERAL.—Paragraph (2) of section
12 903(d) of the American Jobs Creation Act of 2004
13 is amended to read as follows:

14 “(2) EXCEPTION FOR REPORTABLE OR LISTED
15 TRANSACTIONS.—

16 “(A) IN GENERAL.—The amendments
17 made by subsection (c) shall apply with respect
18 to interest accruing after October 3, 2004.

19 “(B) SPECIAL RULE FOR CERTAIN LISTED
20 AND REPORTABLE TRANSACTIONS.—

21 “(i) IN GENERAL.—Except as pro-
22 vided in clause (ii), the amendments made
23 by subsection (c) shall also apply with re-

1 spect to interest accruing on or before Oc-
2 tober 3, 2004.

3 “(ii) PARTICIPANTS IN SETTLEMENT
4 INITIATIVES.—Clause (i) shall not apply to
5 any transaction if, as of January 23,
6 2006—

7 “(I) the taxpayer is participating
8 in a settlement initiative described in
9 Internal Revenue Service Announce-
10 ment 2005-80 with respect to such
11 transaction, or

12 “(II) the taxpayer has entered
13 into a settlement agreement pursuant
14 to such an initiative.

15 “(iii) TERMINATION OF EXCEPTION.—
16 Clause (ii)(I) shall not apply to any tax-
17 payer if, after January 23, 2006, the tax-
18 payer withdraws from, or terminates, par-
19 ticipation in the initiative or the Secretary
20 of the Treasury or the Secretary’s delegate
21 determines that a settlement agreement
22 will not be reached pursuant to the initia-
23 tive within a reasonable period of time.”.

24 (2) EFFECTIVE DATE.—The amendment made
25 by this subsection shall take effect as if included in

1 the provisions of the American Jobs Creation Act of
2 2004 to which it relates.

3 (b) TREATMENT OF AMENDED RETURNS AND
4 OTHER SIMILAR NOTICES OF ADDITIONAL TAX OWED.—

5 (1) IN GENERAL.—Section 6404(g)(1) (relating
6 to suspension) is amended by adding at the end the
7 following new sentence: “If, after the return for a
8 taxable year is filed, the taxpayer provides to the
9 Secretary 1 or more signed written documents show-
10 ing that the taxpayer owes an additional amount of
11 tax for the taxable year, clause (i) shall be applied
12 by substituting the date the last of the documents
13 was provided for the date on which the return is
14 filed.”.

15 (2) EFFECTIVE DATE.—The amendment made
16 by this subsection shall apply to documents provided
17 on or after the date of the enactment of this Act.

18 On page 244, after line 24, insert the following:

19 **SEC. 504. PENALTY FOR PROMOTING ABUSIVE TAX SHEL-**
20 **TERS.**

21 (a) PENALTY FOR PROMOTING ABUSIVE TAX SHEL-
22 TERS.—Section 6700 (relating to promoting abusive tax
23 shelters, etc.) is amended—

1 (1) by redesignating subsections (b) and (c) as
2 subsections (d) and (e), respectively,

3 (2) by striking “a penalty” and all that follows
4 through the period in the first sentence of subsection
5 (a) and inserting “a penalty determined under sub-
6 section (b)”, and

7 (3) by inserting after subsection (a) the fol-
8 lowing new subsections:

9 “(b) AMOUNT OF PENALTY; CALCULATION OF PEN-
10 ALTY; LIABILITY FOR PENALTY.—

11 “(1) AMOUNT OF PENALTY.—The amount of
12 the penalty imposed by subsection (a) shall be 100
13 percent of the gross income derived (or to be de-
14 rived) from such activity by the person or persons
15 subject to such penalty.

16 “(2) CALCULATION OF PENALTY.—The penalty
17 amount determined under paragraph (1) shall be
18 calculated with respect to each instance of an activ-
19 ity described in subsection (a), each instance in
20 which income was derived by the person or persons
21 subject to such penalty, and each person who par-
22 ticipated in such an activity.

23 “(3) LIABILITY FOR PENALTY.—If more than 1
24 person is liable under subsection (a) with respect to
25 such activity, all such persons shall be jointly and

1 severally liable for the penalty under such sub-
2 section.

3 “(c) PENALTY NOT DEDUCTIBLE.—The payment of
4 any penalty imposed under this section or the payment
5 of any amount to settle or avoid the imposition of such
6 penalty shall not be considered an ordinary and necessary
7 expense in carrying on a trade or business for purposes
8 of this title and shall not be deductible by the person who
9 is subject to such penalty or who makes such payment.”.

10 (b) CONFORMING AMENDMENT.—Section 6700(a) is
11 amended by striking the last sentence.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to the activities described in para-
14 graphs (1) and (2) of section 6700(a) of the Internal Rev-
15 enue Code of 1986 and after the date of the enactment
16 of this Act.

17 **SEC. 505. PENALTY FOR AIDING AND ABETTING THE UN-**
18 **DERSTATEMENT OF TAX LIABILITY.**

19 (a) IN GENERAL.—Section 6701(a) (relating to impo-
20 sition of penalty) is amended—

21 (1) by inserting “, or tax liability reflected in,”
22 after “the preparation or presentation of” in para-
23 graph (1),

24 (2) by inserting “aid, assistance, procurement,
25 or advice with respect to such” before “portion”

1 both places it appears in paragraphs (2) and (3),
2 and

3 (3) by inserting “instance of aid, assistance,
4 procurement, or advice or each such” before “docu-
5 ment” in the matter following paragraph (3).

6 (b) AMOUNT OF PENALTY.—Subsection (b) of section
7 6701 (relating to penalties for aiding and abetting under-
8 statement of tax liability) is amended to read as follows:

9 “(b) AMOUNT OF PENALTY; CALCULATION OF PEN-
10 ALTY; LIABILITY FOR PENALTY.—

11 “(1) AMOUNT OF PENALTY.—The amount of
12 the penalty imposed by subsection (a) shall be 100
13 percent of the gross income derived (or to be de-
14 rived) from such aid, assistance, procurement, or ad-
15 vice provided by the person or persons subject to
16 such penalty.

17 “(2) CALCULATION OF PENALTY.—The penalty
18 amount determined under paragraph (1) shall be
19 calculated with respect to each instance of aid, as-
20 sistance, procurement, or advice described in sub-
21 section (a), each instance in which income was de-
22 rived by the person or persons subject to such pen-
23 alty, and each person who made such an understatement
24 of the liability for tax.

1 “(3) LIABILITY FOR PENALTY.—If more than 1
2 person is liable under subsection (a) with respect to
3 providing such aid, assistance, procurement, or ad-
4 vice, all such persons shall be jointly and severally
5 liable for the penalty under such subsection.”.

6 (c) PENALTY NOT DEDUCTIBLE.—Section 6701 is
7 amended by adding at the end the following new sub-
8 section:

9 “(g) PENALTY NOT DEDUCTIBLE.—The payment of
10 any penalty imposed under this section or the payment
11 of any amount to settle or avoid the imposition of such
12 penalty shall not be considered an ordinary and necessary
13 expense in carrying on a trade or business for purposes
14 of this title and shall not be deductible by the person who
15 is subject to such penalty or who makes such payment.”.

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to the activities described in sec-
18 tion 6701(a) of the Internal Revenue Code of 1986 after
19 the date of the enactment of this Act.

20 Beginning on page 261, line 20, strike all through
21 page 264, line 14, and insert the following:

1 **SEC. 531. INCREASE IN CRIMINAL MONETARY PENALTY**
2 **LIMITATION FOR THE UNDERPAYMENT OR**
3 **OVERPAYMENT OF TAX DUE TO FRAUD.**

4 (a) IN GENERAL.—Section 7206 (relating to fraud
5 and false statements) is amended—

6 (1) by striking “Any person who—” and insert-
7 ing “(a) IN GENERAL.—Any person who—”, and

8 (2) by adding at the end the following new sub-
9 section:

10 “(b) INCREASE IN MONETARY LIMITATION FOR UN-
11 DERPAYMENT OR OVERPAYMENT OF TAX DUE TO
12 FRAUD.—If any portion of any underpayment (as defined
13 in section 6664(a)) or overpayment (as defined in section
14 6401(a)) of tax required to be shown on a return is attrib-
15 utable to fraudulent action described in subsection (a), the
16 applicable dollar amount under subsection (a) shall in no
17 event be less than an amount equal to such portion. A
18 rule similar to the rule under section 6663(b) shall apply
19 for purposes of determining the portion so attributable.”.

20 (b) INCREASE IN PENALTIES.—

21 (1) ATTEMPT TO EVADE OR DEFEAT TAX.—
22 Section 7201 is amended—

23 (A) by striking “\$100,000” and inserting
24 “\$500,000”,

25 (B) by striking “\$500,000” and inserting
26 “\$1,000,000”, and

1 (C) by striking “5 years” and inserting
2 “10 years”.

3 (2) WILLFUL FAILURE TO FILE RETURN, SUP-
4 PLY INFORMATION, OR PAY TAX.—Section 7203 is
5 amended—

6 (A) in the first sentence—

7 (i) by striking “Any person” and in-
8 serting the following:

9 “(a) IN GENERAL.—Any person”, and

10 (ii) by striking “\$25,000” and insert-
11 ing “\$50,000”,

12 (B) in the third sentence, by striking “sec-
13 tion” and inserting “subsection”, and

14 (C) by adding at the end the following new
15 subsection:

16 “(b) AGGRAVATED FAILURE TO FILE.—

17 “(1) IN GENERAL.—In the case of any failure
18 described in paragraph (2), the first sentence of sub-
19 section (a) shall be applied by substituting—

20 “(A) ‘felony’ for ‘misdemeanor’,

21 “(B) ‘\$500,000 (\$1,000,000’ for ‘\$25,000
22 (\$100,000’, and

23 “(C) ‘10 years’ for ‘1 year’.

24 “(2) FAILURE DESCRIBED.—A failure described
25 in this paragraph is a failure to make a return de-

1 scribed in subsection (a) for a period of 3 or more
2 consecutive taxable years.”.

3 (3) FRAUD AND FALSE STATEMENTS.—Section
4 7206(a) (as redesignated by subsection (a)) is
5 amended—

6 (A) by striking “\$100,000” and inserting
7 “\$500,000”,

8 (B) by striking “\$500,000” and inserting
9 “\$1,000,000”, and

10 (C) by striking “3 years” and inserting “5
11 years”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to actions, and failures to act, oc-
14 ccurring after the date of the enactment of this Act.

15 On page 276, line 20, strike “\$1,250” and insert
16 “\$2,000”.

17 On page 276, line 22, strike “\$25” and insert “\$40”.

18 On page 323, after line 20, insert the following:

19 **SEC. 563. APPLICATION OF FIRPTA TO REGULATED INVEST-**
20 **MENT COMPANIES.**

21 (a) IN GENERAL.—Subclause (II) of section
22 897(h)(4)(A)(i) (defining qualified investment entity) is

1 amended by inserting “which is a United States real prop-
2 erty holding corporation or which would be a United
3 States real property holding corporation if the exceptions
4 provided in subsections (c)(3) and (h)(2) did not apply to
5 interests in any real estate investment trust or regulated
6 investment company” after “regulated investment com-
7 pany”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to distributions with respect to tax-
10 able years beginning after December 31, 2004.

11 **SEC. 564. TREATMENT OF DISTRIBUTIONS ATTRIBUTABLE**
12 **TO FIRPTA GAINS.**

13 (a) QUALIFIED INVESTMENT ENTITY.—

14 (1) IN GENERAL.—Section 897(h)(1) is amend-
15 ed—

16 (A) by striking “a nonresident alien indi-
17 vidual or a foreign corporation” in the first sen-
18 tence and inserting “a nonresident alien indi-
19 vidual, a foreign corporation, or other qualified
20 investment entity”,

21 (B) by striking “such nonresident alien in-
22 dividual or foreign corporation” in the first sen-
23 tence and inserting “such nonresident alien in-
24 dividual, foreign corporation, or other qualified
25 investment entity”, and

1 (C) by striking the second sentence and in-
2 serting the following new sentence: “Notwith-
3 standing the preceding sentence, any distribu-
4 tion by a qualified investment entity to a non-
5 resident alien, a foreign corporation, or other
6 qualified investment entity with respect to any
7 class of stock which is regularly traded on an
8 established securities market located in the
9 United States shall not be treated as gain rec-
10 ognized from the sale or exchange of a United
11 States real property interest if the shareholder
12 did not own more than 5 percent of such class
13 of stock at any time during the 1 year period
14 ending on the date of such distribution.”.

15 (2) APPLICATION AFTER 2007.—Clause (ii) of
16 section 897(h)(4)(A) is amended by adding at the
17 end the following new sentence: “Notwithstanding
18 the preceding sentence, an entity described in clause
19 (i)(II) shall be treated as a qualified investment en-
20 tity for purposes of applying paragraph (1) in any
21 case in which a real estate investment trust makes
22 a distribution to an entity described in clause
23 (i)(II).”.

24 (b) TREATMENT OF CERTAIN DISTRIBUTIONS AS
25 DIVIDENDS.—

1 (1) IN GENERAL.—Section 852(b)(3) (relating
2 to capital gains) is amended by adding at the end
3 the following new subparagraph:

4 “(E) CERTAIN DISTRIBUTIONS.—In the
5 case of a distribution to which section 897 does
6 not apply by reason of the second sentence of
7 section 897(h)(1), the amount of such distribu-
8 tion which would be included in computing
9 long-term capital gains for the shareholder
10 under subparagraph (B) or (D) (without regard
11 to this subparagraph)—

12 “(i) shall not be included in com-
13 puting such shareholder’s long-term capital
14 gains, and

15 “(ii) shall be included in such share-
16 holder’s gross income as a dividend from
17 the regulated investment company.”.

18 (2) CONFORMING AMENDMENT.—Section
19 871(k)(2) (relating to short-term capital gain divi-
20 dends) is amended by adding at the end the fol-
21 lowing new subparagraph:

22 “(E) CERTAIN DISTRIBUTIONS.—In the
23 case of a distribution to which section 897 does
24 not apply by reason of the second sentence of
25 section 897(h)(1), the amount which would be

1 treated as a short-term capital gain dividend to
2 the shareholder (without regard to this sub-
3 paragraph)—

4 “(i) shall not be treated as a short-
5 term capital gain dividend, and

6 “(ii) shall be included in such share-
7 holder’s gross income as a dividend from
8 the regulated investment company.”.

9 (c) EFFECTIVE DATES.—

10 (1) IN GENERAL.—Except as provided in para-
11 graph (2), the amendments made by this section
12 shall apply to taxable years of qualified investment
13 entities beginning after the date of the enactment of
14 this Act.

15 (2) DIVIDENDS.—The amendments made by
16 subsection (b) shall apply to dividends with respect
17 to taxable years of regulated investment companies
18 beginning after December 31, 2004.

19 **SEC. 565. PREVENTION OF AVOIDANCE OF TAX ON INVEST-**
20 **MENTS OF FOREIGN PERSONS IN UNITED**
21 **STATES REAL PROPERTY THROUGH WASH**
22 **SALE TRANSACTIONS.**

23 (a) IN GENERAL.—Section 897(h) of the Internal
24 Revenue Code of 1986 (relating to special rules in certain
25 investment entities) is amended by redesignating para-

1 graph (4) as paragraph (5) and by inserting after para-
2 graph (3) the following new paragraph:

3 “(4) TREATMENT OF CERTAIN WASH SALE
4 TRANSACTIONS.—

5 “(A) IN GENERAL.—If an interest in a do-
6 mestically controlled qualified investment entity
7 is disposed of in an applicable wash sale trans-
8 action, the taxpayer shall, for purposes of this
9 section, be treated as having gain from the sale
10 or exchange of a United States real property in-
11 terest in an amount equal to the portion of the
12 distribution described in subparagraph (B) with
13 respect to such interest which, but for the dis-
14 position, would have been treated by the tax-
15 payer as gain from the sale or exchange of a
16 United States real property interest under
17 paragraph (1).

18 “(B) APPLICABLE WASH SALES TRANS-
19 ACTION.—For purposes of this paragraph—

20 “(i) IN GENERAL.—The term ‘applica-
21 ble wash sales transaction’ means any
22 transaction (or series of transactions)
23 under which a nonresident alien individual
24 or foreign corporation—

1 “(I) disposes of an interest in a
2 domestically controlled qualified in-
3 vestment entity during the 30-day pe-
4 riod preceding a distribution which is
5 to be made with respect to the inter-
6 est and any portion of which, but for
7 the disposition, would have been treat-
8 ed by the taxpayer as gain from the
9 sale or exchange of a United States
10 real property interest under para-
11 graph (1), and

12 “(II) acquires an identical inter-
13 est in such entity during the 60-day
14 period beginning with the 1st day of
15 the 30-day period described in sub-
16 clause (I).

17 For purposes of subclause (II), a non-
18 resident alien individual or foreign corpora-
19 tion shall be treated as having acquired
20 any interest acquired by a person related
21 (within the meaning of section
22 465(b)(3)(C)) to the individual or corpora-
23 tion.

24 “(ii) EXCEPTION WHERE DISTRIBUTION
25 ACTUALLY RECEIVED.—A transaction

1 shall not be treated as an applicable wash
2 sales transaction if the nonresident alien
3 individual or foreign corporation receives
4 the distribution described in clause (i)(I)
5 with respect to either the interest which
6 was disposed of, or acquired, in the trans-
7 action.

8 “(iii) EXCEPTION FOR CERTAIN PUB-
9 LICLY TRADED STOCK.—A transaction
10 shall not be treated as an applicable wash
11 sales transaction if it involves the disposi-
12 tion of any class of stock in a qualified in-
13 vestment entity which is regularly traded
14 on an established securities market within
15 the United States but only if the non-
16 resident alien individual or foreign corpora-
17 tion did not own more than 5 percent of
18 such class of stock at any time during the
19 1-year period ending on the date of the
20 distribution described in clause (i)(I).”.

21 (b) NO WITHHOLDING REQUIRED.—Section 1445(b)
22 of the Internal Revenue Code of 1986 (relating to exemp-
23 tions) is amended by adding at the end the following new
24 paragraph:

1 “(8) APPLICABLE WASH SALES TRANS-
2 ACTIONS.—No person shall be required to deduct
3 and withhold any amount under subsection (a) with
4 respect to a disposition which is treated as a dispo-
5 sition of a United States real property interest solely
6 by reason of section 897(h)(4).”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to dispositions after December 31,
9 2005, in taxable years ending after such date.

10 **SEC. 566. MODIFICATIONS TO RULES RELATING TO TAX-**
11 **ATION OF DISTRIBUTIONS OF STOCK AND SE-**
12 **CURITIES OF A CONTROLLED CORPORATION.**

13 (a) MODIFICATION OF ACTIVE BUSINESS DEFINI-
14 TION UNDER SECTION 355.—

15 (1) IN GENERAL.—Section 355(b) (defining ac-
16 tive conduct of a trade or business) is amended by
17 adding at the end the following new paragraph:

18 “(3) SPECIAL RULES RELATING TO ACTIVE
19 BUSINESS REQUIREMENT.—

20 “(A) IN GENERAL.—For purposes of deter-
21 mining whether a corporation meets the re-
22 quirement of paragraph (2)(A), all members of
23 such corporation’s separate affiliated group
24 shall be treated as 1 corporation. For purposes
25 of the preceding sentence, the term ‘separate

1 affiliated group’ means, with respect to any cor-
2 poration, the affiliated group which would be
3 determined under section 1504(a) if such cor-
4 poration were the common parent and section
5 1504(b) did not apply.

6 “(B) CONTROL.—For purposes of para-
7 graph (2)(D), all distributee corporations which
8 are members of the same affiliated group (as
9 defined in section 1504(a) without regard to
10 section 1504(b)) shall be treated as 1 dis-
11 tributee corporation.”.

12 (2) CONFORMING AMENDMENTS.—

13 (A) Subparagraph (A) of section 355(b)(2)
14 is amended to read as follows:

15 “(A) it is engaged in the active conduct of
16 a trade or business,”.

17 (B) Section 355(b)(2) of such Code is
18 amended by striking the last sentence.

19 (3) EFFECTIVE DATES.—

20 (A) IN GENERAL.—The amendments made
21 by this subsection shall apply—

22 (i) to distributions after the date of
23 the enactment of this Act, and before Jan-
24 uary 1, 2010, and

1 (ii) for purposes of determining the
2 continued qualification under section
3 355(b)(2)(A) of the Internal Revenue Code
4 of 1986 (as amended by paragraph (2)(A))
5 of distributions made before such date, as
6 a result of an acquisition, disposition, or
7 other restructuring after such date and be-
8 fore January 1, 2010.

9 (B) TRANSITION RULE.—The amendments
10 made by this subsection shall not apply to any
11 distribution pursuant to a transaction which
12 is—

13 (i) made pursuant to an agreement
14 which was binding on such date of enact-
15 ment and at all times thereafter,

16 (ii) described in a ruling request sub-
17 mitted to the Internal Revenue Service on
18 or before such date, or

19 (iii) described on or before such date
20 in a public announcement or in a filing
21 with the Securities and Exchange Commis-
22 sion.

23 (C) ELECTIONS.—

24 (i) OUT OF TRANSITION RELIEF.—
25 Subparagraph (B) shall not apply if the

1 distributing corporation elects not to have
2 such subparagraph apply to distributions
3 of such corporation. Any such election,
4 once made, shall be irrevocable.

5 (ii) APPLICATION TO PRIOR DISTRIBUTU-
6 TIONS.—Subparagraph (A)(ii) shall not
7 apply to a distributing or controlled cor-
8 poration if the corporation elects not to
9 have such subparagraph apply to such cor-
10 poration. Any such election, once made,
11 shall be irrevocable.

12 (b) SECTION 355 NOT TO APPLY TO DISTRIBUTIONS
13 IF THE DISTRIBUTING OR CONTROLLED CORPORATION IS
14 A DISQUALIFIED INVESTMENT CORPORATION.—

15 (1) IN GENERAL.—Section 355 (relating to dis-
16 tributions of stock and securities of a controlled cor-
17 poration) is amended by adding at the end the fol-
18 lowing new subsection:

19 “(g) SECTION NOT TO APPLY TO DISTRIBUTIONS IN-
20 VOLVING DISQUALIFIED INVESTMENT CORPORATIONS.—

21 “(1) IN GENERAL.—This section (and so much
22 of section 356 as relates to this section) shall not
23 apply to any distribution which is part of a trans-
24 action if—

1 “(A) either the distributing corporation or
2 controlled corporation is, immediately after the
3 transaction, a disqualified investment corpora-
4 tion, and

5 “(B) any person holds, immediately after
6 the transaction, a 50-percent or greater interest
7 in any disqualified investment corporation, but
8 only if such person did not hold such an inter-
9 est in such corporation immediately before the
10 transaction.

11 “(2) DISQUALIFIED INVESTMENT CORPORA-
12 TION.—For purposes of this subsection—

13 “(A) IN GENERAL.—The term ‘disqualified
14 investment corporation’ means any distributing
15 or controlled corporation if the fair market
16 value of the investment assets of the corpora-
17 tion is 75 percent or more of the fair market
18 value of all assets of the corporation.

19 “(B) INVESTMENT ASSETS.—

20 “(i) IN GENERAL.—Except as other-
21 wise provided in this subparagraph, the
22 term ‘investment assets’ means—

23 “(I) cash,

24 “(II) any stock or securities in a
25 corporation,

1 “(III) an insurance business if
2 the conduct of the business is li-
3 censed, authorized, or regulated by an
4 applicable insurance regulatory body.

5 This clause shall only apply with respect to
6 any business if substantially all of the in-
7 come of the business is derived from per-
8 sons who are not related (within the mean-
9 ing of section 267(b) or 707(b)(1)) to the
10 person conducting the business.

11 “(iii) EXCEPTION FOR SECURITIES
12 MARKED TO MARKET.—Such term shall
13 not include any security (as defined in sec-
14 tion 475(c)(2)) which is held by a dealer in
15 securities and to which section 475(a) ap-
16 plies.

17 “(iv) STOCK OR SECURITIES IN A 25-
18 PERCENT CONTROLLED ENTITY.—

19 “(I) IN GENERAL.—Such term
20 shall not include any stock and securi-
21 ties in, or any asset described in sub-
22 clause (IV) or (V) of clause (i) issued
23 by, a corporation which is a 25-per-
24 cent controlled entity with respect to

1 the distributing or controlled corpora-
2 tion.

3 “(II) LOOK-THRU RULE.—The
4 distributing or controlled corporation
5 shall, for purposes of applying this
6 subsection, be treated as owning its
7 ratable share of the assets of any 25-
8 percent controlled entity.

9 “(III) 25-PERCENT CONTROLLED
10 ENTITY.—For purposes of this clause,
11 the term ‘25-percent controlled entity’
12 means, with respect to any distrib-
13 uting or controlled corporation, any
14 corporation with respect to which the
15 distributing or controlled corporation
16 owns directly or indirectly stock meet-
17 ing the requirements of section
18 1504(a)(2), except that such section
19 shall be applied by substituting ‘25
20 percent’ for ‘80 percent’ and without
21 regard to stock described in section
22 1504(a)(4).

23 “(v) INTERESTS IN CERTAIN PART-
24 NERSHIPS.—

1 “(I) IN GENERAL.—Such term
2 shall not include any interest in a
3 partnership, or any debt instrument
4 or other evidence of indebtedness,
5 issued by the partnership, if 1 or
6 more of the trades or businesses of
7 the partnership are (or, without re-
8 gard to the 5-year requirement under
9 subsection (b)(2)(B), would be) taken
10 into account by the distributing or
11 controlled corporation, as the case
12 may be, in determining whether the
13 requirements of subsection (b) are
14 met with respect to the distribution.

15 “(II) LOOK-THRU RULE.—The
16 distributing or controlled corporation
17 shall, for purposes of applying this
18 subsection, be treated as owning its
19 ratable share of the assets of any
20 partnership described in subclause (I).

21 “(3) 50-PERCENT OR GREATER INTEREST.—

22 For purposes of this subsection—

23 “(A) IN GENERAL.—The term ‘50-percent
24 or greater interest’ has the meaning given such
25 term by subsection (d)(4).

1 “(B) **ATTRIBUTION RULES.**—The rules of
2 section 318 shall apply for purposes of deter-
3 mining ownership of stock for purposes of this
4 paragraph.

5 “(4) **TRANSACTION.**—For purposes of this sub-
6 section, the term ‘transaction’ includes a series of
7 transactions.

8 “(5) **REGULATIONS.**—The Secretary shall pre-
9 scribe such regulations as may be necessary to carry
10 out, or prevent the avoidance of, the purposes of this
11 subsection, including regulations—

12 “(A) to carry out, or prevent the avoidance
13 of, the purposes of this subsection in cases in-
14 volving—

15 “(i) the use of related persons, inter-
16 mediaries, pass-thru entities, options, or
17 other arrangements, and

18 “(ii) the treatment of assets unrelated
19 to the trade or business of a corporation as
20 investment assets if, prior to the distribu-
21 tion, investment assets were used to ac-
22 quire such unrelated assets,

23 “(B) which in appropriate cases exclude
24 from the application of this subsection a dis-
25 tribution which does not have the character of

1 a redemption which would be treated as a sale
2 or exchange under section 302, and

3 “(C) which modify the application of the
4 attribution rules applied for purposes of this
5 subsection.”.

6 (2) EFFECTIVE DATES.—

7 (A) IN GENERAL.—The amendments made
8 by this subsection shall apply to distributions
9 after the date of the enactment of this Act.

10 (B) TRANSITION RULE.—The amendments
11 made by this subsection shall not apply to any
12 distribution pursuant to a transaction which
13 is—

14 (i) made pursuant to an agreement
15 which was binding on such date of enact-
16 ment and at all times thereafter,

17 (ii) described in a ruling request sub-
18 mitted to the Internal Revenue Service on
19 or before such date, or

20 (iii) described on or before such date
21 in a public announcement or in a filing
22 with the Securities and Exchange Commis-
23 sion.

1 **SEC. 567. AMORTIZATION OF EXPENSES INCURRED IN CRE-**
2 **ATING OR ACQUIRING MUSIC OR MUSIC**
3 **COPYRIGHTS.**

4 (a) IN GENERAL.—Section 263A (relating to capital-
5 ization and inclusion in inventory costs of certain ex-
6 penses) is amended by redesignating subsection (i) as sub-
7 section (j) and by adding after subsection (h) the following
8 new subsection:

9 “(i) SPECIAL RULES FOR CERTAIN MUSICAL WORKS
10 AND COPYRIGHTS.—

11 “(1) IN GENERAL.—If—

12 “(A) any expense is paid or incurred by
13 the taxpayer in creating or acquiring any musi-
14 cal composition (including any accompanying
15 words) or any copyright with respect to a musi-
16 cal composition, and

17 “(B) such expense is required to be cap-
18 italized under this section,

19 then, notwithstanding section 167(g), the amount
20 capitalized shall be amortized ratably over the 5-year
21 period beginning with the month in which the com-
22 position or copyright was acquired (or, in the case
23 of expenses paid or incurred in connection with the
24 creation of a musical composition, the 5-taxable-year
25 period beginning with the taxable year in which the
26 expenses were paid or incurred).

1 tax imposed by this chapter for such taxable year an
2 amount equal to the sum of the credits determined under
3 subsection (b) with respect to credit allowance dates dur-
4 ing such year on which the taxpayer holds such bond.

5 “(b) AMOUNT OF CREDIT.—

6 “(1) IN GENERAL.—The amount of the credit
7 determined under this subsection with respect to any
8 credit allowance date for a rural renaissance bond is
9 25 percent of the annual credit determined with re-
10 spect to such bond.

11 “(2) ANNUAL CREDIT.—The annual credit de-
12 termined with respect to any rural renaissance bond
13 is the product of—

14 “(A) the credit rate determined by the Sec-
15 retary under paragraph (3) for the day on
16 which such bond was sold, multiplied by

17 “(B) the outstanding face amount of the
18 bond.

19 “(3) DETERMINATION.—For purposes of para-
20 graph (2), with respect to any rural renaissance
21 bond, the Secretary shall determine daily or caused
22 to be determined daily a credit rate which shall
23 apply to the first day on which there is a binding,
24 written contract for the sale or exchange of the
25 bond. The credit rate for any day is the credit rate

1 which the Secretary or the Secretary's designee esti-
2 mates will permit the issuance of rural renaissance
3 bonds with a specified maturity or redemption date
4 without discount and without interest cost to the
5 qualified issuer.

6 “(4) CREDIT ALLOWANCE DATE.—For purposes
7 of this section, the term ‘credit allowance date’
8 means—

9 “(A) March 15,

10 “(B) June 15,

11 “(C) September 15, and

12 “(D) December 15.

13 Such term also includes the last day on which the
14 bond is outstanding.

15 “(5) SPECIAL RULE FOR ISSUANCE AND RE-
16 DEMPTION.—In the case of a bond which is issued
17 during the 3-month period ending on a credit allow-
18 ance date, the amount of the credit determined
19 under this subsection with respect to such credit al-
20 lowance date shall be a ratable portion of the credit
21 otherwise determined based on the portion of the 3-
22 month period during which the bond is outstanding.
23 A similar rule shall apply when the bond is redeemed
24 or matures.

1 “(c) LIMITATION BASED ON AMOUNT OF TAX.—The
2 credit allowed under subsection (a) for any taxable year
3 shall not exceed the excess of—

4 “(1) the sum of the regular tax liability (as de-
5 fined in section 26(b)) plus the tax imposed by sec-
6 tion 55, over

7 “(2) the sum of the credits allowable under this
8 part (other than subpart C thereof, relating to re-
9 fundable credits).

10 “(d) RURAL RENAISSANCE BOND.—For purposes of
11 this section—

12 “(1) IN GENERAL.—The term ‘rural renais-
13 sance bond’ means any bond issued as part of an
14 issue if—

15 “(A) the bond is issued by a qualified
16 issuer,

17 “(B) 95 percent or more of the proceeds
18 from the sale of such issue are to be used for
19 capital expenditures incurred for 1 or more
20 qualified projects,

21 “(C) the qualified issuer designates such
22 bond for purposes of this section and the bond
23 is in registered form, and

24 “(D) the issue meets the requirements of
25 subsections (e) and (h).

1 “(2) QUALIFIED PROJECT; SPECIAL USE
2 RULES.—

3 “(A) IN GENERAL.—The term ‘qualified
4 project’ means 1 or more projects described in
5 subparagraph (B) located in a rural area.

6 “(B) PROJECTS DESCRIBED.—A project
7 described in this subparagraph is—

8 “(i) a water or waste treatment
9 project,

10 “(ii) an affordable housing project,

11 “(iii) a community facility project, in-
12 cluding hospitals, fire and police stations,
13 and nursing and assisted-living facilities,

14 “(iv) a value-added agriculture or re-
15 newable energy facility project for agricul-
16 tural producers or farmer-owned entities,
17 including any project to promote the pro-
18 duction, processing, or retail sale of eth-
19 anol (including fuel at least 85 percent of
20 the volume of which consists of ethanol),
21 biodiesel, animal waste, biomass, raw com-
22 modities, or wind as a fuel,

23 “(v) a distance learning or telemedi-
24 cine project,

1 “(vi) a rural utility infrastructure
2 project, including any electric or telephone
3 system,

4 “(vii) a project to expand broadband
5 technology,

6 “(viii) a rural teleworks project, and

7 “(ix) any project described in any pre-
8 ceding clause carried out by the Delta Re-
9 gional Authority.

10 “(C) SPECIAL RULES.—For purposes of
11 this paragraph—

12 “(i) any project described in subpara-
13 graph (B)(iv) for a farmer-owned entity
14 may be considered a qualified project if
15 such entity is located in a rural area, or in
16 the case of a farmer-owned entity the
17 headquarters of which are located in a
18 nonrural area, if the project is located in
19 a rural area, and

20 “(ii) any project for a farmer-owned
21 entity which is a facility described in sub-
22 paragraph (B)(iv) for agricultural pro-
23 ducers may be considered a qualified
24 project regardless of whether the facility is
25 located in a rural or nonrural area.

1 “(3) SPECIAL USE RULES.—

2 “(A) REFINANCING RULES.—For purposes
3 of paragraph (1)(B), a qualified project may be
4 refinanced with proceeds of a rural renaissance
5 bond only if the indebtedness being refinanced
6 (including any obligation directly or indirectly
7 refinanced by such indebtedness) was originally
8 incurred after the date of the enactment of this
9 section.

10 “(B) REIMBURSEMENT.—For purposes of
11 paragraph (1)(B), a rural renaissance bond
12 may be issued to reimburse a borrower for
13 amounts paid after the date of the enactment
14 of this section with respect to a qualified
15 project, but only if—

16 “(i) prior to the payment of the origi-
17 nal expenditure, the borrower declared its
18 intent to reimburse such expenditure with
19 the proceeds of a rural renaissance bond,

20 “(ii) not later than 60 days after pay-
21 ment of the original expenditure, the quali-
22 fied issuer adopts an official intent to re-
23 imburse the original expenditure with such
24 proceeds, and

1 “(iii) the reimbursement is made not
2 later than 18 months after the date the
3 original expenditure is paid.

4 “(C) TREATMENT OF CHANGES IN USE.—
5 For purposes of paragraph (1)(B), the proceeds
6 of an issue shall not be treated as used for a
7 qualified project to the extent that a borrower
8 takes any action within its control which causes
9 such proceeds not to be used for a qualified
10 project. The Secretary shall prescribe regula-
11 tions specifying remedial actions that may be
12 taken (including conditions to taking such re-
13 medial actions) to prevent an action described
14 in the preceding sentence from causing a bond
15 to fail to be a rural renaissance bond.

16 “(e) MATURITY LIMITATIONS.—

17 “(1) DURATION OF TERM.—A bond shall not be
18 treated as a rural renaissance bond if the maturity
19 of such bond exceeds the maximum term determined
20 by the Secretary under paragraph (2) with respect
21 to such bond.

22 “(2) MAXIMUM TERM.—During each calendar
23 month, the Secretary shall determine the maximum
24 term permitted under this paragraph for bonds
25 issued during the following calendar month. Such

1 maximum term shall be the term which the Sec-
2 retary estimates will result in the present value of
3 the obligation to repay the principal on the bond
4 being equal to 50 percent of the face amount of such
5 bond. Such present value shall be determined with-
6 out regard to the requirements of subsection (f)(3)
7 and using as a discount rate the average annual in-
8 terest rate of tax-exempt obligations having a term
9 of 10 years or more which are issued during the
10 month. If the term as so determined is not a mul-
11 tiple of a whole year, such term shall be rounded to
12 the next highest whole year.

13 “(3) RATABLE PRINCIPAL AMORTIZATION RE-
14 QUIRED.—A bond shall not be treated as a rural
15 renaissance bond unless it is part of an issue which
16 provides for an equal amount of principal to be paid
17 by the qualified issuer during each calendar year
18 that the issue is outstanding.

19 “(f) LIMITATION ON AMOUNT OF BONDS DES-
20 IGNATED.—

21 “(1) NATIONAL LIMITATION.—There is a rural
22 renaissance bond limitation of \$200,000,000.

23 “(2) ALLOCATION BY SECRETARY.—The Sec-
24 retary shall allocate the amount described in para-

1 graph (1) among qualified projects in such manner
2 as the Secretary determines appropriate.

3 “(g) CREDIT INCLUDED IN GROSS INCOME.—Gross
4 income includes the amount of the credit allowed to the
5 taxpayer under this section (determined without regard to
6 subsection (c)) and the amount so included shall be treat-
7 ed as interest income.

8 “(h) SPECIAL RULES RELATING TO EXPENDI-
9 TURES.—

10 “(1) IN GENERAL.—An issue shall be treated as
11 meeting the requirements of this subsection if, as of
12 the date of issuance, the qualified issuer reasonably
13 expects—

14 “(A) at least 95 percent of the proceeds
15 from the sale of the issue are to be spent for
16 1 or more qualified projects within the 5-year
17 period beginning on the date of issuance of the
18 rural renaissance bond,

19 “(B) a binding commitment with a third
20 party to spend at least 10 percent of the pro-
21 ceeds from the sale of the issue will be incurred
22 within the 6-month period beginning on the
23 date of issuance of the rural renaissance bond
24 or, in the case of a rural renaissance bond, the
25 proceeds of which are to be loaned to 2 or more

1 borrowers, such binding commitment will be in-
2 curred within the 6-month period beginning on
3 the date of the loan of such proceeds to a bor-
4 rower, and

5 “(C) such projects will be completed with
6 due diligence and the proceeds from the sale of
7 the issue will be spent with due diligence.

8 “(2) EXTENSION OF PERIOD.—Upon submis-
9 sion of a request prior to the expiration of the period
10 described in paragraph (1)(A), the Secretary may
11 extend such period if the qualified issuer establishes
12 that the failure to satisfy the 5-year requirement is
13 due to reasonable cause and the related projects will
14 continue to proceed with due diligence.

15 “(3) FAILURE TO SPEND REQUIRED AMOUNT
16 OF BOND PROCEEDS WITHIN 5 YEARS.—To the ex-
17 tent that less than 95 percent of the proceeds of
18 such issue are expended by the close of the 5-year
19 period beginning on the date of issuance (or if an
20 extension has been obtained under paragraph (2), by
21 the close of the extended period), the qualified issuer
22 shall redeem all of the nonqualified bonds within 90
23 days after the end of such period. For purposes of
24 this paragraph, the amount of the nonqualified

1 bonds required to be redeemed shall be determined
2 in the same manner as under section 142.

3 “(i) SPECIAL RULES RELATING TO ARBITRAGE.—A
4 bond which is part of an issue shall not be treated as a
5 rural renaissance bond unless, with respect to the issue
6 of which the bond is a part, the qualified issuer satisfies
7 the arbitrage requirements of section 148 with respect to
8 proceeds of the issue.

9 “(j) QUALIFIED ISSUER.—For purposes of this sec-
10 tion—

11 “(1) IN GENERAL.—The term ‘qualified issuer’
12 means any not-for-profit cooperative lender which
13 has as of the date of the enactment of this section
14 received a guarantee under section 306 of the Rural
15 Electrification Act and which meets the requirement
16 of paragraph (2).

17 “(2) USER FEE REQUIREMENT.—The require-
18 ment of this paragraph is met if the issuer of any
19 rural renaissance bond makes grants for qualified
20 projects as defined under subsection (d)(2) on a
21 semi-annual basis every year that such bond is out-
22 standing in an annual amount equal to one-half of
23 the rate on United States Treasury Bills of the same
24 maturity multiplied by the outstanding principle bal-

1 ance of rural renaissance bonds issued by such
2 issuer.

3 “(k) SPECIAL RULES RELATING TO POOL BONDS.—

4 No portion of a pooled financing bond may be allocable
5 to loan unless the borrower has entered into a written loan
6 commitment for such portion prior to the issue date of
7 such issue.

8 “(l) OTHER DEFINITIONS AND SPECIAL RULES.—

9 For purposes of this section—

10 “(1) BOND.—The term ‘bond’ includes any ob-
11 ligation.

12 “(2) POOLED FINANCING BOND.—The term
13 ‘pooled financing bond’ shall have the meaning given
14 such term by section 149(f)(4)(A).

15 “(3) RURAL AREA.—The term ‘rural area’
16 means any area other than—

17 “(A) a city or town which has a population
18 of greater than 50,000 inhabitants, or

19 “(B) the urbanized area contiguous and
20 adjacent to such a city or town.

21 “(4) PARTNERSHIP; S CORPORATION; AND
22 OTHER PASS-THRU ENTITIES.—

23 “(A) IN GENERAL.—Under regulations
24 prescribed by the Secretary, in the case of a
25 partnership, trust, S corporation, or other pass-

1 thru entity, rules similar to the rules of section
2 41(g) shall apply with respect to the credit al-
3 lowable under subsection (a).

4 “(B) NO BASIS ADJUSTMENT.—In the case
5 of a bond held by a partnership or an S cor-
6 poration, rules similar to the rules under sec-
7 tion 1397E(i) shall apply.

8 “(5) BONDS HELD BY REGULATED INVEST-
9 MENT COMPANIES.—If any rural renaissance bond is
10 held by a regulated investment company, the credit
11 determined under subsection (a) shall be allowed to
12 shareholders of such company under procedures pre-
13 scribed by the Secretary.

14 “(6) REPORTING.—Issuers of rural renaissance
15 bonds shall submit reports similar to the reports re-
16 quired under section 149(e).”.

17 (b) REPORTING.—Subsection (d) of section 6049 (re-
18 lating to returns regarding payments of interest) is
19 amended by adding at the end the following new para-
20 graph:

21 “(9) REPORTING OF CREDIT ON RURAL RENAISS-
22 SANCE BONDS.—

23 “(A) IN GENERAL.—For purposes of sub-
24 section (a), the term ‘interest’ includes amounts
25 includible in gross income under section 54(f)

1 and such amounts shall be treated as paid on
2 the credit allowance date (as defined in section
3 54(b)(4)).

4 “(B) REPORTING TO CORPORATIONS,
5 ETC.—Except as otherwise provided in regula-
6 tions, in the case of any interest described in
7 subparagraph (A), subsection (b)(4) shall be
8 applied without regard to subparagraphs (A),
9 (H), (I), (J), (K), and (L)(i) of such subsection.

10 “(C) REGULATORY AUTHORITY.—The Sec-
11 retary may prescribe such regulations as are
12 necessary or appropriate to carry out the pur-
13 poses of this paragraph, including regulations
14 which require more frequent or more detailed
15 reporting.”.

16 (c) CONFORMING AMENDMENT.—The table of sec-
17 tions for subpart H of part IV of subchapter A of chapter
18 1 is amended by adding at the end the following new item:

“Sec. 54A. Credit to holders of rural renaissance bonds.”.

19 (d) ISSUANCE OF REGULATIONS.—The Secretary of
20 Treasury shall issue regulations required under section
21 54A of the Internal Revenue Code of 1986 (as added by
22 this section) not later than 120 days after the date of the
23 enactment of this Act.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to bonds issued after the date of
3 the enactment of this Act and before January 1, 2010.

4 **SEC. 569. MODIFICATION OF TREATMENT OF LOANS TO**
5 **QUALIFIED CONTINUING CARE FACILITIES.**

6 (a) IN GENERAL.—Subsection (g) of section 7872 is
7 amended to read as follows:

8 “(g) EXCEPTION FOR LOANS TO QUALIFIED CON-
9 TINUING CARE FACILITIES.—

10 “(1) IN GENERAL.—This section shall not apply
11 for any calendar year to any below-market loan owed
12 by a facility which on the last day of such year is
13 a continuing care facility, if such loan was made
14 pursuant to a continuing care contract and if the
15 lender (or the lender’s spouse) attains age 62 before
16 the close of such year.

17 “(2) CONTINUING CARE CONTRACT.—For pur-
18 poses of this section, the term ‘continuing care con-
19 tract’ means a written contract between an indi-
20 vidual and a qualified continuing care facility under
21 which—

22 “(A) the individual or individual’s spouse
23 may use a qualified continuing care facility for
24 their life or lives,

1 “(B) the individual or individual’s spouse
2 will be provided with housing in an independent
3 living unit (which has additional available facili-
4 ties outside such unit for the provision of meals
5 and other personal care), an assisted living fa-
6 cility or a nursing facility, as is available in the
7 continuing care facility, as appropriate for the
8 health of such individual or individual’s spouse,
9 and

10 “(C) the individual or individual’s spouse
11 will be provided assisted living or nursing care
12 as the health of such individual or individual’s
13 spouse requires, and as is available in the con-
14 tinuing care facility.

15 “(3) QUALIFIED CONTINUING CARE FACIL-
16 ITY.—

17 “(A) IN GENERAL.—For purposes of this
18 section, the term ‘qualified continuing care fa-
19 cility’ means 1 or more facilities—

20 “(i) which are designed to provide
21 services under continuing care contracts,

22 “(ii) that include an independent liv-
23 ing unit, plus an assisted living or nursing
24 facility, or both, and

1 “(iii) substantially all of the inde-
2 pendent living unit residents of which are
3 covered by continuing care contracts.

4 “(B) NURSING HOMES EXCLUDED.—The
5 term ‘qualified continuing care facility’ shall not
6 include any facility which is of a type which is
7 traditionally considered a nursing home.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to loans made after December 31,
10 2005.

11 **SEC. 570. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**
12 **APPLICABLE TO LARGE INTEGRATED OIL**
13 **COMPANIES WHICH ARE DUAL CAPACITY**
14 **TAXPAYERS.**

15 (a) IN GENERAL.—Section 901 (relating to credit for
16 taxes of foreign countries and of possessions of the United
17 States), as amended by this Act, is amended by redesignig-
18 nating subsections (m) and (n) as subsections (n) and (o),
19 respectively, and by inserting after subsection (l) the fol-
20 lowing new subsection:

21 “(m) SPECIAL RULES RELATING TO LARGE INTE-
22 GRATED OIL COMPANIES WHICH ARE DUAL CAPACITY
23 TAXPAYERS.—

24 “(1) GENERAL RULE.—Notwithstanding any
25 other provision of this chapter, any amount paid or

1 accrued by a dual capacity taxpayer which is a large
2 integrated oil company to a foreign country or pos-
3 session of the United States for any period shall not
4 be considered a tax—

5 “(A) if, for such period, the foreign coun-
6 try or possession does not impose a generally
7 applicable income tax, or

8 “(B) to the extent such amount exceeds
9 the amount (determined in accordance with reg-
10 ulations) which—

11 “(i) is paid by such dual capacity tax-
12 payer pursuant to the generally applicable
13 income tax imposed by the country or pos-
14 session, or

15 “(ii) would be paid if the generally ap-
16 plicable income tax imposed by the country
17 or possession were applicable to such dual
18 capacity taxpayer.

19 Nothing in this paragraph shall be construed to
20 imply the proper treatment of any such amount
21 not in excess of the amount determined under
22 subparagraph (B).

23 “(2) DUAL CAPACITY TAXPAYER.—For pur-
24 poses of this subsection, the term ‘dual capacity tax-

1 payer’ means, with respect to any foreign country or
2 possession of the United States, a person who—

3 “(A) is subject to a levy of such country or
4 possession, and

5 “(B) receives (or will receive) directly or
6 indirectly a specific economic benefit (as deter-
7 mined in accordance with regulations) from
8 such country or possession.

9 “(3) GENERALLY APPLICABLE INCOME TAX.—
10 For purposes of this subsection—

11 “(A) IN GENERAL.—The term ‘generally
12 applicable income tax’ means an income tax (or
13 a series of income taxes) which is generally im-
14 posed under the laws of a foreign country or
15 possession on income derived from the conduct
16 of a trade or business within such country or
17 possession.

18 “(B) EXCEPTIONS.—Such term shall not
19 include a tax unless it has substantial applica-
20 tion, by its terms and in practice, to—

21 “(i) persons who are not dual capacity
22 taxpayers, and

23 “(ii) persons who are citizens or resi-
24 dents of the foreign country or possession.

1 “(4) LARGE INTEGRATED OIL COMPANY.—For
2 purposes of this subsection, the term ‘large inte-
3 grated oil company’ means, with respect to any tax-
4 able year, an integrated oil company (as defined in
5 section 291(b)(4)) which—

6 “(A) had gross receipts in excess of
7 \$1,000,000,000 for such taxable year, and

8 “(B) has an average daily worldwide pro-
9 duction of crude oil of at least 500,000 barrels
10 for such taxable year.”

11 (b) EFFECTIVE DATE.—

12 (1) IN GENERAL.—The amendments made by
13 this section shall apply to taxes paid or accrued in
14 taxable years beginning after the date of the enact-
15 ment of this Act.

16 (2) CONTRARY TREATY OBLIGATIONS
17 UPHELD.—The amendments made by this section
18 shall not apply to the extent contrary to any treaty
19 obligation of the United States.

20 **SEC. 571. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL**
21 **RESIDENCE BY CERTAIN EMPLOYEES OF THE**
22 **INTELLIGENCE COMMUNITY.**

23 (a) IN GENERAL.—Subparagraph (A) of section
24 121(d)(9) (relating to exclusion of gain from sale of prin-

1 cipal residence) is amended by striking “duty” and all that
2 follows and inserting “duty—

3 “(i) as a member of the uniformed
4 services,

5 “(ii) as a member of the Foreign
6 Service of the United States, or

7 “(iii) as an employee of the intel-
8 ligence community.”.

9 (b) EMPLOYEE OF INTELLIGENCE COMMUNITY DE-
10 FINED.—Subparagraph (C) of section 121(d)(9) is amend-
11 ed by redesignating clause (iv) as clause (v) and by insert-
12 ing after clause (iii) the following new clause:

13 “(iv) EMPLOYEE OF INTELLIGENCE
14 COMMUNITY.—The term ‘employee of the
15 intelligence community’ means an employee
16 (as defined by section 2105 of title 5,
17 United States Code) of—

18 “(I) the Office of the Director of
19 National Intelligence,

20 “(II) the Central Intelligence
21 Agency,

22 “(III) the National Security
23 Agency,

24 “(IV) the Defense Intelligence
25 Agency,

1 “(V) the National Geospatial-In-
2 telligence Agency,

3 “(VI) the National Reconnois-
4 sance Office,

5 “(VII) any other office within the
6 Department of Defense for the collec-
7 tion of specialized national intelligence
8 through reconnaissance programs,

9 “(VIII) any of the intelligence
10 elements of the Army, the Navy, the
11 Air Force, the Marine Corps, the Fed-
12 eral Bureau of Investigation, the De-
13 partment of Treasury, the Depart-
14 ment of Energy, and the Coast
15 Guard,

16 “(IX) the Bureau of Intelligence
17 and Research of the Department of
18 State, or

19 “(X) any of the elements of the
20 Department of Homeland Security
21 concerned with the analyses of foreign
22 intelligence information.”.

23 (c) SPECIAL RULE.—Subparagraph (C) of section
24 121(d)(9), as amended by subsection (b), is amended by
25 adding at the end the following new clause:

1 “(vi) SPECIAL RULE RELATING TO IN-
2 TELLIGENCE COMMUNITY.—An employee
3 of the intelligence community shall not be
4 treated as serving on qualified extended
5 duty unless—

6 “(I) for purposes of such duty
7 such employee has moved from 1 duty
8 station to another, and

9 “(II) at least 1 of such duty sta-
10 tions is located outside of the Wash-
11 ington, District of Columbia, and Bal-
12 timore metropolitan statistical areas
13 (as defined by the Secretary of Com-
14 merce).”.

15 (d) CONFORMING AMENDMENT.—The heading for
16 section 121(d)(9) is amended to read as follows: “UNI-
17 FORMED SERVICES, FOREIGN SERVICE, AND INTEL-
18 LIGENCE COMMUNITY”.

19 (e) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to sales or exchanges after the date
21 of the enactment of this Act.

22 **SEC. 572. DISABILITY PREFERENCE PROGRAM FOR TAX**
23 **COLLECTION CONTRACTS.**

24 (a) IN GENERAL.—The Secretary of the Treasury
25 shall not enter into any qualified tax collection contract

1 after April 1, 2006, until the Secretary implements a dis-
2 ability preference program that meets the requirements of
3 subsection (b).

4 (b) DISABILITY PREFERENCE PROGRAM REQUIRE-
5 MENTS.—

6 (1) IN GENERAL.—A disability preference pro-
7 gram meets the requirements of this subsection if
8 such program requires that not less than 10 percent
9 of the accounts of each dollar value category are
10 awarded to persons described in paragraph (2).

11 (2) PERSON DESCRIBED.—For purposes of
12 paragraph (1), a person is described in this para-
13 graph if—

14 (A) as of the date any qualified tax collec-
15 tion contract is awarded—

16 (i) such person employs not less than
17 50 severely disabled individuals within the
18 United States; or

19 (ii) not less than 30 percent of the
20 employees of such person within the
21 United States are severely disabled individ-
22 uals;

23 (B) such person agrees as a condition of
24 the qualified tax collection contract that not
25 more than 90 days after the date such contract

1 is awarded, not less than 35 percent of the em-
2 ployees of such person employed in connection
3 with providing services under such contract
4 shall—

5 (i) be hired after the date such con-
6 tract is awarded; and

7 (ii) be severely disabled individuals;
8 and

9 (C) such person is otherwise qualified to
10 perform the services required.

11 (c) DEFINITIONS.—For purposes of this section—

12 (1) QUALIFIED TAX COLLECTION CONTRACT.—

13 The term “qualified tax collection contract” shall
14 have the meaning given such term under section
15 6306(b) of the Internal Revenue Code of 1986.

16 (2) DOLLAR VALUE CATEGORY.—The term
17 “dollar value category” means the dollar ranges of
18 accounts for collection as determined and assigned
19 by the Secretary under section 6306(b)(1)(B) of the
20 Internal Revenue Code of 1986 with respect to a
21 qualified tax collection contract.

22 (3) SEVERELY DISABLED INDIVIDUAL.—The
23 term “severely disabled individual” means—

1 (A) a veteran of the United States armed
2 forces with a disability of 50 percent or great-
3 er—

4 (i) determined by the Secretary of
5 Veterans Affairs to be service-connected; or

6 (ii) deemed by law to be service-con-
7 nected; or

8 (B) any individual who is a disabled bene-
9 ficiary (as defined in section 1148(k)(2) of the
10 Social Security Act (42 U.S.C. 1320b-
11 19(k)(2))) or who would be considered to be
12 such a disabled beneficiary but for having in-
13 come or resources in excess of the income or re-
14 sources eligibility limits established under title
15 XVI of the Social Security Act (42 U.S.C. 1381
16 et seq.), respectively.

17 **TITLE VI—COMPLIANCE WITH**
18 **CONGRESSIONAL BUDGET ACT**

19 **SEC. 601. SUNSET OF CERTAIN PROVISIONS AND AMEND-**
20 **MENTS.**

21 The provisions of, and amendments made by, title I,
22 title II, subtitle A of title III, and title IV shall not apply
23 to taxable years beginning after September 30, 2010, and
24 the Internal Revenue Code of 1986 shall be applied and

- 1 administered to such years as if such provisions and
- 2 amendments had never been enacted.